

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Gary Richard Brown

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

United States District Judge for the Eastern District of New York

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

United States District Court for the Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Residence: Setauket, New York

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

1963; Brooklyn, New York

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, Yale Law School; J.D., 1988

1981 – 1985, Columbia College; A.B. (*summa cum laude*), 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.

2011 – present

United States District Court for the Eastern District of New York
100 Federal Plaza

Central Islip, New York 11722
United States Magistrate Judge

2014 – present
St. John's University School of Law
8000 Utopia Parkway
Queens, New York 11439
Adjunct Professor

2005 – 2011
CA Technologies
One CA Plaza
Islandia, New York 11749
Chief Compliance Officer (2009 – 2011)
Chief Counsel for Litigation (2007 – 2011)
Associate General Counsel & Director of Litigation (2006 – 2007)
Senior Counsel (2005 – 2006)

1996 – 2005
United States Attorney's Office for the Eastern District of New York
Long Island Criminal Division
610 Federal Plaza
Central Islip, New York 11722
Chief (2003 – 2005)
Deputy Chief (2001 – 2003)
Assistant United States Attorney (1996 – 2005)

2001 – May 2005
New York Law School
57 Worth Street
New York, New York 10013
Adjunct Professor

1989 – 1996
U.S. Attorney's Office for the Eastern District of New York
Civil Division
One Pierrepont Plaza
Brooklyn, New York 11201
Affirmative Litigation Coordinator (1994 – 1996)
Assistant United States Attorney (1989 – 1996)

1988 – 1989
The Honorable Jacob Mishler
United States District Court for the Eastern District of New York
Two Uniondale Avenue
Uniondale, New York 11530

Law Clerk

June – September 1988
Debevoise & Plimpton
875 Third Avenue
New York, New York 10022
Summer Associate

September 1987 – May 1988 (estimated)
United States Attorney's Office for the District of Connecticut
Connecticut Financial Center
157 Church Street, Floor 25
New Haven, Connecticut 06510
Student Intern

June – August 1987
Sidley & Austin
875 Third Avenue
New York, New York 10022
Summer Associate

June – August 1986
Paul, Weiss, Rifkin, Wharton & Garrison
1615 L Street, NW
Washington, District of Columbia 20036
Summer Associate

January – May 1986 (estimated)
Connecticut Public Defender Services
121 Elm Street
New Haven, Connecticut 06510
Student Intern

June – August 1985
Wofsey, Certilman, Haft, Lebow & Balin
(now defunct)
New York, New York 10022
Paralegal

Other Affiliations (uncompensated):

2008 – present
Federal Bar Association, Eastern District of New York Chapter
c/o The Honorable Joanna Seybert
100 Federal Plaza
Central Islip, New York 11722

Board Member (2008 – present)
Chapter President (2009 – 2010)

2010 – 2011
Town of Brookhaven Board of Ethics
One Independence Hill
Farmingville, New York 11739
Board Member

1999 – 2011
Business Informatics Center, Inc.
134 South Central Avenue
Valley Stream, NY 11580
Board of Trustees Member

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

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

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

IC Top 10 Award, *Inside Counsel* Magazine (2011)

Champion for Children Award, Parents for Megan's Law (2005)

Director's Award for Superior Performance, Executive Office for United States Attorneys (2003) (Long Island Gang Prosecutions)

Director's Award for Superior Performance, Executive Office for United States Attorneys (2001) (*United States v. Michael Swango*)

Prosecutor of the Year Award, National Law Enforcement Association (2000)

Inspector General's Integrity Award, United States Department of Health & Human Services (1999)

National Group Achievement Award, Federal Law Enforcement Officers Association (1998)

Chief Postal Inspector's Award, United States Postal Inspection Service (1994)

Director's Award for Superior Performance, Executive Office for United States Attorneys (1993) (*United States v. All Funds on Deposit*)

Phi Beta Kappa, Columbia College (1984)

Second Degree Black Belt, New York Chung Do Kwon Tae Kwon Do Association (1980)

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.

Federal Bar Association, Eastern District of New York Chapter
Board Member (2008 – present)
Chapter President (2009 – 2010)

Association of Corporate Counsel (2005 – 2011)

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.

Connecticut, 1989
New York, 1989

There have been no lapses in membership. I assumed inactive status in Connecticut in 2000, as I did not practice law in the state.

- 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, 1990
United States District Court for the Eastern District of New York, 1989

There have been no lapses in membership.

11. **Memberships:**

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

conferences, or publications.

Business Informatics Center, Inc.

Board of Trustees Member (1999 – 2011)

Town of Brookhaven Board of Ethics

Board Member (2010 – 2011)

Unitarian Universalist Fellowship at Stony Brook (2004 – present)

Religious Education Instructor (2010 – 2012)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Brushstrokes and Pen Strokes: How a Careful Judge Saved an Artistic Treasure, 96 JUDICATURE 61 (2012). Copy supplied.

PK RING MAGIC: THE MISSING MANUAL (2012) (ebook). Copy supplied.

Law School Didn't Prepare You for This: Tips for the Internal Investigation, ACC DOCKET, May 2010, *reprinted in* Tips for Interviewing a Witness, 1 FBA DIGEST, No. 1, at 4-5. Copy supplied.

Less Bark, More Bite: Fixing the Criminal Street Gang Enhancement, 16 FED. SENT. R. 148 (December 1, 2003). Copy supplied.

Presto Change-O: Collecting Magic Tokens, ANTIQUES AND COLLECTING, June 2000. Copy supplied.

The Science of Cheating at Cards, AM. HERITAGE OF INVENTION & TECH., Summer 1998. Copy supplied.

The Roll of the Dice, AM. HERITAGE OF INVENTION & TECH., Summer 1998. Copy supplied.

Exposing Eusapia, COLUM. C. TODAY, Spring/Summer 1998. Copy supplied.

THE CONEY ISLAND FAKIR: THE MAGICAL LIFE OF AL FLOSSO (L & L Publishing 1997). Copy supplied.

Pick a Card. . ., ANTIQUES AND COLLECTING, July 1997. Copy supplied.

Letter to the Editor, *To Ask How Is to Ruin Magician's Magic*, N.Y. TIMES, Dec. 31, 1996. Copy supplied.

Like Magic, ANTIQUES AND COLLECTING, Mar. 1996. Copy supplied.

Magic by George, EMMY, Feb. 1996. Copy supplied.

The Business that Could Not Fail, AUDACITY, Summer 1995. Copy supplied.

Sawing a Woman in Half, AM. HERITAGE OF INVENTION & TECH., Winter 1994, reprinted in *Der Mann, Der Frauen Zersägte*, KULTUR & TECHNIK, Feb. 1995. Copy supplied.

The Coney Island Baby Laboratory, AM. HERITAGE OF INVENTION & TECH., Fall 1994, reprinted in *Die Grosse Baby-Show*, KULTUR & TECHNIK, Feb. 1996. Copy supplied.

Reforming Civil Forfeiture Law: The Case for an Automatic Stay Provision, 67 ST. JOHN'S L. REV. 705 (1993). Copy supplied.

The Pit Bull Problem: The Role of Criminal, Civil and Products Liability, 1 PROD. LIAB. L. J. 33 (1988). Copy supplied.

Battered Women and the Temporary Restraining Order, 10 WOMEN'S RTS. L. REV. 261 (1988). Copy supplied.

Starting a T.R.O. Project: Student Representation of Battered Women, 96 YALE L. J. 1985 (1987), reprinted in 11 RESPONSE TO THE VICTIMIZATION OF WOMEN AND CHILD. 3 (1988). Copy supplied.

Letter to the Editor, *Response of the Obnoxious Chicken*, COLUM. DAILY SPECTATOR, Apr. 18, 1985. Copy supplied.

Into the Machine: A Guide to Registration, COLUM. DAILY SPECTATOR, Jan. 31, 1985. Copy supplied.

Knight Life, COLUM. DAILY SPECTATOR, Nov. 30, 1984. Copy supplied.

Playing the Game, COLUM. DAILY SPECTATOR, Oct. 29, 1984. Copy supplied.

White Casket, COLUM. DAILY SPECTATOR, Sept. 10, 1984. Copy supplied.

Look Between the Buns, COLUM. DAILY SPECTATOR, Apr. 4, 1984. Copy supplied.

In addition to the foregoing, I have authored several articles for magicians' specialty publications. Copies 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.

None.

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

From 2010 to 2011, while I served as a member of the Town of Brookhaven Board of Ethics, the Board issued a few advisory ethics opinions, but these have since been deleted from the website and no copies can be located.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or

recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

June 18, 2015: Speaker, "Litigation Graphics," Day In Federal Court Program, Federal Bar Association, Central Islip, New York. PowerPoint supplied.

June 24, 2014: Speaker, "United States Sentencing Guidelines," Day In Federal Court Program, Federal Bar Association, Central Islip, New York. I used the same PowerPoint that is provided for the June 26, 2013 Federal Bar Association event below.

June 4, 2014: Officiant, Installation Ceremony, Nassau County Bar Association, Mineola, New York. At this event, I administered the oath to the incoming president and made a few remarks about his career. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

November 20, 2013: Panelist, "Alternative Dispute Resolution," Nassau County Bar Association, Mineola, New York. This panel discussed approaches and strategies relating to settlement of civil disputes. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

June 26, 2013: Speaker, "Introduction to Sentencing Guidelines," Day In Federal Court Program, Federal Bar Association, Central Islip, New York. PowerPoint supplied.

June 7, 2013: Speaker, "Evaluating Credibility in Employment Investigations," Suffolk County Bar Association, Hauppauge, New York. PowerPoint supplied.

January 10, 2012: Honoree, Investiture Ceremony, United States District Court for the Eastern District of New York, Central Islip, New York. Video supplied.

January 26, 2011: Panelist, "Commercial and Federal Litigation," New York State Bar Association, New York, New York. Transcript supplied.

February 5, 2008: Speaker, "Bridge the Gap Seminar," Nassau County Bar Association, Mineola, New York. In this presentation, I addressed a group of first- and second-year attorneys concerning basics of pre-trial and trial procedure. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

December 13, 2006: Panelist, "Are Federal Prosecutors Going Too Far in Prosecuting Corporate Fraud?" Federal Bar Association, Central Islip, New York.

This panel discussion covered policy and practice developments in corporate fraud prosecutions. I have no notes, transcript or recording. The address for the Federal Bar Association is c/o The Honorable Joanna Seybert, United States District Court, 100 Federal Plaza, Central Islip, New York 11722.

November 29, 2005: Panelist, "Federal Criminal Practice Update," Nassau County Bar Association, Mineola, New York. This Continuing Legal Education presentation consisted of an annual review of then-recent developments in federal criminal law. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

May 20, 2004: Panelist, "Media and the Courtroom," New York State Bar Association, New York, New York. This Continuing Legal Education presentation consisted of a discussion of the impact of media attention on civil and criminal cases. I have no notes, transcript or recording. The address for the New York State Bar Association is One Elk Street, Albany, New York 12207.

December 15, 2003: Panelist, "Plea Bargaining After the Ashcroft Memo," Nassau County Bar Association, Mineola, New York. This panel discussed the issue of prosecutorial discretion. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

October 14, 2003: Panelist, "Ethics," Touro Law School and Alexander Hamilton American Inn of Court, Central Islip, New York. This panel discussed ethics issues for the benefit of practitioners and students. I have no notes, transcript or recording. The address for Touro Law School is 225 Eastview Drive, Central Islip, New York 11722.

November 14, 2002: Panelist, "Federal Criminal Practice Symposium: Sentencing Guidelines," Nassau County Bar Association, Mineola, New York. This presentation focused on developments in the sentencing guidelines. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

November 15, 2001: Panelist, "Federal Criminal Practice Update," Nassau County Bar Association, Mineola, New York. This Continuing Legal Education presentation consisted of an annual review of then-recent developments in federal criminal law. I have no notes, transcript or recording. The address for the Nassau County Bar Association is One West Street, Mineola, New York 11501.

November 13, 2001: Speaker, "Advanced Compliance Update," Academy of Medicine of Queens County, Queens, New York. This Continuing Medical Education presentation focused on health care fraud prosecutions. I have no notes, transcript or recording. The address for the Academy of Medicine of Queens County is 112-25 Queens Boulevard, Fourth Floor, Forest Hills, New

York 11375.

January 26, 2000: Speaker, "Special Proceeding Honoring Judge Mishler," United States District Court for the Eastern District of New York, Brooklyn, New York. Transcript supplied.

- 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.

Untouchable: Power Corrupts (Investigation Discovery television broadcast July 9, 2015). Video supplied.

Kathryn Carney Cole, *The Honorable Joanna Seybert, U.S. District Judge, Eastern District of New York*, FEDERAL LAWYER, February 2011. Copy supplied.

Robert E. Kessler, *Big Cases on His Resume*, NEWSDAY, August 19, 2010. Copy supplied.

James Bernstein, *CA Pressing Wang Case*, NEWSDAY, November 3, 2009. Copy supplied.

Keiko Morris, *CA Files 'Proof' Firm Copied Software Codes*, NEWSDAY, April 11, 2008. Copy supplied.

Robert E. Kessler, *Court Battle Features All-Star Legal Lineup*, NEWSDAY, October 21, 2007. Copy supplied.

Alfonso A. Castillo, *She Did Her Job Responsibly*, NEWSDAY, September 17, 2007. Copy supplied.

Robert Weisman, *Newton Firm Faces \$200 Million Software Suit – Rival Says Engineers Stole Computer Code*, BOSTON GLOBE, August 3, 2007. Copy supplied.

CA Files Lawsuit Against Rocket Software for Misappropriation of Intellectual Property, CA TECHNOLOGIES, August 2, 2007. Copy supplied (reprinted in multiple outlets).

William M. Bulkeley, *CA Sues Ex-CEO to Recoup Legal Fee*, WALL STREET JOURNAL, November 17, 2006. Copy supplied.

Eileen Effrat, *On the Move: Law*, NEWSDAY, April 30, 2006, at A36. Copy supplied.

Andrew Harris, *Gang Member Sentenced to 63 Years for Shooting that Left Three*

Injured, NEW YORK LAW JOURNAL, December 13, 2005. Copy supplied.

Medical Fraud Investigators (Discovery Health television broadcast 2005).
Video supplied.

Andrew Harris, *Federal Prosecutors Gain Win against Salvadorian Gang*, NEW YORK LAW JOURNAL, July 27, 2005. Copy supplied.

Andrew Harris, *Millionaires' Row: East Meadow Jail Is Holding a Trio of Wealthy Men as Wards of U.S. Marshals Service*, NEW YORK LAW JOURNAL, May 17, 2005. Copy supplied.

Claude Solnik, *Interview with Former United States Attorney Now Working as Senior Counsel for Computer Associates*, LONG ISLAND BUSINESS NEWS, March 25, 2005. Copy supplied.

Press Release, *CA Names Long Island's Former Chief Federal Prosecutor as Senior Counsel*, CA TECHNOLOGIES, March 11, 2005. Copy supplied (reprinted in multiple outlets).

Robert E. Kessler, *Spano Comeback: Con Man Who Nearly Bought the Islanders Is Out of Prison – But Arrested in New Fraud in Cleveland*, NEWSDAY, February 17, 2005. Copy supplied.

Charles Cullen, Serial Killer (A&E television broadcast 2004). Video supplied.

Patrick Healy, *United States Indicts 11 in Chop Shop in Brooklyn Worth Millions*, NEW YORK TIMES, September 10, 2004. Copy supplied.

Robert E. Kessler, *Gang Sweep on Long Island; Across Counties, 30 Members Charged in Violent Crimes*, NEWSDAY, February 5, 2004. Copy supplied.

Richard Perez-Pena, *Confession or Not, It's Complex Road to Conviction in Serial Killings*, NEW YORK TIMES, Dec. 16, 2003 at B6. Copy supplied.

Robert Kessler, *New Top Attorney for Long Island Office*, NEWSDAY, August 27, 2003, at A22. Copy supplied.

Unsolved Mysteries: Michael Swango (Lifetime television broadcast 2002). I have been unable to obtain a copy of this video.

Frank Eltman, *Mixed Verdict for Biker Charged in Hells Angels Raid*, ASSOCIATED PRESS, August 2, 2002. Copy supplied (reprinted in multiple outlets).

Lindsey Nair, *Pagans from Virginia to Plead Guilty, Prosecutors Say All 16 Members of Motorcycle Gang Jailed After Fight Are Pleading to Federal*

Charges, ROANOKE TIMES, May 31, 2002. Copy supplied.

Lindsey Nair, *Pagans and Hells Angels Get Into Devil of a Fight: 'You Could Take a Broom and Sweep the Knives Up Off the Floor,' Detective Says*, ROANOKE TIMES, March 20, 2002. Copy supplied (reprinted in multiple outlets).

Mugshots: Dr. Death (Court TV television broadcast 2001). Video supplied.

Robert E. Kessler, *Juror Error Leads to Mistrial*, NEWSDAY, May 19, 2001. Copy supplied.

David Chernicky and Joanne Kimberlin, *Poisonous Passion: The Untimely Death of Kristin Kinney*, DAILY PRESS, November 28, 2000. Copy supplied.

James Stewart, *A Murderer's Plea*, THE NEW YORKER, September 18, 2000. Copy supplied.

Michael McCarthy, *United States Doctor Pleads Guilty to Murdering Patients*, THE LANCET, September 16, 2000. Copy supplied.

Charlie LeDuff, *Prosecutors Say Doctor Killed to Feel a Thrill*, NEW YORK TIMES, Sept. 7, 2000, at B1. Copy supplied (reprinted in multiple outlets).

Charlie LeDuff, *Man to Admit to Murdering Three Long Island Patients*, NEW YORK TIMES, September 6, 2000. Copy supplied.

Frank Eltman, *Doctor Charged in Patient Killings Pleads Innocent*, ASSOCIATED PRESS, July 18, 2000. Copy supplied.

Denis Hamill, *Justice for Slain Neighbor at Last*, NEW YORK DAILY NEWS, February 20, 2000 at 10. Copy supplied.

Robert E. Kessler, *Life Sentences for Mother and Son / Killed Doctor Before He Could Tell of Scheme*, NEWSDAY, February 15, 2000. Copy supplied.

Catherine Crier Live: The Diary of Dr. Death (Court TV television broadcast 2000). Video supplied.

Robert E. Kessler, *Pair Plead Guilty to Medicaid Fraud*, NEWSDAY, March 18, 1999. Copy supplied.

Robert E. Kessler, *Biker Gang Vice President Admits Beatings*, NEWSDAY, January 8, 1999. Copy supplied.

Grand Illusions: The Story of Magic (The Discovery Channel, Canada, television broadcasts 1998). Video supplied.

Spano Under Investigation for Bounced Checks, THE TIMES (TRENTON, NJ), November 10, 1998. Copy supplied (reprinted in multiple outlets).

Richard Sandomir, *Spano May Not Stick with Guilty Plea*, NEW YORK TIMES, December 3, 1997. Copy supplied (reprinted in multiple outlets).

Bill Lodge, *Ex-Islanders Owner Backs Out of Plea Deals on Fraud Charges*, DALLAS MORNING NEWS, December 2, 1997. Copy supplied.

Robert E. Kessler, *Briber Sentenced*, NEWSDAY, November 25, 1997. Copy supplied.

Robert E. Kessler, *A Tangled Web / Authorities: Deceits Led to Murder*, NEWSDAY, October 25, 1997. Copy supplied (reprinted in multiple outlets).

U.S Attorney Extends Grand Jury Deadline, STUART NEWS, August 22, 1997. Copy supplied (reprinted in multiple outlets).

Richard Alm, *Businessman Accused of Fraud Makes Bail: Spano Plans Not-Guilty Plea in Team Purchase Case*, DALLAS MORNING NEWS, July 29, 1997. Copy supplied.

Robert E. Kessler, *Guilty of Bribing MDs*, NEWSDAY, June 10, 1997. Copy supplied.

Somini Sengupta, *Doctor Turned Hospital Into Assembly Line, Patients Say*, NEW YORK TIMES, January 7, 1996 at 8. Copy supplied.

WDET News Detroit (WDET radio broadcast 1995). Audio supplied.

Maureen Fan, *Feds Examine Doc, Get \$875,000*, NEW YORK DAILY NEWS, December 25, 1995. Copy supplied.

Robert E. Kessler, *Laundered Stamps: Food Suppliers Charged in \$16 Million Swindle*, NEWSDAY, July 26, 1995. Though I briefly spoke with the reporter about this case, the article misattributes a quotation to me. Copy supplied.

Selwyn Raab, *Food Stamps Used in Scam to Sell Meat*, NEW YORK TIMES, October 28, 1992. Copy supplied (reprinted in multiple outlets).

Robert E. Kessler, *Seven Charged in \$20 Million Bribe Scheme*, NEWSDAY, February 5, 1991. Copy supplied.

Edward A. Adams, *After a Year, Grave Doubts Begin to Rise; Law Students Reflect; Class of '88*, NATIONAL LAW JOURNAL, September 8, 1986. Copy

supplied.

Anne Toker, *Law Students Seek Divestment*, YALE DAILY NEWS, November 15, 1985 at 1. 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.

Since November 2011, I have served as a United States Magistrate Judge in the Eastern District of New York, exercising the full range of jurisdiction set forth in 28 U.S.C. § 636.

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

I have presided over nine consent cases that have gone to trial.

- i. Of these, approximately what percent were:

jury trials:	89%
bench trials:	11%
civil proceedings:	100%
criminal proceedings:	0%

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

See attached.

- 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. *Cablevision Sys. Corp. v. Verizon Comm. Inc.*, Case No. 15-456 (GRB), 2015 WL 4758072 (E.D.N.Y. 2015).

On consent of the parties, I am currently handling cross-motions for preliminary injunctions relating to advertising by these two entities concerning the speed of wireless services and the availability of wireless hotspots in the New York area. Two days of hearings have been held to date. Each party seeks to enjoin the other from employing certain print, web and television advertising claims, including Verizon's claim that it provides the "fastest wi-fi," and Cablevision's claim that it offers more than one million hotspots. On August 7, 2015, I issued a written

opinion denying preliminary injunctive relief to both parties. The matter remains pending.

Counsel for plaintiff:

Saul Benjamin Shapiro
Travis Jason Tu
Patterson Belknap Webb & Tyler
1133 Avenue of the Americas
New York, NY 10036
212-336-2000

Counsel for defendant:

Gregg F. LoCascio
Jonathan D. Brightbill
Kirkland & Ellis LLP
655 15th Street NW, Suite 1200
Washington, DC 20005
202-879-5000

2. *Choi v. Philipson*, Case No. 11-CV-2670 (GRB).

This diversity case, along with a parallel state court action, arose from a car accident involving a van filled with college students on spring break, in which two students were killed and a third was severely injured. Through several multi-party settlement conferences, I was able to negotiate an early, global settlement that resolved the claims pending in the Eastern District of New York as well as the state court action, minimizing the expense and emotional impact of the litigation for the accident victims and their families. The case settled for a confidential sum.

Counsel for plaintiffs:

Todd Ira Siegel
Bertram Siegel
Siegel & Siegel
300 Route Four
Post Office Box 279
Teaneck, NJ 07666
201-837-2300

Elizabeth Eilender (in parallel state court proceeding)
The Law Offices of Elizabeth Eilender, P.C.
225 Broadway, 24th Floor
New York, NY 10007

212-227-2780

Counsel for defendants:

Kenneth E. Pitcoff (for defendants A. Philipson and J. Philipson)
Angela P. Pensabene
Morris, Duffy, Alonso & Faley
Two Rector Street
New York, NY 10006
212-766-1888

Shawn Michael Weakland (for defendant Ms. Graham)
Smith Mazure Director Wilkins Young & Yagerman, P.C.
111 John Street, 20th Floor
New York, NY 10038
212-964-7400

3. *Ferrari v. Cnty. of Suffolk*, Case No. 10-CV-4218 (GRB), 2015 WL 3853489 (E.D.N.Y. Feb. 25, 2015).

This procedural due process case arose from the seizure and retention of plaintiff's vehicle, a high-end sports car, by county officials, who failed to follow the proscriptions set forth by the Second Circuit in *Krimstock v. Kelly*, 306 F.3d 40, 65 (2d Cir. 2002). Following a partial summary judgment decision by Judge Seybert regarding liability, and upon consent of the parties, I presided over a jury trial focused largely on the issue of damages. After the jury returned a verdict of \$95,000, I wrote a detailed opinion denying a motion for a new trial, and rejecting the county's argument that the damages found by the jury were not caused by the due process violation. The case is on appeal to the Second Circuit.

Counsel for plaintiff:

Andrew J. Campanelli
Campanelli & Associates, P.C.
1757 Merrick Avenue, Suite 204
Merrick, NY 11566
516-746-1600

Counsel for defendants:

Christopher M. Gatto
Megan E. O'Donnell
Suffolk County Attorney's Office
H. Lee Dennison Building, Fifth Floor
100 Veterans Memorial Highway
Hauppauge, NY 11788

631-853-5668

4. *Janky v. Westhampton Beach UFSD*, Case No. 11-CV-2580 (GRB), *aff'd* 2015 WL 3970301 (2d Cir. June 30, 2015)

Plaintiff, a public school teacher, claimed discrimination under the Americans with Disabilities Act in the form of a failure to make workplace accommodations on the basis of a hearing impairment. The defendants maintained that they had provided appropriate accommodations. Following a week-long trial, a jury found no liability on the part of defendants.

Counsel for plaintiff:

Thomas Ricotta
White, Ricotta & Marks
3110 37th Avenue, Suite 401
Long Island City, New York
347-464-8694

Counsel for defendant:

Jeltje DeJong
Devitt Spellman Barrett, LLP
50 Route 111
Smithtown, NY 11787
631-724-8833

5. *Lido Beach Towers v. Fugate*, Case No. 14-CV-1229 (JFB) (GRB).

In this multi-party dispute, plaintiff, a condominium association, sought reimbursement for approximately \$8 million in damages sustained during Hurricane Sandy. Through a series of alleged errors and miscommunications, the flood insurance policy covering the complex had lapsed, leaving the homeowners without coverage. During several full-day settlement conferences, I helped the parties structure a compromise resolution through which a substantial portion of the damages were paid through contributions by FEMA and insurers covering the association's managements companies and insurance broker. The case settled for a confidential sum.

Counsel for plaintiff:

Mark L. Friedman
Wilkofsky Friedman, Karel & Cummins
299 Broadway, Suite 1700
New York, NY 10007
212-285-0510

Counsel for defendants:

Robert W. Schumacher, II (for defendant Mr. Fugate, the administrator of FEMA)
U.S. Attorney's Office for the Eastern District Of New York
610 Federal Plaza
Central Islip, NY 11722
631-715-7871

Stephen Carson Cunningham (for defendant Denis A. Miller Insurance Agency
Inc., and Mr. Miller)
Keidel Weldon & Cunningham LLP
925 Westchester Avenue, Suite 302
White Plains, NY 10604
914-948-7000

Michael J. Byrne (for defendant Cooper Square Realty, Inc.)
Gogick, Byrne & O'Neill, LLP
11 Broadway, Room 1560
New York, NY 10004
212-422-9424

6. *Raimey v. Wright Nat. Flood Ins. Co.*, No. 14-CV-461 (JFB)(SIL)(GRB).
Related citations: *In re Hurricane Sandy Cases*, 303 F.R.D. 17 (E.D.N.Y. 2014),
reconsiderations denied No. 14 MC 41, 2014 WL 7011069 (E.D.N.Y. Dec. 11,
2014); No. 14-MC-41, Docket Entry 863, *aff'd sub nom.*, *Raimey v. Wright Nat.*
Flood Ins. Co., No. 14-CV-461 (JFB) (SIL) (GRB), 2014 WL 7399179 (E.D.N.Y.
Dec. 31, 2014).

Arising out of the massive Hurricane Sandy litigation docket, this case involved a home in Long Beach that sustained significant damage. An independent adjustor determined that the house was unsafe for habitation, and the City of Long Beach issued a "substantial damage letter," finding that the home sustained more than 50% damage, requiring that the structure be demolished or rebuilt on raised supports. Defendant Wright National Flood Insurance Company, an insurer that administers the FEMA's National Flood Insurance Program, refused to pay for any structural damage based on the strength of a single engineering report suggesting that the foundation was not damaged by the storm but by other non-covered, long-term factors. As a result, Wright paid the homeowners only for cosmetic damage and remediation, totaling approximately \$80,000, and the home was razed. Following a failed attempt at mediation, plaintiffs submitted evidence that the engineering report had been altered, supplying the court with photographs of a variant of the engineering report – obtained directly from the inspecting engineer – that concluded that the house sustained damaged beyond repair by the hurricane. Upon receipt of this evidence, I held a full-day evidentiary hearing on October 1, 2014, during which evidence was elicited demonstrating that the

inspecting engineer had determined that the subject house had sustained flood damage during Hurricane Sandy and that repairing the structure was economically unfeasible. That report was altered by a second engineer, who changed the report's conclusions to reflect that the house had not sustained damage from the storm, but from long-term deterioration. The entire process was concealed from the parties and the court, discovered only because of the homeowners' persistence in pressing the inspecting engineer to show them the draft, which they photographed. Testimony revealed that hundreds of reports had been subject to this type of alteration, and the practice was widespread. I issued a memorandum and order describing these findings with a panoply of remedies, which Judge Bianco affirmed in its entirety.

The case resolved through, among other things, full payment of the insurance limits to the insured and payment of \$1 million in attorneys' fees as a sanction against Wright. The decision acted as a catalyst for the resolution of hundreds of other claims, and called attention to the problems with FEMA's management of the National Flood Insurance Program.

Counsel for plaintiffs:

Denis G. Kelly
Denis G. Kelly & Associates, P.C.
74 West Park Avenue
Long Beach, NY 11561
516-897-0800

Steve Mostyn
Gregory F. Cox
The Mostyn Law Firm
3810 West Alabama Street
Houston, TX 77027
713-861-6616

John Houghtaling
Gauthier, Houghtaling & Williams, LLP
3500 North Hullen Street
Metairie, LA 70002
504-456-8600

Counsel for defendant:

Michael Gardener
Mintz Levin Cohn Ferris Glovsky and Popeo PC
666 Third Avenue
New York, NY 10017
212-983-3000

7. *Richards v. North Shore Long Island Jewish Health Sys.*, Case No. 10-4544 (GRB), *aff'd*, 581 F. App'x 99 (2d Cir. 2014).

Plaintiff, an electrician, sued the North Shore-Long Island Jewish Health System, claiming that he was discharged on the basis of race and seeking damages pursuant to statute. Upon consent and referral from Judge Wexler, I conducted a three-day jury trial, after which the jury found that the claim was without merit. On appeal to the Second Circuit, plaintiff argued that I had erroneously excluded testimony of a purportedly similarly-situated employee under Rule 403. In rejecting the appeal and upholding the judgment, the Second Circuit noted that the balancing inquiry conducted by the district court was properly conducted and was not an abuse of discretion.

Counsel for plaintiff:

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516-568-7700

Counsel for defendant:

Marianne Monroy
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111 Great Neck Road, Suite 503
Great Neck, NY 11021
516-393-2200

8. *Rizzi v. US Airways, Inc.*, Case No. 14-5100 (ADS) (GRB).

In this high-profile case, the plaintiff, who is visually impaired, was allegedly escorted off a US Airways flight – which had been delayed on the tarmac – based on the flight attendant's claim the plaintiff and his guide dog were being disruptive. According to the complaint and media reports, all other passengers on the flight disembarked along with the plaintiff as a show of solidarity. Following lengthy negotiations with the parties, I helped facilitate a resolution, which included an agreement by the airline to examine accessibility issues. The parties settled for a confidential sum.

Counsel for plaintiff:

Lambros Yiannakou Lambrou
The Lambrou Law Firm P.C.
45 Broadway, Suite 3120

New York, NY 10006
212-285-2100

Counsel for defendant:

Alan D. Reitzfeld
Holland & Knight LLP
31 West 52nd Street
New York, NY 10019
212-513-3400

9. *Taylor v. Rogich*, Case No. 11-CV-934 (GRB)
Related citations: *Taylor v. Nassau Cnty.*, No. 11-CV-0934 (SJF) (GRB), 2012 WL 5472554 (E.D.N.Y. Nov. 5, 2012); *Taylor v. Rogich*, 45 F. Supp. 3d 223 (E.D.N.Y. 2014), *appeal dismissed*, 781 F.3d 647 (2d Cir. 2015).

By consent of the parties, I presided over this excessive force jury trial in August 2013. The plaintiff, who had been previously convicted of manslaughter and narcotics offenses, was shot and seriously injured during the execution of an arrest warrant. The jury found for plaintiff. *Newsday* featured this outcome as part of a report on investigation of the use of deadly force by the Nassau County Police Department. An interlocutory appeal was dismissed, and the damages phase is pending trial.

Counsel for plaintiff:

John Joseph Nonnenmacher
Bader Yakitis and Nonnenmacher
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New York, NY 10118
212-465-1110

Counsel for defendants:

Peter A Laserna (for defendant Mr. Rogich)
Melter Lippe Goldstein & Breitstone LLP
190 Willis Avenue
Mineola, NY 11501
516-747-0300

Pablo A. Fernandez (for defendant Nassau County)
Nassau County Attorney's Office
One West Street
Mineola, NY 11501
516-571-3011

10. *Town of Brookhaven v. Sills Rd. Realty LLC*, No. CV 14-2286 (GRB), 2014 WL 2854659 (E.D.N.Y. June 23, 2014).

Upon consent of the parties, I presided over a multi-day preliminary injunction hearing affecting an environmentally sensitive, 93-acre site located in Suffolk County. As noted in my decision, “the Town established that the anticipated removal of more than two million tons of sand from the site, which is located in a hydrologic recharge zone, presents a very real risk of contamination to Long Island’s sole source glacial aquifers. Moreover, plaintiff presented overwhelming evidence that the lucrative sand mining operation, expected to generate revenues of \$10 million or more, appears entirely independent of any plan that defendants may implement to construct railroad operations at the site, which plan has not advanced beyond a conceptual stage.” Based on these findings, a preliminary injunction was entered. The matter remains pending.

Counsel for plaintiff:

Robert M. Calica
Rosenberg Calica & Birney LLP
100 Garden City Plaza, Suite 408
Garden City, NY 11530
516-747-7400

Counsel for defendants:

Yonaton Aronoff (for defendants Sills Road Realty LLC, Brookhaven Rail LLC, Brookhaven Terminal Operations LLC, Oakland Transportation Holdings LLC, Watral Brothers, Inc., and Pratt Brothers, Inc.)
Foley & Lardner LLP
90 Park Avenue
New York, NY 10016
212-682-7474

Kevin Patrick Mulry (for defendant Sills Expressway Associates)
Farrell Fritz P.C.
1320 RXR Plaza
Uniondale, NY 11556
516-227-0620

- 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. *Almonte v. Suffolk Cnty.*, Case No. CV 10-5398 (LDW) (GRB), 2012 WL 1820581 (E.D.N.Y. May 16, 2012) *report and recommendation adopted*, No. 10-

CV-5398 LDW, 2012 WL 2357369 (E.D.N.Y. June 11, 2012), *aff'd*, 531 F. App'x 107 (2d Cir. 2013)

Counsel for plaintiff:

Frederick K. Brewington
Law Offices of Frederick K. Brewington
556 Peninsula Boulevard
Hempstead, NY 11550
516-489-6959

Counsel for defendant:

Honorable Richard T. Dunne (former Assistant County Attorney)
John P. Cohalan, Jr. Courthouse
400 Carleton Avenue
Central Islip, NY 11722
(631) 853-5520

2. *Anaba v. Cnty. of Suffolk*, Case No. 11-CV-1987 (ADS) (GRB), 2014 WL 1411770 (E.D.N.Y. Apr. 11, 2014)

Counsel for plaintiff:

Jon L. Norinsberg
Law Office of Jon L. Norinsberg
225 Broadway, Suite 2700
New York, NY 10007
212-791-5396

Counsel for defendants:

Arlene S. Zwilling
Suffolk County Attorney's Office
H. Lee Dennison Building, Fifth Floor
100 Veterans Memorial Highway
Hauppauge, NY 11788
631-853-4049

3. *Aquila v. Fleetwood, R.V., Inc.*, Case No. 12-CV-3281 (LDW) (GRB), 2014 WL 1379648 (E.D.N.Y. Mar. 27, 2014).

Counsel for plaintiff:

James Cammarata
Law Offices of James Cammarata

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Oyster Bay, NY 11771
516-922-4660

Counsel for defendants:

Michael John Tiffany
Alyssa Young
Lauren R. Fox
Stephanie Gase
Thomas Key Richards (for defendant Fleetwood, R.V., Inc.)
Leader & Berkon LLP
630 Third Avenue
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212-486-2400

Jerald F. Oleske (for defendant Spartan Motors)
Lebowitz, Oleske, Connahan & Kassar
299 Broadway, Suite 1600
New York, NY 10007
212-233-3079

Stephen A. Hoffman (for defendant Spartan Motors)
Gallo Vitucci Klar LLP
90 Broad Street
New York, NY 10004
(212) 683-7100

John Francis Gillespie (for defendant Lazydays)
Ahmuty, Demers & McManus, Esqs.
199 Water Street, 16th Floor
New York, NY 10038
212-513-7788

4. *Carver v. Nassau Cnty. Interim Fin. Auth.*, No. CV 11-1614 (LDW) (GRB), 2012 WL 12266890 (E.D.N.Y. May 7, 2012) & 2012 WL 12266891 (E.D.N.Y. Aug. 9, 2012)

Counsel for plaintiffs:

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Dina Kolker
Stroock & Stroock & Lavan
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212-806-5400

Harry Greenberg
Seth H. Greenberg
Greenberg Burzichelli Greenberg P.C.
3000 Marcus Avenue, Suite 1W7
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516-570-4343

Counsel for defendant:

Christopher Joseph Gunther
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, NY 10036
212-735-3483

5. *In re BitTorrent Adult Film Copyright Infringement Cases*, 296 F.R.D. 80, report and recommendation adopted sub nom. *Patrick Collins, Inc. v. Doe 1*, 288 F.R.D. 233 (E.D.N.Y. 2012).

Counsel for plaintiffs:

Frederic R. Abramson (for plaintiff K-Beech, Inc.)
Frederic R. Abramson P.C.
160 Broadway, Suite 5000
New York, NY 10038
212-233-0666

Jason Aaron Kotzker (for plaintiff Malibu Media, LLC)
Kotzker Law Group
9609 South University Boulevard #632134
Highlands Ranch, CO 80163
303-875-5386

Counsel for defendants:

Michael A. Scotto
Robert C. Angelillo
Meyer, Suozzi, English & Klein PC
990 Stewart Avenue, Suite 300
Garden City, NY 11530
516-741-6565

6. *In re Pall Corp. Class Action Attorneys' Fees Application*, Case No. CV 07-3359 (JS) (GRB), 2013 WL 1702227 (E.D.N.Y. Apr. 8, 2013) report and recommendation adopted sub nom. *In re Pall Corp.*, No. 07-CV-3359 (JS) (ARL),

2013 WL 3244824 (E.D.N.Y. June 25, 2013)

Counsel for plaintiffs:

David A. Rosenfeld
Mario Alba, Jr.
Samuel H. Rudman
Robbins Geller Rudman & Dowd, LLP
58 South Service Road, Suite 200
Melville, NY 11747
631-367-7100

Counsel for objectors:

Irwin B. Schwartz
Nicholas R. Cassie
BLA Schwartz, PC
41 Madison Avenue, 31st Floor
New York, NY 10010
917-512-2219

7. *In re Smartphone Geolocation Data Application*, 977 F. Supp. 2d 129 (E.D.N.Y. 2013).

Counsel for prosecution:

Allen Lee Bode
United States Attorney's Office for the Eastern District of New York
610 Federal Plaza
Central Islip, NY 11722
631-715-7828

8. *S.E.C. v. NIR Group, LLC*, 283 F.R.D. 127 (E.D.N.Y. 2012)

Counsel for plaintiff:

Kenneth V. Byrne
Howard A. Fischer
Securities and Exchange Commission
Three World Financial Center, Suite 400
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212-336-1020

Counsel for defendant:

Douglas Roy Hirsch

Samuel Jay Lieberman
Sadis & Goldberg LLP
551 Fifth Avenue, 21st Floor
New York, NY 10176
212-573-6670

9. *United States v. Savader*, 944 F. Supp. 2d 209 (E.D.N.Y. 2013)

Counsel for prosecution:

Allen Lee Bode
United States Attorney's Office for the Eastern District of New York
610 Federal Plaza
Central Islip, NY 11722
631-715-7828

Counsel for defendant:

Michael L. Soshnick
Solo Practitioner
190 Willis Avenue, Suite 112
Mineola, NY 11501
516-294-1111

10. *Vox Amplification Ltd. v. Meussdorffer*, Case No. CV 13-4922 (ADS) (GRB), 2014 WL 558866 (E.D.N.Y. Feb. 11, 2014), *report and recommendation adopted*, 50 F. Supp. 3d 355 (E.D.N.Y. 2014)

Counsel for plaintiffs:

Brian A. Coleman
Drinker, Biddle & Reath
1500 K Street, NW, Suite 1100
Washington, DC 20005
212-248-3140

Counsel for defendants:

Ronald S. Bienstock
Brent Merrill Davis
Bienstock & Michael P.C.
411 Hackensack Avenue, Seventh Floor
Hackensack, NJ 07601
201-525-0300

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

None.

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

In *Util. Audit Grp. v. Capital One, N.A.*, No. CV 14-0097 (SJF) (GRB), 2015 WL 1439695 (E.D.N.Y. Feb. 4, 2015), *adopted in part* by 2015 WL 1439622 (E.D.N.Y. Mar. 26, 2015), Judge Feuerstein, while adopting my report and recommendation in substantial part, determined that I had erroneously a) made a determination that one defendant was a “named fiduciary” to certain ERISA plans, and (b) suggested that plaintiffs stated a plausible claim for breach of fiduciary duty under ERISA for wrongful termination of a plan, though the district court determined there was, in fact, a cause of action for breach of fiduciary duty for other reasons.

In one matter, a district judge rejected part of my report and recommendation based upon differing standards for evaluating an adverse employment action in retaliation and discrimination cases. The ultimate outcome of the case was unaffected by the error. *Harper v. Brooklyn Children's Ctr.*, 2014 WL 1154043 (E.D.N.Y. 2014), *report and recommendation adopted in part, rejected in part*, 2014 WL 1154056 (E.D.N.Y. 2014).

In *Heckmann v. Town of Hempstead*, I recommended dismissal of a second amended complaint filed by a represented homeowner claiming deprivation of due process based upon the board-up of his home by town representatives after a purported gas leak. Judge Feuerstein reviewed my finding that the allegations failed to state a claim, and affirmed that determination. On appeal, however, the Second Circuit found that the district court failed to consider two allegations which could have given rise to a claim, and hence reversed and remanded that portion of my decision. *See Heckmann v. Town of Hempstead*, No. CV 10-5455 SJF GRB, 2013 WL 1345315, at *1 (E.D.N.Y. Feb. 11, 2013), *report and recommendation adopted in part, rejected in part*, No. 10-CV-5455 (SJF) (GRB), 2013 WL 1345250 (E.D.N.Y. Mar. 27, 2013), *reversed in part*, 568 F. App'x 41, 47 (2d Cir. 2014).

In *Rodriguez v. Pie of Port Jefferson Corp.*, a pending Fair Labor Standards Act action, I directed plaintiffs to respond to interrogatories concerning their immigration status consistent with my earlier ruling in *Bermudez v. Karoline's Int'l Restaurant Bakery Corp.*, 2013 WL 6146083 (E.D.N.Y. Nov. 21, 2013). The *Bermudez* opinion held that such information was potentially relevant based upon the Second Circuit's decision in *Palma v. NLRB*, 723 F.3d 176 (2d Cir. 2013) (undocumented workers not entitled to backpay awards under the NLRA) and set

forth a procedure for discovery designed to minimize the chilling effect upon plaintiffs. Subsequently, several lower courts ruled *Palma* inapplicable to FLSA proceedings, leading me to limit the holding in another case. See *Dilonez v. Fox Linen Serv. Inc.*, 2014 WL 3893094 (E.D.N.Y. July 25, 2014). In *Rodriguez*, Judge Wexler ruled that immigration status was irrelevant under the FLSA, thereby reversing the discovery order. *Rodriguez v. Pie of Port Jefferson Corp.*, 48 F. Supp. 3d 424 (E.D.N.Y. 2014).

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

As a magistrate judge, I have issued thousands of case orders addressing discovery disputes, filing deadlines, adjournments and similar issues. In cases in which dispositive motions or other complex issues have been referred to me by district judges, or in which the parties have consented to my jurisdiction, I have issued substantive opinions. More than 140 of my decisions are available in electronic databases. All of my decisions are available in files maintained by the clerk's office for the Eastern District of New York.

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

In re Smartphone Geolocation Data Application, 977 F. Supp. 2d 129 (E.D.N.Y. 2013).

Anaba v. Cnty. of Suffolk, No. 11-CV-1987 (ADS) (GRB), 2014 WL 1411770 (E.D.N.Y. Apr. 11, 2014).

Cox v. Nassau Cnty. Corr. Ctr., No. CV 11-1937(JFB) (GRB), 2013 WL 831194 (E.D.N.Y. Feb. 15, 2013), *report and recommendation adopted*, 2013 WL 828949 (E.D.N.Y. Mar. 6, 2013).

- 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.

None.

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.

Consistent with the Code of Conduct for United States Judges and 28 U.S.C. § 455, I review every new file assigned to me to ensure that no conflict of interest exists and maintain a standing recusal list with the clerk's office. My standing recusal list currently includes CA Technologies, Inc., as well as its subsidiaries, based on my prior employment by that entity and my ownership of common stock therein. I also recuse myself in any case where I have a significantly close relationship with counsel, parties, or witnesses (family, business, or social). In the event of uncertainty, I have recused myself *sua sponte*.

In preparing this application, I have searched for recusal applications or orders in electronic databases and court files. Those searches reveal that I have recused myself from several matters, always on my own application, based upon personal association with the parties or attorneys.

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.

From 2010 to 2011, I served as a member of the Town of Brookhaven Board of Ethics, having been appointed by then Town Supervisor Mark Lesko and approved by the Town Board.

- 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.

None.

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;

Immediately following law school, I served as a law clerk from 1988 to 1989 to the Honorable Jacob Mishler, a district judge in the E.D.N.Y.

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

I have not practiced alone.

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

1989 – 1996

United States Attorney's Office for the Eastern District of New York
Civil Division
One Pierrepont Plaza
Brooklyn, New York 11201
Assistant United States Attorney (1989 – 1996)
Affirmative Litigation Coordinator (1994 – 1996)

1996 – 2005

United States Attorney's Office for the Eastern District of New York
Long Island Criminal Division
610 Federal Plaza
Central Islip, New York 11722
Assistant United States Attorney (1996 – 2005)
Deputy Chief (2001 – 2003)
Chief (2003 – 2005)

2005 – 2011

CA Technologies
One CA Plaza
Islandia, New York 11749
Senior Counsel (2005 – 2006)
Associate General Counsel & Director of Litigation (2006 – 2007)
Chief Counsel for Litigation (2007 – 2011)
Chief Compliance Officer (2009 – 2011)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

From 2005 to 2011, I supervised litigation on behalf of CA Technologies, a Fortune 500 company with revenues exceeding \$4 billion. I directly managed the company's major litigation. In most of these matters, I selected and closely supervised outside counsel, regularly attending court proceedings in a managerial role. Because of my background in litigation, however, I maintained hands-on management of these matters. As CA Technologies' Chief Compliance Officer, I conducted numerous internal investigations, supervised a team of investigators and administered training and compliance programs for the company and its 13,000 employees. I regularly advised the company's general counsel, CEO and board of directors on legal and compliance matters.

In the preceding fifteen years I worked at the U.S. Attorney's Office, divided almost equally between the civil and criminal divisions. In that time, I litigated and supervised hundreds of matters involving nearly every aspect of federal criminal law, and a wide array of affirmative and defensive civil litigation.

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

While at CA Technologies, I represented the company, its officers and employees in IP litigation (patent, trade secret and copyright claims), complex contract disputes, shareholder derivative actions, class actions, government contracting and *qui tam* suits, and tax and securities litigation. As Chief Compliance Officer, my work included design and implementation of a Foreign Corrupt Practices Act compliance program with a particular focus on emerging markets.

While at the U.S. Attorney's Office, I represented the United States, its agencies, officers and employees. My experience in the criminal division included cases ranging from petty offenses to the most serious violent and economic crimes, while in the civil division I specialized in asset forfeiture, but also gained experience in contracts, torts, intellectual property, fraud, and environmental law.

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

During my tenure as an Assistant United States Attorney, I appeared in court frequently, often on a daily basis. At CA Technologies, court appearances were relatively infrequent, though I also appeared before administrative bodies, including the Securities and Exchange Commission.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 80% |
| 2. state courts of record: | 10% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 60% |
| 2. criminal proceedings: | 40% |

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

As an attorney, I tried more than two dozen cases to verdict. I was sole or chief counsel in all of these.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 80% |
| 2. non-jury: | 20% |

- 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.

None.

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. *CA Inc., et al. v. Rocket Software*, 579 F. Supp. 2d 355 (E.D.N.Y. 2008) (Spatt, J.)

Together with outside counsel, I represented CA Technologies in this affirmative copyright and trade secret case involving the alleged misappropriation of commercial software products by a major competitor. I investigated and supervised all aspects of the case, appeared in court, conducted and defended depositions and ultimately negotiated a settlement. We resolved the matter through the payment of \$50 million to CA Technologies, representing a substantial portion of the estimated damages.

Co-Counsel:

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Opposing Counsel:

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Skadden Arps
Four Times Square
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(212) 735-2307

2. *Pagans Outlaw Motorcycle Club Cases*, Case Nos. CR-99-399 (DRH) (E.D.N.Y.) (Hurley, J.) & CR-02-305 (LDW) (Wexler, J.)
Related Citation: *United States v. Desena*, 260 F.3d 150 (2d Cir. 2001)

In a series of cases resulting in prosecutions in 1999 and 2002, I was lead counsel in the investigation and conviction of more than 100 members of the Pagans Outlaw Motorcycle Club for racketeering offenses including attempted murder, assault, arson, robbery and narcotics trafficking. In the 1999 prosecution, approximately 36 defendants pled guilty, and four went to trial. The trial lasted six weeks; all defendants were convicted on offenses, including violent crimes in aid of a racketeering enterprise, and sentenced to between three and 26 years in prison. On appeal, the Second Circuit ruled on the sufficiency of the evidence and a missing witness charge and affirmed the convictions. The 2002 case arose from a single, large-scale assault by the Pagans at a

public event, resulting in the arrest of 74 members and associates. All but one defendant pled guilty. The remaining defendant, Mr. Ruhlman, faced a week-long trial and was convicted of an assault conspiracy charge and sentence to three years in prison. I have listed only trial counsel below.

Co-counsel:

Leonard Lato (formerly at United States Attorney's Office)
Solo Practitioner
200 Vanderbilt Motor Parkway
Hauppauge, New York 11788
(631) 655-5008

Opposing Counsel:

John Jacobs (deceased)
Valerie Amsterdam (contact information unavailable)

Joel Weiss
Farrell Fritz
1320 RXR Plaza
Uniondale, New York 11556
(516) 227-0692

Terrence P. Buckley
Solo Practitioner
One Suffolk Square, Suite 520
Islandia, New York 11749
(631) 234-5311

Charles S Hochbaum, Esq.
Solo Practitioner
Attorney for Ruhlman
16 Court Street #1800
Brooklyn, NY 11241
(718) 855-4800

3. *United States v. All Assets of G.P.S. Auto. Corp.*, 66 F.3d 483 (2d Cir. 1995)
(Calabresi, Altimari, Leval, JJ.)

Following the successful forfeiture by a cross-designated state prosecutor of the *res* at issue in this case – the assets of an auto parts yard used to facilitate a “chop shop,” I was assigned to handle briefing and argument of the appeal. The complex issues included the then-evolving application of the Eighth Amendment – in particular the double jeopardy clause – to forfeiture proceedings in the face of a parallel state criminal prosecution. The United States largely prevailed on the appeal, though the matter was remanded for

additional fact-finding for the purposes of a proportionality determination.

Opposing Counsel:

Denis P. O'Leary
Neufeld & O'Leary
370 Lexington Ave, #908
New York, New York 10017
(212) 986-0999

4. *United States v. All Funds on Deposit* (E.D.N.Y.) (Weinstein, J.)
Related Citations: *U.S. v. All Funds (Daccarett)*, 801 F. Supp. 984 (E.D.N.Y. 1992) (JBW), *aff'd*, 6 F.3d 37 (2d Cir. 1993); *U.S. v. All Funds in Names of Meza or De Castro*, 856 F. Supp. 759 (E.D.N.Y. 1994) (JBW), *aff'd*, 63 F.3d 148 (2d Cir. 1995); *Organizacion JD v. Department of Justice*, 18 F.3d 91 (2d Cir. 1994).

These civil forfeiture actions – the first to involve the seizure of wire transfers while in transit – targeted an international money laundering ring employed by the Cali Cartel. The cases yielded the forfeiture of more than \$60 million in drug proceeds, and ultimately dismantled the Santacruz-Londono organization, one of the most powerful groups within the cartel. My involvement extended over several years, most prominently in the six-week jury trial in the All Funds (Daccarett) matter, which resulted in a jury determination that nearly all of the funds seized were subject to forfeiture.

Co-Counsel:

The Honorable Jennifer Boal (formerly at United States Attorney's Office)
United States District Court for the District of Massachusetts
One Courthouse Way, Suite 2300
Boston, Massachusetts 02210
(617) 748-9152

Arthur P. Hui (formerly at United States Attorney's Office)
Tyco International Inc.
Nine Roszel Road
Princeton, New Jersey 08540
(609) 720-4200

Opposing Counsel:

Blair Sibley (contact information unavailable)
Michael Abbell (contact information unavailable)
Isidoro Rodriguez (contact information unavailable)

5. *United States v. Amiel*, 95 F.3d 135 (2d Cir. 1996) (Parker, Newman, Oakes, JJ.)
Related Citations: *United States v. Amiel*, 889 F. Supp. 615 (E.D.N.Y. 1995); *United*

States v. Amiel, 813 F. Supp. 958 (E.D.N.Y. 1993) *aff'd*, 995 F.2d 367 (2d Cir. 1993) (E.D.N.Y.) (Platt, J.).

The defendants in this matter operated one of the largest art fraud operations in the world, distributing counterfeit lithographs purportedly signed by Picasso, Dali, Miro and Chagall. As the Assistant United States Attorney responsible for the civil forfeiture proceeding, I coordinated the forfeiture of property worth nearly \$10 million. Because of a failure to timely respond, the defendants defaulted in the forfeiture action and the property was forfeited to the United States. Three defendants were convicted at a trial (in which I did not participate) and were sentenced to between 33 and 78 months. Following the conviction, I briefed a double jeopardy issue for the Second Circuit. A post-briefing decision by the Supreme Court in another case, finding that *in rem* forfeitures were not punishment for the purposes of double jeopardy, resolved the issue.

Co-Counsel:

The Honorable Edgardo Ramos
United States Courthouse (formerly at the United States Attorney's Office)
40 Foley Square
New York, New York 10007
(212) 805-0294

Opposing Counsel:

Adrian L. Diluzio
Solo Practitioner
200 Old Country Road #590
Mineola, New York 11501
(516) 248-8930

6. *United States v. Baker*, 262 F.3d 124 (2d Cir. 2001) (E.D.N.Y.) (Mishler, J.)

The *Baker* case involved the murder of Dr. Hodge, a physician and attorney, by his former paramour and her son, in order to prevent Dr. Hodge from revealing a multi-million dollar Medicaid fraud scheme to federal authorities. My involvement in this matter extended from approximately 1997 through 2001. The jury trial, in 1998, lasted approximately three weeks, after which the defendants were found guilty of obstruction of justice by murder (later reduced to obstruction of justice by assault with a deadly weapon), firearms offenses and related fraud counts. Mrs. and Mr. Baker were sentenced, respectively, to 50 and 55 years' incarceration. On appeal, the Second Circuit reevaluated the protocol for district courts making inquiry of jurors who refuse to deliberate, and affirmed the eleven-juror verdict. The precedential significance of the decision is explained in *United States v. Boone*, 458 F.3d 321 (3d Cir. 2006).

Co-counsel:

Joseph Conway (formerly at United States Attorney's Office)
Larusso and Conway
300 Old Country Road, Suite 341
Mineola, New York 11501
(516) 248-3520

Opposing Counsel:

David Breitbart
Solo Practitioner
52 Duane Street, Seventh Floor
New York, New York 10007
(212) 608-1313

7. *United States v. Forgacs*, Case No. CR-03-1098 (E.D.N.Y.) (Hurley, J.)

This multi-jurisdictional investigation led to the conviction of two defendants for devising and implementing a con game known as the “granny scam,” targeting the elderly. In 2002, these defendants had obtained more than \$300,000 from elderly grandparents in several states. Two of the defendants pled guilty, leading to a multi-year sentence, while several others became fugitives. The convictions led to significant restitution to the victims. Most importantly, though, the case generated national media coverage of the scheme, helping to protect potential victims.

Opposing Counsel:

Randi Chavis
Federal Defenders of New York
100 Federal Plaza
Central Islip, New York 11722
(631) 712-6502

8. *United States v. Rodriguez*, Case No. 00 CR 1272 (JS) (E.D.N.Y.) (Seybert, J.)

The Salvadorans with Pride gang engaged in a reign of violence and terror on the streets of Long Island as they clashed with a rival street gang, the MS-13. The group maintained a “library” of weapons – including automatic weapons – which members would borrow when assigned to carry out shootings. In *Rodriguez*, a dozen members of the gang (including minors) were convicted of murder and assault conspiracies, assaults, and armed robberies. As the prosecutor in these matters, I handled the investigation and prosecution of all defendants, including suppression hearings, and the matter ultimately resulted in a global plea. Lead counsel are listed below. Following their guilty pleas, these gang members were sentenced to terms of imprisonment of up to 27 years; the areas formerly dominated by this group reported a significant drop in crime for several years.

Opposing Counsel:

Terrence P. Buckley
Solo Practitioner
One Suffolk Square, Suite 520
Islandia, New York 11749
(631) 234-5311

Kevin James Keating
Solo Practitioner
666 Old Country Road
Garden City, New York 11530
(516) 222-1099

Steve Zissou
Steve Zissou and Associates
42-40 Bell Boulevard, Suite 302
Bayside, New York 11361
718-279-4500

9. *United States v. Spano*, Case No. CR-97-938 (E.D.N.Y.) (Platt, J.)

In 1997, Mr. Spano, a con artist with virtually no assets, masqueraded as a successful businessman and heir to a fortune, employing that ruse to successfully acquire the New York Islanders hockey franchise for \$165 million. I represented the United States in this prosecution which, following his guilty plea, resulted in a six-year sentence for Mr. Spano and the return of the team to the defrauded owners.

Co-counsel:

Joseph Conway (formerly at United States Attorney's Office)
Larusso & Conway
300 Old Country Road, Suite 341
Mineola, New York 11501
(516) 248-3520

Opposing Counsel:

Nicholas Gravante, Jr.
Boies Schiller
575 Lexington Avenue, Seventh Floor
New York, New York 10022
(212) 446-2320

10. *United States v. Swango*, Case No. CR-00-728 (JM) (E.D.N.Y.) (Mishler, J.)

I was involved in the investigation and prosecution of Dr. Swango, one of the nation's

most notorious and prolific serial killers. Dr. Swango, a physician who poisoned patients and may have been involved in as many as 60 murders, was sentenced to a mandatory life sentence for killing four veterans at the Veteran's Hospital in Northport. I was involved in this matter from approximately 1999 through 2000, culminating with Dr. Swango's guilty plea to three homicides in the Eastern District of New York, and a fourth in Illinois. Dr. Swango was sentenced to three life terms in solitary confinement.

Co-counsel:

Joseph Conway (formerly at United States Attorney's Office)
Larusso and Conway
300 Old Country Road, Suite 341
Mineola, New York 11501
(516) 248-3520

Opposing Counsel:

Randi Chavis
Federal Defenders of New York
100 Federal Plaza
Central Islip, New York 11722
(631) 712-6502

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 addition to my regular duties as a magistrate judge, I have worked as one of two judicial officers in Central Islip assigned to the Pretrial Opportunity Program, an intensive supervision program for non-violent offenders who suffer from substance abuse issues. The goal of the program, which involves monthly meetings with the defendants, is to help them remain sober, and provide tools to help them finish rehabilitation programs, obtain employment and start rebuilding their lives. Upon their graduation, information about their participation in the program is provided to the sentencing judge in the hopes that these defendants will receive non-custodial sentences.

At the appointment of the Board of Judges, I have worked as part of a three-judge committee to supervise the docket of cases arising from Hurricane Sandy. In that role, I have helped manage more than 1,100 cases filed largely by homeowners against flood and wind insurance carriers. That work has involved the design and implementation of an expedited discovery procedure and a mediation program, through which we trained more than 100 mediators, all intended to ensure fair and expeditious review and

resolution of these claims while minimizing the burden on the court and the parties.

While at CA Technologies, I created and implemented a best practices program to help ensure full compliance with the Foreign Corrupt Practices Act. That program, which has been a model for other companies, was the focus of an Anti-Corruption Symposium for Long Island businesses sponsored by KPMG.

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

From 2001 to 2005, I taught Advanced Criminal Procedure – Sentencing at New York Law School. The course focused on general principles of sentencing and the United States Sentencing Guidelines. Representative syllabus (Spring 2003) supplied.

Since the fall of 2014, I have taught Pretrial Advocacy at St. John's Law School. The course covers all aspects of pretrial procedure, with an emphasis upon skill building in areas such as pre-filing investigation, drafting discovery documents, conducting depositions, motion practice and settlement negotiations. Syllabus supplied.

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

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.

None, other than my present engagement as an adjunct professor at St. John's Law School.

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).

Financial Disclosure Report provided.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in

detail (add schedules as called for).

Net Worth Statement provided.

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.

As a magistrate judge, I presently recuse myself in any case where I have a significantly close relationship with counsel, parties, or witnesses (family, business, or social). I would continue to recuse myself from such cases were I confirmed as a district court judge.

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

If confirmed as a district court judge, I would continue to resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts. I would recuse myself in any matter in which I have a sufficiently close connection with counsel or the parties (family, business, or social), or based on any other circumstance that I believed would give rise to even an appearance of impropriety. If necessary, I would confer with fellow judges on such matters or submit the matter to the Committee on Codes of Conduct for an advisory opinion. In the event of uncertainty, I would err on the side of disqualification.

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

As an Assistant United States Attorney, I regularly participated in education programs for public school students, including hosting school groups at the Courthouse and lecturing at the Urban Assembly School for Law and Justice. In 2006, the Association of Corporate Counsel recognized CA Technologies Legal Department for its outstanding pro bono program. An important element of that program focused on an educational effort for disadvantaged students at Central Islip High School. As part of that effort, I was extensively involved in designing legal exercises for the students, providing training in legal procedures and acting as a judge and mediator during those exercises. Over a three-year period, I devoted a significant amount of time to that effort. Additionally, from approximately 2006 through 2011, I participated in the Eastern District of New York pro bono panel. Finally, I was pleased to learn that my efforts in the Pretrial Opportunity

Program, discussed above, have been recently recognized as an example of pro bono work by members of the judiciary.

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.

On or about September 29, 2014, I filed an application with Senator Schumer's selection committee, expressing my interest in a district court position. I was interviewed by the committee on May 7, 2015 in New York City and, based upon the committee's recommendation, was interviewed by the Senator on May 29, 2015 at his Manhattan office. Since learning of the Senator's intent to recommend me for nomination on June 15, 2015, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 23, 2015, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On July 30, 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.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Brown, Gary R.	2. Court or Organization United States District Court, Eastern District of New York	3. Date of Report 07/30/2015
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge	5a. Report Type (check appropriate type) ☒ Nomination Date 7/30/2015 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2014 to 07/30/2015
7. Chambers or Office Address 100 Federal Plaza Central Islip, NY 11722		
IMPORTANT NOTES: <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

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

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Adjunct Professor of Law (Pretrial Advocacy)	St. John's Law School
2. Board Member	Federal Bar Association - EDNY Chapter
3.	
4.	
5.	

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

☒ NONE (No reportable agreements.)

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Brown, Gary R.

Date of Report

07/30/2015

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 12/31/2014	St. John's Law Salary	\$10,500.00
2. 6/30/2015	St. John's Law Salary	\$10,500.00
3. 6/30/2015	Amazon.com Royalties from published books (estimated thru present)	\$650.00
4.		

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

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

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Brown, Gary R.

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07/30/2015

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

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

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

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Brown, Gary R.

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

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

A. Description of Assets (including trust assets)		B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure		(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1.	CA Inc. Common Stock	A	Dividend	J	T	Exempt				
2.	3D Sys Corp - Common Stock		None	J	T					
3.	Stratasys Corp - Common Stock		None	J	T					
4.	Wells Fargo Muni Fund SXFIX	A	Dividend	K	T					
5.	E*Trade Savings Account	A	Dividend	L	T					
6.	Fidelity - Muni Income Fund FHIGX	A	Dividend	M	T					
7.	Fidelity - Puritan Fund FPVRX	A	Dividend	L	T					
8.	Citibank Account	B	Interest	J	T					
9.	Nassau Educators Credit Union Account	C	Interest	M	T					
10.	Fidelity Cash Account	A	Interest	J	T					
11.	Fidelity - NY Muni Fund FTFMX	A	Interest	J	T					
12.	Bethpage Federal Credit Union Account	A	Interest	K	T					
13.	NY 529 College Plan - Conservative Age-Based Portfolio	C	Int./Div.	K	T					
14.	NY 529 College Plan - Moderate Age-Based Portfolio	E	Int./Div.	M	T					
15.	NY 529 College Plan - Aggressive Age-Based Portfolio	D	Int./Div.	L	T					
16.										
17.										

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

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000
H2 = More than \$5,000,000

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

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Brown, Gary R.

Date of Report

07/30/2015

IX. CERTIFICATION.

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

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

Signature: s/ **Gary R. Brown**

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

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		324	000	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		667	000	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned (personal residence)		365	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		35	000				
Cash value-life insurance							
Other assets itemize:							
- IRAs (held in bank accounts)		12	000				
- Thrift Savings Plan		838	000				
				Total liabilities			0
				Net Worth	2	241	000
Total Assets	2	241	000	Total liabilities and net worth	2	241	000
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)			no
On leases or contracts				Are you defendant in any suits or legal actions?			yes
Legal Claims				Have you ever taken bankruptcy?			no
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

3D Sys Corp - Common Stock	\$ 2,000
CA Inc. - Common Stock	1,000
Stratasys Corp. - Common Stock	2,000
Wells Fargo - Muni Fund	22,000
Fidelity - Muni Income Fund	110,000
Fidelity - Puritan Fund	52,000
Fidelity - NY Muni Fund	109,000
NY 529 College Plan – Conservative Age-Based Portfolio	35,000
NY 529 College Plan – Moderate Age-Based Portfolio	246,000
NY 529 College Plan – Aggressive Age-Based Portfolio	88,000
Total Listed Securities	<u>\$ 667,000</u>

Note concerning law suit: Presently pending is a personal injury case against my minor son brought by a teacher with whom he purportedly collided in a school hallway. I am named in the caption only as the “parent and natural guardian” of my son. The matter, which is being handled by my insurance company, is entitled *Hannemann v. Brown*, and has been filed in the Suffolk County Supreme Court.

AFFIDAVIT

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

July 31, 2015

(DATE)

Gru

(NAME)

Alison M. Weintraub

(NOTARY)

ALISON M. WEINTRAUB
Notary Public, State of New York
No. 02WE6202344
Qualified in Nassau County
Commission Expires March 16, 2017