

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Sheri Polster Chappell
Sheri Jean Polster

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

United States District Judge for the Middle 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.

United States Courthouse and Federal Building
2110 First Street, Suite 5-107
Fort Myers, Florida 33901

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

1962; Sheboygan, Wisconsin

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.

1984 – 1987, Nova Southeastern University Law School (formerly Nova Law Center);
J.D., 1987

1982 – 1984, University of Wisconsin-Madison; B.A., 1984

1980 – 1982, University of Wisconsin-Eau Claire; no degree awarded

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2003 – present

United States District Court for the Middle District of Florida
2110 First Street, Suite 5-107
Fort Myers, Florida 33901
United States Magistrate Judge

2000 – 2003

State of Florida, Twentieth Judicial Circuit
Lee County Justice Center
1700 Monroe Street
Fort Myers, Florida 33901
Lee County Court Judge

1987 – 2000

Office of the State Attorney, Twentieth Judicial Circuit
Lee County Justice Center
2000 Main Street, 6th Floor
Fort Myers, Florida 33901
Executive Staff Member (1999 – 2000)
Charlotte County Office Head (1998 – 2000)
Supervisor of Fort Myers Circuit Court Trial Division (1993 – 1998)
Hendry County Office Head (1991 – 1993)
Felony Attorney (1988 – 1991)
Misdemeanor Attorney (1987 – 1988)
Assistant State Attorney (1987 – 2000)

1990 – 2000

Southwest Florida Criminal Justice Academy
4312 Michigan Avenue
Fort Myers, Florida 33905
Legal Studies Instructor for Law Enforcement, Corrections, and Auxiliary Academies,
and Advanced Incentive Classes

Spring 1987

Performed law clerk duties for the following law firms:

Hitchcock and Cunningham, P.A.
613 S.E. First Avenue
Fort Lauderdale, Florida 33301

Law Office of Marc S. Nurik (later Nurik and Kyle, P.A.)
750 S.E. Third Avenue, Suite 300
Fort Lauderdale, Florida 33316
Additional term: Summer 1986

Daniel Tadesco, P.A.
320 S.E. Ninth Street
Fort Lauderdale, Florida 33316
Additional term: Summer 1986

Marc Gold, Esquire
750 S.E. Third Avenue, Suite 300
Fort Lauderdale, Florida 33316

Cummins and Bass, P.A.
700 S.E. Third Avenue, Suite 401
Fort Lauderdale, Florida 33316

Fall 1986

Office of the State Attorney – Seventeenth Judicial Circuit Court
210 S.E. Sixth Street
Fort Lauderdale, Florida 33301
Certified Legal Intern – Juvenile Division

Summer 1986

Michael Hursey, P.A.
2455 East Sunrise Boulevard
Suite #805
Fort Lauderdale, Florida 33304
Law Clerk

1985 – 1986

Kuvin and Carmen, P.A.
Andrews Avenue
Fort Lauderdale, Florida 33315
Law Clerk

Other Affiliations (Uncompensated):

1995 – present

Pinecrest Homeowner's Association
c/o Cornerstone Association Management
11940 Fairway Lakes Drive, Suite 4
Fort Myers, Florida 33913
President (1997 – present)
Vice President (1996 – 1997)
Board Member (1995)

2007 – 2011

Calusa Chapter of the American Inn of Court
12239 Championship Circle

Fort Myers, Florida 33913
Past President (2010 – 2011)
President (2008 – 2010)
Secretary/Treasurer (2007)

2000 – 2004
Gateway Trinity Church Council
Gateway Trinity Church
11381 Gateway Boulevard
Fort Myers, Florida 33913
Board Member (2000 – 2004)
President (2004)

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

I have not served in the military. I have never 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.

Calusa Inn of Court Distinguished Service (2010)

Jurist of the Year, Lee County Association of Women Lawyers (2003)

Outstanding Contribution and Dedicated Service, Office of the State Attorney, Twentieth Judicial Circuit (1987 – 2000)

Outstanding Leadership and Dedication Award, Office of the State Attorney, Twentieth Judicial Circuit, Fort Myers Felony Division (1993 – 1998)

Ten Year Service Award, Office of the State Attorney, Twentieth Judicial Circuit (1997)

Employee of the Year, Office of the State Attorney, Twentieth Judicial Circuit (1995)

Outstanding Service and Dedication as Office Head of Hendry County, Office of the State Attorney, LaBelle Division (1991 – 1993)

Five Year Service Award, Office of the State Attorney, Twentieth Judicial Circuit (1992)

ATLA Mock Trial Competition Winner, Nova Law Center (1986, 1987)

ATLA Mock Trial Competition Runner-Up, Nova Law Center (1985)

Psi Chi National Honor Society for Psychology Students, University of Wisconsin-Madison (1982 – 1984)

Area Jaycees Academic Scholarship (1980)

National Honor Society Academic Scholarship (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.

American Bar Association (1987 – 1988)

American Trial Lawyers Association (1987 – 1988)

Calusa Chapter of the American Inns of Court
Past President (2010 – 2011)
President (2008 – 2010)
Secretary/Treasurer (2007)

Charlotte County Bar Association (1999 – 2000)

Conference of County Court Judges, State of Florida (2000 – 2003)

Federal Bar Association, Southwest Florida Chapter (2003 – present)

Federal Judicial Center and the Administrative Office of the U.S. Courts
Judges IT Training Advisory Committee (2009 – present)

Federal Magistrate Judges Association (2003 – present)

Florida Bar Association (1987 – present)

Florida Prosecuting Attorneys Association (1987 – 2000)

Hendry County Bar Association (1991 – 1993)

Lee County Bar Association (1987 – present)

Office of the State Attorney, Twentieth Judicial Circuit Executive Staff (1995 – 2000)

Southwest Florida Criminal Justice Academy Advisory Board (1995 – 2000)

United States District Court for the Middle District of Florida
Automation Committee (2003 – present)

Education Sub-Committee to the Historical Committee (2004 – present)
Congressional Relations Committee (2009 – present)
Security Committee (2010 – 2011)
Case Management and Judicial Relations Committee (2007 – 2008)
Bench Bar Committee (2003 – 2007)
Judicial Resources Committee (2005)
CM/ECF Policies and Procedures Committee (2004)
Jury Management Committee (2004)

At various times during my tenure with the State Attorney's Office, Twentieth Judicial Circuit, I served on the following committees: Domestic Violence Task Force, Juvenile Justice Council, Public Safety Coordination Council, and the Truancy Board. However, a diligent search of my records has not revealed the exact dates of participation.

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, 1987

There have been no lapses in membership.

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

United States District Court for the Middle District of Florida, 1988

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.

Amateur Athletic Union (2002 – 2011)

Vikings Baseball Club, Parent Volunteer

Sidewinders Baseball Club, Parent Volunteer

Infinity Baseball Club, Parent Volunteer, and Team Mom

Gulf Coast Pelicans Baseball Club, Parent Volunteer, and Team Mom
Stoneybrook Sharks Baseball Club, Parent Volunteer

Buckingham Little League (2002 – 2012)
Assistant Coach, Parent Volunteer, and Team Mom

Cape Coral Little League (1988)
Softball Coach/Volunteer

Gateway Trinity Church (1995 – present)
Gateway Trinity Church Council (2000 – 2004)
President (2004)
Board Member (2000 – 2004)
Boomers Group (1995 – present)
Choir/Instrumental Group (2000 – 2004)

Pinecrest Homeowner's Association (1995 – present)
President (1997 – present)
Vice President (1996 – 1997)
Board Member (1995)

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

To the best of my knowledge, none of the organizations listed in response to Question 11(a) currently discriminates or previously 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.

As a faculty member for the Federal Judicial Center and the Administrative Office of the U.S. Courts Training Divisions, I have created a training module and presentation on Lotus Notes Calendaring and E-Mail – *Extreme Makeover: Getting Organized*. Copy supplied.

As a judge, I contributed to the Judges Information Technology Website established by the Federal Judicial Center and the Administrative Office of the U.S. Courts. In this capacity, I created the following training materials, copies of which are supplied.

Abridged Docket Reports
Docketing Orders Directly from a Pending Motions Report
Cross-Document Hyperlinks to Documents
Using Wireless Access Cards
Remote Desktop
VPN Access

- 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.

Social Media Policy for the Middle District of Florida (2010). Copy supplied.

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

Having searched my records, memory and publicly available internet sources, I cannot locate or recall, and therefore have not identified any testimony, official statements or other communications relating to matters of public policy or legal interpretation.

- 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.

April 25, 2012: Judge of the final round of the Ave Maria School of Law Moot Court Competition. I served as one of the judges on the panel and offered evaluations and comments at the end of the round. I have no notes, transcripts, or recordings. The address for the Ave Maria School of Law is 1025 Commons Circle, Naples, Florida 34119.

April 17, 2012: Calusa Inn of Court presentation, *E-Discovery*. Presentation slides supplied.

March 21-23, 2012: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. Curriculum handouts and presentation slides supplied.

January 28, 2012: American Heroes Air Show and Naturalization Ceremony, Fort Myers, Florida. I have no notes, transcript, or recording, but press coverage is supplied.

January 26, 2012: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

January 24, 2012: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. I used the same slides as those supplied for the January 26, 2012 event.

November 2, 2011: Hodges University Legal Society presentation, *The Federal System's CM/ECF Filing System*, Fort Myers, Florida. Presentation slides supplied.

October 26, 2011: Lee County Emerging Leaders presentation, *Welcome to the Federal Courts*, Fort Myers, Florida. Presentation slides supplied.

August 24-26, 2011: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the March 21-23, 2012 event and my presentation slides are supplied.

August 8-12, 2011: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Diego, California. Presentation slides supplied.

May 17, 2011: Calusa Inn of Court presentation, *The Arizona Immigration Law*. Presentation slides supplied.

March 25, 2011: Twentieth Judicial Circuit presentation, *The Paperless Highway*. Presentation slides supplied.

March 15-17, 2011: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Orlando, Florida. Curriculum handouts and presentation slides supplied.

March 9-11, 2011: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the March 21-23, 2012 event.

February 8, 2011: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

October 27, 2010: Leadership Lee County presentation, *An Introduction to the Federal System*. I used the same slides as those supplied for the February 8, 2011 event.

October 8, 2010: Twentieth Judicial Circuit presentation, *The Paperless Highway*. I used the same slides as those supplied for the March 25, 2011 event.

September 24, 2010: Swearing in of Ave Maria Law School students. Notes supplied.

September 14-17, 2010: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Chicago, Illinois. Curriculum handout supplied.

August 4-6, 2010: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. Curriculum handouts and presentation slides supplied.

July 12-16, 2010: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Seattle, Washington. Curriculum handouts and presentation slides supplied.

May 19-21, 2010: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the August 4-6, 2010 event.

May 14, 2010: Charlotte County Bar Association, *Law Day 2010*. Presentation slides supplied.

April 20-23, 2010: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Boston, Massachusetts. Presentation slides and handout supplied.

March 16, 2010: Calusa Inn of Court presentation, *Inns of Court Feud: Social Media*, Fort Myers, Florida. Presentation slides supplied.

March 10-12, 2010: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the August 4-6, 2010 event.

February 11, 2010: Open Doors to the Federal Courts presentation, Canterbury School, Fort Myers, Florida. I used the same slides as those supplied for the February 8, 2011 event.

September 20-26, 2009: Training for Chambers IT Trainers, Federal Judicial Center and the Administrative Office of the U.S. Courts, Denver, Colorado. Presentation slides supplied.

September 21, 2009: Industry Day Courtroom Technology Conference and Roundtable. Court personnel related their experience with technology in the courtroom. I was a member of a discussion panel. I have no notes, transcripts, or recordings. The address for the U.S. District Courthouse is 901 19th Street, Denver, Colorado 81303.

August 31, 2009: Advanced Computer Skills for Judges, Federal Judicial Center, Washington, D.C. Presentation slides supplied.

August 12-14, 2009: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. Curriculum handout and presentations slides supplied.

July 16, 2009: Advanced Computer Skills for Judges, Federal Judicial Center, Milwaukee, Wisconsin. Handouts supplied.

May 7, 2009: Open Doors to the Federal Courts, Saint Francis Xavier Eighth Grade Class, *Social Justice*. Presentation slides supplied.

March 31, 2009: Open Doors to the Federal Courts, South Fort Myers High School Criminal Justice Academy, Fort Myers, Florida. Case outline supplied.

March 26, 2009: Bishop Verot High School Career Day presentation, *The Federal Magistrate Judge*. I described the duties of a Federal Magistrate Judge during breakout sessions with high school students during career day. I have no notes, transcripts, or recordings. The address for Bishop Verot Catholic High School is 5598 Sunrise Drive, Fort Myers, Florida 33919.

March 4-6, 2009: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts and slides as those supplied for the August 12-14, 2009 event.

February 10, 2009: Open Doors to the Federal Courts presentation, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

January 2009: I was filmed by the Federal Judicial Center in an informative training video for the federal judiciary entitled *Remote Access for Judges*. Video provided.

September 16, 2008: Joint Meeting of the Thomas S. Biggs Inn of Court and the Calusa Inn of Court: *Advance Sheet*, Fort Myers, Florida. Presentation slides supplied.

June 2, 2008: Keynote Speaker for the Commencement of the Kiel High School class of 2008, *Oh the Places You Will Go*. Speech supplied.

May 13, 2008: St. Francis Xavier School. Wrote and presented mock trial on criminal mischief for Saint Francis Xavier Third Grade. I have no notes, transcripts, or recordings. The address for Saint Francis Xavier School is 2055 Heitman Street, Fort Myers, Florida 33901.

March 18, 2008: Calusa Inn of Court presentation. *Last One Standing*. Presentation slides supplied.

February 13, 2008: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

July 10, 2008: National Workshop for U.S. Magistrate Judges Break-Out Session, Seattle, Washington, *Improving Communications Through Technology*. Presentation slides and written materials supplied.

August 2007: Calusa Inn of Court presentation. *Getting to Know You, An Introduction of the New Members*. Pupilage group created a presentation to introduce the new members of the Inn to the existing membership. I have no notes, transcripts, or recordings. The address for Calusa Inn of Court is 12239 Championship Circle, Fort Myers, Florida 33913.

March 23, 2007: Open Doors to the Federal Courts, South Fort Myers High School Criminal Justice Academy. I used the same case outline as that supplied for the March 31, 2009 event.

March 14-16, 2007: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I have no notes, transcript, or recording, but the presentation slides are similar to those used for the 2009 New Magistrate Judge IT Orientation in San Antonio, which are supplied above. The address of the FJC is Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Washington, DC 20002.

March 8, 2007: Saint Francis Xavier School presentation, *Social Justice*. Presentation slides supplied.

December 5, 2006: Eleventh Judicial Circuit Conference Meeting, *IT Tips for Judges*. I taught the judges at the meeting how to use various computer tools. I have no notes, transcripts, or recordings. The address for The Hilton–Key West is 245 Front Street, Key West, Florida 33040.

September 19, 2006: Joint Meeting of Lee and Collier County American Inns of Court, *Meet the New Judges of the Twentieth Judicial Circuit*. My pupillage group prepared a presentation to introduce the newly elected judges of the court. I have no notes, transcripts, or recordings. The address for Calusa Inn of Court is 12239 Championship Circle, Fort Myers, Florida 33913.

Annually 2006 – 2009: Gateway Charter School presentation, *The Constitution*. Presentation slides supplied.

September 15, 2005: Board of Judges Meeting, Middle District of Florida, *Learning Through Information Sharing*. Presentation slides supplied.

February 18, 2004: Florida Association of Women Lawyers, *CM/ECF, the Paperless Highway*. I made a presentation to attorneys and judges on the implementation of the Court Management, Electronic Court Filing system. I have no notes, transcripts, or recordings. The address for the Collier County Bar Association is 3301 Tamiami Trail East, Building L, Naples, Florida 34112.

2004: Lee County Bar Association presentation, *The Implementation of CM/ECF in the Federal System*. I made a presentation to attorneys and judges on the implementation of the Court Management, Electronic Court Filing system. I have no notes, transcripts, or recordings. The address for the Lee County Bar Association is Box 1387, Fort Myers, Florida 33902.

2004 – 2007: Gateway Charter School presentation, *Tell It to the Judge*. I taught sixth grade students about the civil process. Students participated in mock trials. I have no notes, transcripts, or recordings. The address for Gateway Charter School is 12850 Commonwealth Drive, Fort Myers, Florida 33913.

July 30, 2003: Investiture of the Honorable Sheri Polster Chappell as a federal magistrate judge. Copy of speech provided.

2003: Federal Bar Association, Middle District of Florida, Fort Myers Division presentation, *Expectations from the Bench*. I participated in a question and answer session regarding my preferences as a new member of the bench. I have no notes, transcripts, or recordings. The address for the Federal Bar Association is 2110 First Street, Fort Myers, Florida 33901.

2003: Cape Coral Bar Association presentation, *Expectations from the Bench*. I participated in a question and answer session from attorneys regarding my preferences as a new member of the bench. I have no notes, transcripts, or

recordings. The address for Cape Coral Bar Association is 4223 Del Prado Boulevard South, Cape Coral, Florida 33904.

May 2001: Law Week presentation, *The Job of a County Court Judge*. I lectured grade school children on the duties of a county court judge. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

June 8, 2000: Investiture of the Honorable Sheri Polster Chappell as a Judge for the Lee County Court. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

2000: Southwest Florida Criminal Justice Academy, Graduation Speech, 76th Corrections Class. I have no notes, transcripts, or recordings. The address for the Southwest Florida Public Service Academy is 4312 Michigan Avenue, Fort Myers, Florida 33905.

2000 – 2009: I have judged roughly nine rounds of mock trial competitions for the Lee County High School Mock Trial Competition, and the Twentieth Judicial Circuit High School Mock Trial Competition. I served as the presiding judge and offered evaluations and comments at the end of the rounds. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901 and the address for the United States Courthouse is 2110 First Street, Fort Myers, Florida 33901.

2000 – 2009: I developed, wrote, and presided over mock trials for students of various ages, their teachers, and chaperones for courthouse visits. Mock trial scripts supplied.

2000 – 2004: Teen Court. I served as a presiding judge over Teen Court cases. I have no notes, transcripts, or recordings. The address for Teen Court is Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901.

2000 – 2003: I presented *County Court, The People's Court* to various grade schools, middle schools, and high schools. I discussed the job of a county court judge with school aged children. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

1998: Florida Gulf Coast University ("FGCU") presentation, *Forensic Science in the Courtroom*. I lectured FGCU students on the use of serology, fingerprints, ballistics, and DNA evidence for trial. I have no notes, transcripts, or recordings. The address for Florida Gulf Coast University is 10501 FGCU Boulevard, South Fort Myers, Florida 33965.

1997: Florida Gulf Coast University Police Department. During FGCU's inception, I lectured the University's Police Department on the topics of creating case reports, warrants, booking sheets, and lectured on specific crimes common to the University community. I relied upon the Florida Statutes as a guide for the presentation. I have no notes, transcripts, or recordings. The address for Florida Gulf Coast University is 10501 FGCU Boulevard, South Fort Myers, Florida 33965.

1997: Phoenix Center. I lectured nurse practitioners, who worked at the Phoenix Center, a facility for victims of sexual battery, on how to prepare a statement regarding their treatment of the victims and how to convey their findings in testimony at a hearing and/or trial. I have no notes, transcripts, or recordings. The address for the Phoenix Center is P.O. Box 6548, Fort Myers, Florida 33911.

1990 – 2003: Office of the State Attorney, Twentieth Judicial Circuit. As a senior attorney, I trained new attorneys on trial tactics, preparation, and execution of various parts of the trial. I have no notes, transcripts, or recordings. The address for the State Attorney's Office is Lee County Justice Center Complex, 2000 Main Street, 6th Floor, Fort Myers, Florida 33901.

1990 – 2000: Southwest Florida Criminal Justice Academy. As an instructor, I taught law enforcement recruits Legal I, II, and III, and how to apply the law to their duties. I also taught recruits at the Corrections Academy Legal I and II, and general criminal law and procedure at the Auxiliary Law Enforcement Academy. I taught Advanced Incentives Courses in search and seizure, domestic violence, sexual battery and sex crimes, courtroom demeanor and testimony, and advanced legal studies. I also taught prison officials and guards from Charlotte Correctional Institute and Glades County Correctional Facility how to apply the law to crimes committed by individuals while in custody. I utilized the Criminal Justice Standards and Training Commission's Curriculum applicable for each year, and supplemented it with statutory and case law authority. I have no notes, transcripts, or recordings. The address for the Southwest Florida Criminal Justice Academy is 4312 Michigan Avenue, Fort Myers, Florida 33905.

1989 – 1990: Florida Prosecuting Attorneys Association (FPAA). I lectured on trial preparation and the topics of *voir dire*, direct, and cross examination. After lecturing, I also critiqued the new attorneys attending the FPAA DUI Trial Tactics Seminar. I have no notes, transcripts, or recordings. The address for the Florida Prosecuting Attorneys Association, Inc. is 107 West Gaines Street, Suite L-066, Tallahassee, Florida 32399.

1987 – 2009: Lee County Bar Association. On various occasions I spoke to students during Law Week regarding my positions as an Assistant State Attorney, County Court Judge, and Federal Magistrate Judge. I have no notes, transcripts, or recordings. The address for the Lee County Bar Association is P.O. Box 1387, Fort Myers, Florida 33902.

1987 – 2000: New Laws Seminar. I lectured local law enforcement agencies and other assistant state attorneys on the new criminal laws enacted during the legislative session. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

As an Assistant State Attorney, County Court Judge, and United States Magistrate Judge, I have often been called upon to speak with visiting groups about the justice system. I have also administered oaths of office, and conducted courthouse tours. I have not maintained records of all of these events, but have tried to create as complete a list as possible by searching my personal records, public databases, and the internet. Despite these efforts, however, there may be other remarks or presentations that I have been unable to recall or identify. The addresses of the various locations where I conducted these talks are: Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901; Charlotte County Justice Center, 513 East Marion Avenue, Punta Gorda, Florida 33950; and the United States Courthouse and Federal Building, 2110 First Street, Fort Myers, Florida, 33901.

- 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.

Don Manley, *Court Opens Its Doors to High Schoolers*, NEWS-PRESS, Mar. 31, 2007. Copy supplied.

Carl Conley, *Following Her Dream*, GULF COAST WOMAN, Aug. 2000 at 10. Copy supplied.

Patricia Walsh, *Chappell Appointed to Lee County Bench*, SARASOTA HERALD-TRIBUNE, Mar. 17, 2000 at 3B. Copy supplied.

Patricia Walsh, *Driver Cleared in Bike Fatality*, SARASOTA HERALD-TRIBUNE, Oct. 19, 1999 at 1A. Copy supplied.

Scott Carroll, *Police: Evidence Lacking in Hit and Run*, SARASOTA HERALD-TRIBUNE, Oct. 6, 1999 at 1A. Copy supplied.

Patricia Walsh, *Suspect Indicted in Slaying of Teen*, SARASOTA HERALD-TRIBUNE, Aug. 13, 1999 at 1B. Copy supplied.

Matthew Henry, *Prosecutors Reduce Teen's Charge*, SARASOTA HERALD-TRIBUNE, Aug. 3, 1999 at 1B. Copy supplied.

Matthew Henry and Patricia Walsh, *Teen Pleads Guilty in Stomping*, SARASOTA HERALD-TRIBUNE, June 9, 1999 at 1B. Copy supplied.

Patricia Walsh, *Deep Creek Teen Gets Life for '97 Slaying*, SARASOTA HERALD-TRIBUNE, Apr. 28, 1999 at 1B. Copy supplied.

Patricia Walsh, *Meynard Convicted of Dentist's Slaying*, SARASOTA HERALD-TRIBUNE, Apr. 27, 1999 at 1A (reprinted in multiple outlets). Copy supplied.

Vanessa Bauza, *Father of Missing Girl Turns to Ryce Family*, SOUTH FLORIDA SUN-SENTINEL, Mar. 13, 1999 at 6B. Copy supplied.

Mike Nemeth, *Prosecuting Chief Praised After First Year*, CHARLOTTE SUN HERALD, Feb. 14, 1999 at 1. Copy supplied.

Patricia Walsh, *Mother Pleas No Contest to Abuse, Neglect of Child*, SARASOTA HERALD-TRIBUNE, Feb. 10, 1999 at 1B. Copy supplied.

Matthew Henry, *Police Accused in Beating of Man*, SARASOTA HERALD-TRIBUNE, Nov. 20, 1998 at 1B. Copy supplied.

Mother Who Missed Date in Court Turns Herself In, SARASOTA HERALD-TRIBUNE, Oct. 20, 1998 at 3B. Copy supplied.

Matthew Henry, *Brutally Beaten Teen Remains in Coma*, SARASOTA HERALD-TRIBUNE, Oct. 11, 1998 at 1A. Copy supplied.

Patricia Walsh, *Mother's Child Abuse Trial to Begin*, SARASOTA HERALD-TRIBUNE, Oct. 5, 1998 at 1B. Copy supplied.

Patricia Walsh, *New Prosecutor Heads Charlotte*, SARASOTA HERALD-TRIBUNE, Sept. 19, 1998 at 1B. Copy supplied.

Associated Press, *Sentence Overturned after Error*, SOUTH FLORIDA SUN-SENTINEL, Oct. 7, 1995 at 27A (reprinted in multiple outlets). Copy supplied.

Mitch McKenney, *Gunman in Murder Sentenced to Death*, PALM BEACH POST, Dec. 16, 1992 at 1A. Copy supplied.

Mitch McKenney, *Man Convicted of Glades County Millionaire's Murder*, PALM BEACH POST, Nov. 20, 1992 at 1B. Copy supplied.

Mitch McKenney, *Witness: 'I Tried Not to Breathe' after Shots*, PALM BEACH POST, Nov. 5, 1992 at 1B. Copy supplied.

Mitch McKenney, *Two Consider Plea Deals in Murder of Millionaire*, PALM BEACH POST, July 21, 1992 at 1B. 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.

April 10, 2000 – April 18, 2003: Lee County Court Judge, Twentieth Judicial Circuit. I was appointed to the position of Lee County Court Judge by Governor Jeb Bush. Because I was appointed to fill a mid-term vacancy, my position came up for election in 2002. I was elected without opposition to serve a six-year term in May 2002. I resigned my position as Lee County Court Judge on April 18, 2003, due to my selection and appointment as a United States Magistrate Judge for the Middle District of Florida. Jurisdiction of the county court is established by Fla. Stat. § 34.01 and extends to all misdemeanor cases not cognizable by the circuit courts, all violations of municipal and county ordinances, civil disputes involving \$15,000 or less, and disputes occurring in the homeowners' associations. My duties included the disposition of criminal, civil, small claims, traffic, and domestic violence matters.

April 21, 2003 – present: United States Magistrate Judge, United States District Court for the Middle District of Florida, Fort Myers Division. I was appointed by the court on April 21, 2003. I was reappointed to serve a second eight-year term in April 2011. A Magistrate Judge's jurisdiction is derived primarily from the Federal Magistrates Act of 1968 (28 U.S.C. §§ 631-636). In the Middle District of Florida, United States Magistrate Judges are given substantial authority to handle a wide range of criminal and civil cases.

As a Magistrate Judge assisting with the criminal docket, I preside over preliminary matters including initial appearances, arraignments, detention hearings, and discovery hearings. I am also responsible for conducting evidentiary hearings on dispositive motions such as motions to suppress in which a report and recommendation is submitted to the District Court concerning disposition. Additionally, I review and issue search warrants for persons and/or property, conduct proceedings on felony guilty pleas, misdemeanor trials, and sentence misdemeanor defendants. Magistrate Judges are also responsible for conducting hearings and trials in Central Violations Bureau cases.

In assisting with the civil docket, I rule on a broad variety of non-dispositive motions based upon the written pleadings submitted by the parties, including discovery motions, preliminary pretrial matters, motions to withdraw, motions regarding amendments to pleadings, and motions to strike. Additionally, I am required to handle dispositive issues referred by the District Court, including motions to dismiss, motions for summary judgment, and motions for attorney's fees for which a report and recommendation is prepared. Upon consent of the parties, I preside over the case from its inception to its disposition. I also handle prisoner litigation cases, habeas corpus cases filed pursuant to 28 U.S.C. § 2255, social security administrative appeals, ERISA cases, and IDEA cases. As a Magistrate Judge, I have been called upon by the District Court judges to conduct numerous settlement conferences in civil cases, including prisoner litigation.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 519

- i. Of these, approximately what percent were:

jury trials:	12%
bench trials:	88%
civil proceedings:	56%
criminal proceedings:	44%

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

As a Lee County Court Judge I did not write any published opinions. I did, however, enter hundreds of written orders. All are maintained in case files by the Clerk of Court. The vast majority are routine orders without findings of fact or legal analysis, or docket orders prepared for me by the clerk's office following my oral rulings. These orders are also filed with the Clerk of Court. Because they are not published, I cannot provide citations for them without reviewing each and every case file.

As a United States Magistrate Judge, I prepare Reports and Recommendations on dispositive matters referred to me by the District Judges of this Court, who remain the presiding judge in the case. I also prepare orders on motions referred to me, which are not dispositive. From time to time, parties will consent to my jurisdiction. When I am the presiding judge, I do not prepare Reports and Recommendations. Instead, I enter orders for all motions adjudicated in the case. I am attaching a list of the Reports and Recommendations that I have prepared for matters that have been referred to me by the District Judges of this Court as well as orders I have entered when acting as the presiding judge. See attached lists.

- 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. *Royal Marco Point I Condo. Ass'n v. QBE Ins. Corp.*, No. 2:07-cv-16-99SPC, 2011 WL 470561 (M.D. Fla. Feb. 2, 2011); 2010 WL 5161111 (M.D. Fla. Dec. 14, 2010); 2009 WL 1592270 (M.D. Fla. Jan. 16, 2009); 2008 WL 4194792 (M.D. Fla. Aug. 8, 2008). Plaintiff filed a bad faith claim against defendant insurance carrier for failing to pay its claims in full and in a timely manner following hurricane damages. I was given significant responsibility over this case, which was on the unassigned docket. I entered numerous

discovery orders and Reports and Recommendations on disputed issues and ultimately settled the case after significant involvement.

Counsel for Plaintiff: Richard Hugh Lumpkin
Ver Ploeg & Lumpkin, PA
100 Southeast Second Street, 30th Floor
Miami, FL 33131
(305) 577-3996

Counsel for Defendant: William Stewart Berk
Berk, Merchant & Sims, PLC
2 Alhambra Plaza, Suite 700
Coral Gables, FL 33134
(786) 338-2851

2. *Scott v. Lee Cnty. Sch. Bd.*, No. 2:03-cv-246-SPC (M.D. Fla. Aug. 19, 2004). Plaintiff, who worked as a Safety Director for defendant, brought this action pursuant to 42 U.S.C. § 1983, claiming the violation of his constitutional rights under the Fourteenth and Ninth Amendments. He further brought suit pursuant to Florida's Whistle Blower Act. I conducted the final pre-trial conference and all trial preparation and presided over a five-day jury trial by consent of the parties, which resulted in a verdict for the plaintiff. After verdict but prior to any appellate action, the parties settled. A copy of my summary judgment opinion in this case is supplied.

Counsel for Plaintiff: Patrick E. Geraghty
Geraghty, Dougherty & Edwards, PA
1531 Hendry Street
Fort Myers, FL 33901
(239) 334-9500

Counsel for Defendant: Thomas M. Gonzalez
Thompson, Sizemore, Gonzalez & Hearing, PA
201 North Franklin Street, Suite 1600
Tampa, FL 33602
(813) 273-0050

3. *United States v. Ulrich*, No. 2:05-cr-130-SPC (M.D. Fla. 2006). I presided over this criminal misdemeanor case. The defendant was charged with taking a bald eagle's nest without permission and with wanton disregard for the consequences of his actions. I decided a motion *in limine*, conducted status conferences, and presided over a three-day jury trial which resulted in a defense verdict. Given the nature of this matter I have no written opinions to provide.

Counsel for Prosecution: Yolande G. Viacava
United States Attorney's Office
United States Courthouse and Federal Building
2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

Counsel for Defendant: Richard D. Lakeman
P.O. Box 101580
Cape Coral, FL 33910
(239) 458-8190

4. *Reliable Salvage and Towing, Inc. v. 35' Sea Ray*, No. 2:09-cv-329-SPC, 2011 WL 1058863 (M.D. Fla. Mar. 21, 2011); 2011 WL 5418891 (M.D. Fla. June 13, 2011); 2011 WL 2173842 (M.D. Fla. June 2, 2011); 2011 WL 2038576 (M.D. Fla. May 20, 2011); *aff'd*, 2012 WL 1867166 (11th Cir. May 23, 2012). Plaintiff alleged that the defendant never paid for the salvage services rendered by plaintiff in order to tow defendant's boat to safety. I presided over this case by consent of the parties. The case proceeded to a bench trial. Based upon the evidence heard at trial and the memoranda of law submitted by the parties, I issued Findings of Fact and Conclusions of Law and entered Judgment in favor of the plaintiff. The Eleventh Circuit affirmed the decision.

Counsel for Plaintiff: Frank D. Butler
Law Offices of Frank D. Butler, PA
10550 U.S. Highway 19 North
Pinellas Park, FL 33782
(727) 399-2222

Counsel for Defendant: David F. Pope
Banker Lopez Gassler
501 East Kennedy Boulevard, Suite 1500
Tampa, FL 33602
(813) 221-1500

5. *DJM, Ltd. v. Island Yachting Mgmt., Inc.*, No. 2:02-cv-617-SPC (M.D. Fla. Mar. 23, 2004), *aff'd*, 132 F. App'x 246 (11th Cir. 2005), *cert. denied*, 546 U.S. 938 (2005). Plaintiff alleged negligence, fraudulent misrepresentation, breach of the implied warranty of merchantability, deceptive trade practices, strict liability in tort, and money owed for damage to the ship's air conditioning unit. I presided over this case by consent of the parties. All of the claims were resolved in favor of the defendant at the summary judgment stage, except for an alleged promise by the defendant to pay for damages caused by the vessel's faulty air conditioning unit. This issue went to a jury trial and a verdict was rendered in favor of the defendant. The Eleventh

Circuit affirmed the jury's verdict. A copy of my summary judgment opinion in this case is supplied.

Counsel for Plaintiff: John P. Pelosi
Law Office of John P. Pelosi
112 Sycamore Lane
Irvington, NY 10533
(914) 591-5122

Counsel for Defendant: John Lakin
Lakin Smith, PA
101 Riverfront Boulevard, Suite 650
Bradenton, FL 34205
(941) 746-5529

6. *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 2:07-cv-42-29SPC, 2009 WL 6853402 (M.D. Fla. May 27, 2009); 2008 WL 4491248 (M.D. Fla. July 3, 2008). In this patent case, plaintiff alleged that the defendant's Keep the Change program infringed on its patent. As the magistrate judge, I presided over a complex and continuous discovery process and held a *Markman* hearing on claim construction. I subsequently issued a Report and Recommendation which was accepted in part, rejected in part, and modified in part regarding the definitions of the disputed claim terms. Summary judgment was ultimately issued in favor of the defendant.

Counsel for Plaintiff: Brent B. Barriere
Eric Robert Pellenbarg
Phelps Dunbar LLP
365 Canal Street, Suite 2000
New Orleans, LA 70130
(504) 566-1311

Counsel for Defendant: Anat Hakim
Foley & Lardner, LLP
111 North Orange Avenue, Suite 1800
Post Office Box 2193
Orlando, FL 32802
(202) 672-5300

7. *United States v. Derisma*, No. 2:09-cr-64-29SPC, 2012 WL 537553 (M.D. Fla. Feb. 18, 2012); 2012 WL 749405 (M.D. Fla. Mar. 8, 2012); 2011 WL 3878367 (M.D. Fla. June 27, 2011); 2011 WL 3878359 (M.D. Fla. Sept. 2, 2011). This is a criminal case in which I presided over a three-day competency hearing and issued a Report and Recommendation on defendant's competency to stand trial. I also presided over days of testimony on motions to suppress and issued a Report and Recommendation to the District Court.

Defendant ultimately pled guilty to all charges and is set to be sentenced in July.

Counsel for Prosecution: Tama Caldarone
United States Attorney's Office
United States Courthouse and Federal Building
2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

Counsel for Defendant: David Allen Brener
Law Offices of Brenner & Demine, PA.
2550 First Street
Fort Myers, FL 33901
(239) 332-1100

8. *Coastal Conservation Ass'n v. Locke*, No. 2:09-cv-641-29SPC, 2011 WL 4530631 (M.D. Fla. Aug. 16, 2011); 2011 WL 4530544 (M.D. Fla. Sept. 29, 2011); 2010 WL 1439071; 2010 WL 1407681 (M.D. Fla. Jan. 19, 2010). The plaintiffs alleged that the defendants did not follow the proper procedures as delineated in the Administrative Procedures Act, the National Environmental Policy Act, the Regulatory Flexibility Act, and the Magnuson-Stevens Act in promulgating fishing quotas in the Gulf of Mexico. I entered preliminary orders. Based upon the party's cross motions for summary judgment and review of the record before the administrative agency, I issued a Report and Recommendation affirming the decision of the Agency and denying the plaintiffs' respective motions for summary judgment. The District Court supplemented and adopted my Report and Recommendation.

Counsel for Plaintiff: J. Matthew Belcastro
Henderson, Franklin, Starnes & Holt, PA
1715 Monroe Street
Post Office Box 280
Fort Myers, FL 33902
(239) 344-1205

Patrick Flanigan
Law Office of Patrick Flanigan
Post Office Box 42
239 Dickinson Avenue
Swarthmore, PA 19081
(484) 904-7795

Counsel for Defendants: Mark Arthur Brown
United States Department of Justice
Wildlife & Marine Resources Section

Post Office Box 7369
Washington, D.C. 20044
(202) 305-0204

Kyle Scott Cohen
United States Attorney's Office
United States Courthouse and Federal Building
2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

9. *McCarthy v. Sherwin-Williams Co.*, No. 2:05-cv-61-SPC. I presided over this slip and fall personal injury case by consent of the parties and entered preliminary orders regarding discovery. I conducted the final pre-trial conference and all trial preparation. Prior to trial, defendant made several pretrial motions *in limine* which I granted based upon the newly-discovered medical evidence that was previously hidden by the plaintiff from the court and counsel. The plaintiff then elected to discharge her counsel and orally moved to dismiss the case without prejudice, which was granted. However, costs were imposed upon the plaintiff.

Counsel for Plaintiff: Joseph R. Gaeta
Joseph R. Gaeta, PA
2261 Main Street
Fort Myers, FL 33901
(239) 337-7337

Counsel for Defendant: Kenneth L. Bednar
Fowler White Boggs
1200 East Las Olas Boulevard, Suite 500
Fort Lauderdale, FL 33301
(954) 703 3900

10. *Sch. Bd. of Lee Cnty., Fla. v. M.M. and J.M. on behalf of a minor M.M. II*, No. 2:05-cv-5-29SPC (M.D. Fla. Mar. 17, 2006), *aff'd*, 348 F. App'x 504 (11th Cir. 2009). I presided as the magistrate judge in this record review case brought pursuant to the Individuals with Disabilities Education Act, in which the school board appealed the ALJ's determination to this Court. After I reviewed the record, and the parties' memoranda of law and briefs, I issued a Report and Recommendation recommending that judgment be entered in favor of the school board and that the decision of the ALJ be reversed. The District Court adopted the Report and Recommendation and dismissed the case leaving only Count VIII, a state action claim for malicious prosecution. The Eleventh Circuit affirmed the decision regarding counts I, II, III, IV, V, VI, VII, and IX, and vacated the determination dismissing Count VIII. The

malicious prosecution claim was subsequently dismissed and remanded to State Court. The Report and Recommendation entered in this case is supplied.

Counsel for Plaintiff: Edward S. Polk
Cole, Scott & Kissane, PA
9150 South Dadeland Boulevard, Suite 1400
Miami, FL 33131
(305) 350-5300

Counsel for Defendant: Paul E. Liles
Disability Rights Florida, Inc.
1000 North Ashley Drive, Suite 640
Tampa, FL 33602
(850) 488-9071

- 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. *Schneider v. Walgreen, Co.*, No. 2:10-cv-139-29SPC (M.D. Fla. Sept. 21, 2010). Copy supplied.

Counsel for Plaintiff: Bruce A. Tischler
Greene & Tischler, PA
2503 Del Prado Boulevard, Suite 402
Cape Coral, FL 33904
(239) 573-7400

Counsel for Defendant: Gregory Alan Hearing
Thompson, Sizemore, Gonzalez & Hearing, PA
201 North Franklin Street, Suite 1600
Post Office Box 639
Tampa, FL 33601
(239) 273-0050

2. *United States v. Derisma*, No. 2:09-cr-64-29SPC (M.D. Fla. Dec. 9, 2011). Copy supplied.

Counsel for Prosecution: Tama Calderone
United States Attorney's Office
United States Courthouse and Federal Building
2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

Counsel for Defendant: David Allen Brener
Law Offices of Brenner & Demine, PA
2550 First Street
Fort Myers, FL 33901
(239) 332-1100

3. *Reliable Salvage and Towing, Inc. v. 35' Sea Ray*, No. 09-cv-329-SPC, 2011 WL 1058863 (M.D. Fla. Mar. 21, 2011).

Counsel for Plaintiff: Frank D. Butler
Law Offices of Frank D. Butler, PA
10550 U.S. Highway 19 North
Pinellas Park, FL 33782
(727) 399-2222

Counsel for Defendant: David F. Pope
Banker Lopez Gassler
501 East Kennedy Boulevard, Suite 1500
Tampa, FL 33602
(813) 221-1500

4. *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 07-cv-42-29SPC, 2008 WL 4491248 (M.D. Fla. July 3, 2008).

Counsel for Plaintiff: Brent B. Barriere
Eric Robert Pellenbarg
Phelps Dunbar LLP
365 Canal Street, Suite 2000
New Orleans, LA 70130
(504) 566-1311

Counsel for Defendant: Anat Hakim
Foley & Lardner, LLP
111 North Orange Avenue, Suite 1800
Post Office Box 2193
Orlando, FL 32802
(202) 672-5300

5. *Coastal Conservation Ass'n v. Locke*, No. 2:09-cv-641-29SPC, 2011 WL 4530631 (M.D. Fla. Aug. 16, 2011).

Counsel for Plaintiff: J. Matthew Belcastro
Henderson, Franklin, Starnes & Holt, PA
1715 Monroe Street
Post Office Box 280

Fort Myers, FL 33902
(239) 344-1205

Patrick Flanigan
Law Office of Patrick Flanigan
Post Office Box 42
239 Dickinson Avenue
Swarthmore, PA 19081
(484) 904-7795

Counsel for Defendants: Mark Arthur Brown
United States Department of Justice
Wildlife & Marine Resources Section
Post Office Box 7369
Washington, D.C. 20044
(202) 305-0204

Kyle Scott Cohen
United States Attorney's Office
United States Courthouse and Federal Building
2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

6. *Conservancy of Southwest Fla. v. United States Fish and Wildlife Serv.*, No. 10-cv-106-29SPC, 2010 WL 51408729 (M.D. Fla. Nov. 11, 2010).

Counsel for Plaintiff: Jonathan Etra
Broad and Cassel
2 South Biscayne Boulevard, 21st Floor
Miami, FL 33131
(305) 373-9447

Counsel for Defendant: Jonathan Galler
Proskauer Rose, LLP
Suite 421 Atrium
2255 Glades Road
Boca Raton, FL 33431
(561) 995-4733

7. *United States v. Sereme*, No. 2:11-cr-97-29SPC (M.D. Fla. Mar. 27, 2012).
Copy supplied.

Counsel for Prosecution: Jesus M. Casas
United States Attorney's Office
United States Courthouse and Federal Building

2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

Counsel for Defendant: Russell K. Rosenthal
Federal Public Defenders Office
Kress Building, Suite 301
1514 Broadway
Fort Myers, FL 33901
(239) 334-0397

8. *Dunn-Fischer v. Dist. Sch. Bd. of Collier Cnty.*, No. 2:10-cv-512-29SPC, 2011 WL 4632568 (M.D. Fla. Aug. 30, 2011).

Counsel for Plaintiff: Terry L. Dunn-Fischer
Pro-Se
2444 East Isabella Avenue
Mesa, AZ 85204
(239) 298-1154

Counsel for Defendant: Jonathan D. Fishbane
Collier County School District
5775 Osceola Trail
Naples, FL 34109
(239) 377-0501

9. *United States v. Sharma*, No. 08-cr-69-29SPC (M.D. Fla. Nov. 20, 2008).
Copy supplied.

Counsel for Prosecution: Yolande G. Viacava
United States Attorney's Office
United States Courthouse and Federal Building
2110 First Street, Room 3-137
Fort Myers, FL 33901
(239) 461-2200

Counsel for Defendant: Ray Christopher Lopez
Law Office of Ray Christopher Lopez
115 South Albany Avenue
Tampa, FL 33606
(813) 221-4455

10. *PC Connector Solutions LLC v. SmartDisk Corp.*, No. 2:00-cv-539-29SPC (M.D. Fla. Oct. 01, 2003). Copy supplied.

Counsel for Plaintiff: Jonathon H. Steinberg
Irell & Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
(310) 277-1010

Counsel for Defendant: Joseph A. Rhoa
Nixon & Vanderhye, P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201
(703) 816-4000

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

I know of no cases in which certiorari was granted. Certiorari was requested and denied in *DJM, Ltd. v. Island Yachting Mgmt., Inc.*, No. 2:02-cv-617-SPC (M.D. Fla. Mar. 23, 2004), *aff'd*, 132 F. App'x 246 (11th Cir. 2005), *cert. denied*, 546 U.S. 938 (2005).

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

1. *United States v. Moore*, No. 2:06-cr-8-29SPC (M.D. Fla. Apr. 21, 2006); *rejected in part*, 2006 WL 1232811 (M.D. Fla. May 5, 2006). In a Report and Recommendation on a motion to suppress, I concluded that a mere passenger in a vehicle lacked standing to challenge the stop of the vehicle, determined that the traffic stop and subsequent detention were lawful, and recommended the motion to suppress be denied. The District Court disagreed with the standing portion, however agreed with my analysis of the lawfulness of the stop, concluding that the defendant had standing to challenge the stop of the vehicle. The District Court adopted the remaining portions of the Report and Recommendation and denied defendant's motion to suppress. The Report and Recommendation is supplied.

2. *United States v. Zaldivar*, No. 2:06-cr-50-29SPC (M.D. Fla. July 18, 2005); *accepted and adopted in part, rejected in part*, 2006 WL 2947827 (M.D. Fla. Oct. 16, 2006), *vacated in part on rehearing*, 2006 WL 3335060 (M.D. Fla. Nov. 16, 2006), *aff'd*, 292 F. App'x 868 (11th Cir. 2008). In a Report and Recommendation on a motion to suppress, I concluded that the impoundment and inventory search of the vessel was lawful, that defendant consented to the search, that there was probable cause to issue a warrant, and that the seizure of latent prints at the scene was within the scope of the warrant. The District Court disagreed, holding that the inventory search was unlawful and that the prints were

not lawfully seized. The District Court accepted and adopted the Report and Recommendation in all other respects. On reconsideration, the District Court determined that the prints were properly seized pursuant to the plain view exception to the warrant requirement.

3. *United States v. Flores*, No. 2:08-cr-108-29SPC (M.D. Fla. Dec. 8, 2008), *accepted and adopted in part, rejected in part*, 2009 WL 55022 (M.D. Fla. Jan. 7, 2009), *aff'd*, 380 F. App'x 921 (11th Cir. 2010). In a Report and Recommendation on a motion to suppress, I concluded that because the exigent circumstances were caused by the officers and the officers had time to obtain an anticipatory search warrant, the search of the residence was unlawful. The District Court disagreed, concluding that the exigent circumstances were caused by the suspects and the officers did not have probable cause to obtain an anticipatory search warrant. Since the District Court found that the search was lawful, it rejected the Report and Recommendation's findings on remaining issues that were based on the taint of the illegal search. The District Court accepted and adopted the Report and Recommendations in all other respects. The Report and Recommendation is supplied.

4. *United States v. Estrella*, No. 2:11-cr-40-29SPC (M.D. Fla. Sept. 12, 2011), *rejected*, 2011 WL 4946907 (M.D. Fla. Oct. 17, 2011). Even though I held an evidentiary hearing on defendant's motion to suppress, on one issue in my Report and Recommendation I concluded that a further evidentiary hearing was not required because the motion did not make a threshold showing of collusion between state and federal authorities. Defendant had not raised the argument regarding collusion in his motion to suppress. The District Court disagreed and did not accept or adopt the Report and Recommendation because it was not based upon an evidentiary hearing. The Report and Recommendation and District Court Order are supplied.

5. *United States v. Bergin*, No. 2:09-cr-75-29SPC, 2010 WL 3088471 (M.D. Fla. Mar. 26, 2010), *accepted and adopted in part, rejected in part*, 732 F. Supp. 2d 1235 (M.D. Fla. 2010). In a Report and Recommendation on a motion to suppress, I concluded that a safe that was seized from the residence should not be suppressed. The District Court disagreed, concluding that the third entry into the residence during which knowledge and the existence of the safe was obtained was unlawful. Therefore the District Court concluded the safe should be suppressed. The District Court affirmed the Report and Recommendation in all other respects.

6. *Warfield v. Stewart*, 2:07-cv-332-VMC (M.D. Fla. Nov. 2, 2009), *accepted and adopted* 2010 WL 731792 (M.D. Fla. Feb. 26, 2010), *rev'd*, 434 F. App'x 777 (11th Cir. 2011). In a Report and Recommendation on a motion for award of attorney's fees and costs, I concluded that attorney's fees should be awarded and expenses partially awarded to the prevailing parties under the provision of the contract for a sale of property. The District Court agreed, and accepted and adopted the Report and Recommendation. On appeal, the Eleventh Circuit

reversed, finding that defendants were not entitled to attorney's fees under the brokerage agreement.

7. *Leonard v. Comm'r of Soc. Sec.*, 2:05-cv-499-34SPC, 2009 WL 5908804 (M.D. Fla. Oct. 8, 2009), *accepted in part, rejected in part*, 2010 WL 680732 (M.D. Fla. Feb. 23, 2010). In a Report and Recommendation on a motion for attorney's fees under the Equal Access to Justice Act, I concluded that because defendant's position was substantially justified under the statute, an award of attorney's fees to plaintiff was not proper. The District Court disagreed in part, concluding that even if the defendant's position is substantially justified, the plaintiff is still entitled to the recovery of costs.

8. *Guevara v. Shutter-Man Storm & Sec., Inc.*, No. 2:06-cv-511-29SPC, 2008 WL 2474269 (M.D. Fla. May 13, 2008), *accepted in part, rejected in part*, 2008 WL 2474569 (M.D. Fla. June 16, 2008). In a Report and Recommendation on a motion for relief from judgment, default judgment, amended judgment, and underlying orders, I concluded that the motion should be denied because service of process was proper. The District Court disagreed, finding that an evidentiary hearing should be conducted due to conflicting affidavits.

9. *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 2:07-cv-42-29SPC, 2008 WL 4491248 (M.D. Fla. July 3, 2008), *accepted in part, rejected in part, and modified in part*, 2008 WL 4491113 (M.D. Fla. Sept. 29, 2008). In a Report and Recommendation after conducting a *Markman* hearing regarding claim construction issues, I recommended the construction to be given to five disputed terms. The District Court disagreed with certain definitions but otherwise accepted the Report and Recommendation.

10. *United States v. Bowlby*, No. 2:07-cv-606-34SPC, 2008 WL 3245469 (M.D. Fla. July 16, 2008), *adopted in part, rejected in part*, 2008 WL 3245467 (M.D. Fla. Aug. 7, 2008). In a Report and Recommendation, I concluded that the Government's motion for default judgment should be granted and recommended that the Government should be awarded damages and costs. The District Court adopted the recommendation but rejected the award of filing fees to the Government, finding that the filing fee award would not be permitted.

11. *Monacelli v. Lee Cnty. Educ. Ass'n*, No. 2:08-cv-920-29SPC, 2009 WL 1930186 (M.D. Fla. June 17, 2009), *adopted in part, rejected in part*, 2009 WL 1883872 (M.D. Fla. June 30, 2009). In a Report and Recommendation on a motion to proceed *in forma pauperis*, I recommended that the motion be denied and the case dismissed with prejudice due to the fact that the plaintiff's complaint failed to state a valid cause of action. The District Court ultimately denied the motion as well, but concluded that the dismissal should be without prejudice.

12. *Coastal Conservation Ass'n v. Locke*, No. 2:09-cv-641-29SPC, 2010 WL 1407681 (M.D. Fla. Jan. 19, 2010), *accepted and adopted in part, rejected in part*,

2010 WL 1407680 (M.D. Fla. Apr. 6, 2010). In a Report and Recommendation on a motion to intervene, I recommended that a group be denied their request to intervene because they had the same goals as the governmental defendants. The District Court disagreed, and found that the interveners had presented sufficient evidence that the governmental defendants may not pursue the same objectives as the interveners. The Report and Recommendation was adopted in all other respects.

13. *Conservancy of Southwest Fla. v. United States Fish and Wildlife Serv.*, No. 2:10-cv-106-29SPC, 2010 WL 5140729 (M.D. Fla. Nov. 12, 2010), *adopted in part, rejected in part*, 2011 WL 1326805 (M.D. Fla. Apr. 6, 2011). In a Report and Recommendation on a motion to dismiss in this record review case, I concluded that the motion to dismiss should be denied, finding that the court had subject matter jurisdiction under the Administrative Procedures Act. The District Court agreed that the court had jurisdiction but found that the plaintiffs did not have a right to relief under the Administrative Procedures Act because the Service substantially complied with the statute and gave prompt consideration to their petitions. The Report and Recommendation was adopted in all other respects.

14. *Scarola v. Deutsche Bank Nat'l Trust Co.*, No. 2:10-cv-677-29SPC, 2011 WL 5335618 (M.D. Fla. Aug. 15, 2011), *adopted in part, rejected in part*, 2011 WL 5357681 (M.D. Fla. Nov. 3, 2011). In a Report and Recommendation on plaintiff's motion for leave to file a second amended complaint, I concluded that diversity jurisdiction had been properly pled but the motion should be denied because the proposed amended complaint failed to state a claim. I further recommended that the case be dismissed. The District Court adopted the findings regarding jurisdiction to the extent that plaintiff may be able to demonstrate diversity jurisdiction, but permitted plaintiff to file a second amended complaint and afforded plaintiff additional time to effectuate service.

15. *Flagiello v. Breakers Rest., LLC*, No. 2:10-cv-687, 2011 WL 6002973 (M.D. Fla. Aug. 1, 2011), *rejected*, 2011 WL 6004077 (M.D. Fla. Dec. 1, 2011). This is a Fair Labor Standards Act case in which I concluded in a Report and Recommendation that plaintiff's motion to approve the settlement should be denied, because there was no good cause to grant approval of the settlement agreement as plaintiff had brought a claim which was unlikely to succeed due to the lack of evidence showing an FLSA violation. The District Court disagreed, finding that there was a proper settlement reached between the parties.

16. *Royal Marco Point I Condo. Ass'n v. QBE Ins. Corp.*, No. 2:07-cv-16-99SPC, 2008 WL 4194792 (M.D. Fla. Aug. 8, 2008), *accepted in part, rejected in part*, 2008 WL 4194807 (M.D. Fla. Sept. 10, 2008). In a Report and Recommendation I concluded that a stay of the case should be lifted, the appraisal award should be confirmed, and that plaintiff's attorney's fees should be paid. The District Court agreed that the stay should be lifted and the appraisal award confirmed, but disagreed that plaintiff was entitled to attorney's fees at that time.

17. *United States v. Nunez*, No. 2:04-cr-14-29SPC (M.D. Fla. May 14, 2004); *accepted and adopted*, No. 2:04-cr-14-29SPC (M.D. Fla. June 30, 2004), *ruling upheld on reconsideration*, No. 2:04-cr-14-29SPC (M.D. Fla. Aug. 27, 2004), *rev'd per curiam*, 455 F.3d 1223 (11th Cir. 2006). In a Report and Recommendation on a motion to suppress, I concluded that because the officer did not have reasonable suspicion that the defendants were engaged in criminal activity, the traffic stop was unlawful. The District Court agreed and accepted and adopted the Report and Recommendation and specifically incorporated it into the Order. On reconsideration, the District Court upheld the denial of the motion to suppress. The Eleventh Circuit reversed, concluding that the facts known by the officers were sufficient to support reasonable suspicion. The Report and Recommendation and Order are supplied.

- 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.

Civil Matters: As a magistrate judge, I issue orders on non-dispositive matters and orders on dispositive matters in consent cases, and I issue reports and recommendations on all dispositive matters referred to me by the district judges. My non-dispositive orders include discovery matters, motions to amend the pleadings, motions to modify the scheduling order and other miscellaneous civil motions. I issue hundreds of such orders in any given year. Very few of the pretrial civil orders are published, although I have filed all orders with the court's Case Management Electronic Filing System (CM/ECF) since the court has maintained that system.

Criminal matters: As a magistrate judge, I issue orders on non-dispositive criminal matters such as appointment of counsel, detention and scheduling, which are all referred to the magistrate judge in this district. Very few, if any, of these orders are published.

In consulting all known sources, including Westlaw, Lexis and CM/ECF, I have found approximately 900 opinions which I understand to mean a "reasoned decision." Because CM/ECF was not in effect until 2004 in our court, the actual number is likely higher. Only 3 opinions have been published, which is less than 1%. The unpublished opinions are stored in CM/ECF and are designated "written opinions," which makes them available without cost on PACER. It appears that Westlaw and Lexis download and post the majority of these opinions on their services.

- 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.

United States v. Sereme, No. 2:11-cr-97-29-SPC (M.D. Fla. Mar. 27, 2012), adopted by District Judge John E. Steele, 2012 WL 1757271 (M.D. Fla. May 16, 2012). Report and Recommendation supplied in response to 13(d).

- 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.

I follow the recusal statutes and Code of Conduct for United States Judges. Whenever called for by the Code of Conduct for United States Judges, the recusal statutes, or my general interest in maintaining impartiality and the appearance of impartiality of the Court, I disclose the potential conflict and/or recuse myself.

Our court does not employ an "automatic" recusal system; therefore, I evaluate each case that is referred and assigned to me as the magistrate judge. Further, I review cases as they proceed, continuing to examine whether a conflict has arisen.

In the following cases, I initiated recusal *sua sponte* due to personal, family, or staff relationships:

Stevens v. Fort Myers Police Dep't, No. 2:12-cv-187

Sapssov v. Health Mgmt. Assoc., Inc., No. 2:12-cv-46

Norfolk Cnty. Ret. Sys. v. Health Mgmt. Assoc., No. 2:12-cv-163

Croteau v. Assoc. Trust v. Tr. of the Chief Adm'r of the Municipal Court Twentieth Judicial Circuit in and for Lee County, No. 2:11-cv-296

Stonington Ins. Co. v. Villas Preschool and Child Care Ctr., Inc., No. 2:09-cv-798

Decosmo v. Health Mgmt. Assoc., Inc., No. 2:07-cv-741

Freeman v. Health Mgmt. Assoc., Inc., No. 2:07-cv-673

O'Connor v. Health Mgmt. Assoc., Inc., No. 2:07-cv-683

Ingram v. Health Mgmt. Assoc., Inc., No. 2:07-cv-529

Cole v. Health Mgmt. Assoc., Inc., No. 2:07-cv-484

Kirshy v. Barnhart, No. 2:06-cv-152

United States v. Lane, No. 2:05-cr-92

Sports Supply Group, Inc. v. Sergio, No. 2:03-cv-565

O'Connell v. Gerald, No. 2:03-cv-355

Prevatt v. Crosby, No. 2:03-cv-262

Durain v. Sec'y, Fla. Dep't of Corr., No. 2:03cv24.

Burkham v. Sch. Bd. of Lee Cnty., No. 2:02-cv-356

The Sater Group, Inc. v. WCI Cmtys., Inc., No. 2:02-cv-252

Farrell v. Woodham, No. 2:01-cv-417

In the following cases, I recused myself because I was a named defendant in the action:

Prescott v. Chappell, No. 2:10-cv-390

Bevan v. Chappell, No. 2:09-cv-337

In the following case, I recused myself after a conflict that was not apparent from the pleadings was brought to my attention by one of the parties:

Johnson v. Clark, No. 2:03-cv-490

I did not recuse myself in these cases because the motion was procedurally deficient:

Kress v. Twentieth Judicial Circuit, No. 2:08-cv-54

Kidwell v. Charlotte Cnty. Sch. Bd., No. 2:07-cv-13

I did not recuse myself in these cases because the motion was substantively deficient as it alleged prior adverse rulings:

Shaw v. United States, No. 2:11-cv-481

Prescott v. Alejo, No. 2:09-cv-791

Clark v. Coffee, No. 2:09-cv-257

Busse v. Lee Cnty., No. 2:07-cv-228

Bevan v. Lee Cnty. Sheriff's Dep't, No. 2:03-cv-500

I did not recuse myself in these cases. The motion for each case was substantively deficient because my impartiality could not reasonably be questioned:

Bevan v. D'Alessandro, No. 2:04-cv-457

Bevan v. Durling, No. 2:03-cv-527

From 2000 to 2003 as a County Court Judge, I had to recuse myself on a very small number of cases. The state filing system was not automated at that time and a diligent search of my records does not reveal the citations of those cases. I followed the applicable Florida statute when determining whether recusal was appropriate.

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 judicial offices. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

Other than my own judicial campaign in 2002, I have not held office in any political party or election committee and I have not held a position or played a role in a political campaign.

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

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

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

I have not served as a clerk to a judge.

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

I have never 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.

1987 – 2000

Office of the State Attorney, Twentieth Judicial Circuit
Lee County Justice Center
2000 Main Street, 6th Floor
Fort Myers, Florida 33901
Assistant State Attorney

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

I have never served as a mediator or arbitrator in an alternative dispute resolution proceeding.

b. Describe:

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

In July 1987, I began my public service as an Assistant State Attorney in the Fort Myers Misdemeanor Division trying cases involving DUI, petit theft, battery, and domestic violence. In 1988, I was promoted to a felony attorney position and began prosecuting cases involving crimes against children, drugs, property crimes, and crimes against persons. I later became a felony track leader responsible for a caseload as well as for mentoring and supervising less experienced felony attorneys. I also conducted Grand Jury proceedings and was asked to prosecute cases outside of the Twentieth Judicial Circuit by the Governor of the State of Florida (Governor's Assignments). I was also responsible for the paperwork regarding the Interstate and Intrastate Extraditions of fugitives.

In October 1991, I was promoted to Office Head of the Hendry and Glades County Office. During the course of the year-long assignment, I elected to handle a felony docket, spent time in court daily, and tried seven major felony cases, three of which were first degree murder cases. My duties as an Office Head also included supervising the attorneys, secretaries, and investigators.

From 1993 to 1998, I served as a Supervisor of the Fort Myers Circuit Court Trial Division. My other duties included serving as Chair of the Hiring Committee, which was responsible for the hiring of new attorneys and secretaries. Because of my love for teaching trial strategy and preparation, I was instrumental in creating and implementing a training course for new Assistant State Attorneys.

In 1998, because of my experience investigating and trying homicide cases, I was selected as a member of the Cold Case Squad. As a member of this squad, I evaluated unsolved homicide cases and served as the legal advisor to local law enforcement and the Florida Department of Law Enforcement.

In 1999, I was selected by State Attorney Joseph P. D'Alessandro to become a member of the Executive Staff comprised of the State Attorney, two Deputy State Attorneys, the Executive Director, and several other senior staff members. The Executive Staff was responsible for determining policy, promotional, and budgetary issues within the four branch offices comprising the circuit.

From 1998 to 2000, I served as the Office Head of the Charlotte County Office. During that time, I handled a docket of felony cases consisting of major high profile homicide cases. While serving as a liaison between law enforcement and the State Attorney's Office, I assisted law enforcement by consulting at the crime scene, writing search warrants, and preparing cases for trial. In addition, I supervised a staff of over 30 attorneys, secretaries, and investigators.

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

My client was the State of Florida during my career with the State Attorney's Office. I typically worked closely with victims of crime and their families. During that time, I specialized in serious felony crimes including homicide, sexual battery, and crimes against children. I was also involved in supervising attorneys, secretaries, and investigators while acting as the Office Head of several of the offices in the Twentieth Judicial Circuit. I was also responsible as a member of the Executive Staff for developing office policy and procedures.

- 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.

As an Assistant State Attorney, I frequently appeared in Florida state courts for hearings, trials, and other miscellaneous matters.

- i. Indicate the percentage of your practice in:

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

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 1%
- 2. criminal proceedings: 99%

- 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 Assistant State Attorney I tried 89 cases. My time was spent in state court litigating criminal misdemeanor and felony cases, serving as sole counsel in the majority of cases. I was lead counsel in the majority of first degree murder cases

that I tried. In a small number of first degree murder cases, I was assisted by less experienced felony attorneys who handled minor witnesses.

- i. What percentage of these trials were:
 - 1. jury: 83%
 - 2. non-jury: 17%

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

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

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give the 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. *State v. Prevatt*, Fla. Twentieth Judicial Circuit, No. 96-CF-2975, *aff'd*, 758 So. 2d 679 (Fla. 2d Dist. App. 2000); Hon. Isaac Anderson, Jr.; 1996 – 2000.

I was the lead prosecutor in this case that involved charges of first degree murder and aggravated child abuse. I obtained a conviction of the defendant, who was the natural father of the one-year-old victim. An initial hurdle was overcoming objections to *William's Rule* evidence. This case presented many challenges, including selecting jurors who could overcome their hesitance in believing that a father could hurt his own child; particularly because the victim was a "target child" with two older siblings whom the defendant had not abused. This case involved extensive medical evidence and testimony, requiring me to master the material in order to effectively examine the witnesses while simultaneously conveying this information in laymen's terms to the jury. The appellate court affirmed the defendant's conviction and life sentence.

Opposing Counsel: Marquin S. Rinard
P.O. Box 151088

Cape Coral, Florida 33915
(239) 793-5297

2. *State v. Lawson*, Fla. Twentieth Judicial Circuit, No. 94-CF-1568, *aff'd*, 695 So. 2d 705 (Fla. 2d Dist. App. 1997); Hon. William J. Nelson; 1994 – 1997.

I was the lead prosecutor in this case that involved the charge of attempted second degree murder with a firearm. The victim, who was the defendant's ex-wife, was shot in front of the couple's young children while she attempted to call 911. This case presented a unique challenge because the victim sustained life-threatening injuries that resulted in a coma. The trial hinged on her ability to recall and convey to the jury what had occurred, but her testimony was severely hampered by her physical and mental impairments. My questions during the victim's direct examination had to be succinct and simple. The defendant was convicted and the appellate court affirmed the conviction and sentence.

Opposing Counsel: Frank Alderman, Jr.
Deceased

3. *State v. Gibson*, Fla. Twentieth Judicial Circuit, No. 91-CF-472, *aff'd*, 661 So. 2d 288 (Fla. 1995); Hon. Jay B. Rosman; 1991 – 1995.

This death penalty case involved the charges of first degree felony murder, first degree premeditated murder, and first degree burglary. The defendant, a prison releasee who had previously been convicted of committing a homicide with a machete, raped and beat a young woman to death with a barbell. I was involved in this case from the day the authorities found the victim's body, and assisted in every stage of the case including trial. This case posed many challenges. At the outset, jury selection posed difficulties because the crime was committed in a small town where most of the potential jurors knew the parties involved. The trial lasted several weeks. I was tasked with presenting complicated, circumstantial, and forensic evidence in an understandable and interesting manner to the jury. Because the defendant's wife was a material witness, her testimony triggered the spousal privilege. Further, the defendant had an extremely low IQ and suffered from several diagnosed neuroses, necessitating extensive research and preparation for cross-examination of the defendant's expert witnesses. The defendant was convicted and the appellate court affirmed the conviction and sentence.

Opposing Counsel: Marquin S. Rinard
P.O. Box 151088
Cape Coral, Florida 33915
(239) 793-5297

4. *State v. Owens*, Fla. Twentieth Judicial Circuit, No. 90-CF-1196, *aff'd in part, rev'd in part*, 626 So. 2d 240 (Fla. 2d Dist. App. 1993); Hon. James Thompson; 1990 – 1993.

This case involved the charges of first degree burglary, sexual battery, aggravated battery on a person over the age of 65, robbery with a deadly weapon, and aggravated assault. I prosecuted the defendant, who had entered an elderly woman's home while she was sleeping, and proceeded to rape and severely beat her, leaving her for dead. As lead prosecutor, the case presented me with challenges because the victim was unable to identify her attacker and the defendant asserted an alibi defense. Circumstantial evidence found at the scene had to be pieced together, and experts in fingerprint identification, serology, and DNA testing had to be called as witnesses to prove identification. The jury convicted the defendant. During the sentencing hearing, I introduced certified copies of the defendant's convictions, evidence of fingerprint comparisons and matches, and specific findings regarding the defendant's prior criminal history to ensure he would qualify as a habitual violent felony offender.

Opposing Counsel: Brian Boyle
 2047 McGregor Boulevard
 Fort Myers, Florida 33901
 (239) 334-6602

5. *State v. Ahlefeld*, Fla. Twentieth Circuit Court, No. 89-CF-002273, *aff'd*, 589 So. 2d 298 (Fla. 2d Dist. App. 1991); Hon. James R. Thompson; 1989 – 1991.

This case involved six counts of capital sexual battery stemming from the defendant's sexual abuse of two boys under his care. The duration of the abuse spanned several years, including incidents when the defendant forced the boys to perform sexual acts on each other. The case was complicated and involved the temporary closure of the courtroom due to the sensitive nature of the crimes and the ages of the children, appointment of a guardian ad litem, admission of hearsay testimony from children under the age of 11, extensive expert testimony to explain the absence of medical evidence, and the extent and symptoms of posttraumatic stress syndrome. As the lead prosecutor, I was challenged during my direct examination of the children because the questions could not be suggestive. The jury convicted the defendant and the appellate court affirmed the conviction and sentence.

Opposing Counsel: Marzell Mitchell, Jr.
 No longer in practice

6. *State v. Baldwin*, Fla. Twentieth Judicial Circuit Court, No. 96-316, *aff'd*, 925 So. 2d 318 (Fla. 2d Dist. App. 2006); Hon. Cynthia Ellis; 1996 – 1998.

I assisted in the prosecution of this case that involved the charges of burglary with assault or battery upon a person, sexual battery with threat or force, and assault or battery on a person 65 years or older. The defendant had been previously convicted of sexual assault, sexual contact with a 9-year-old girl, and vehicular homicide. The defendant broke into the 92-year-old female victim's house where he proceeded to rape and beat her until he broke her ribs. Due to the age and frailty of the victim, it

was necessary to perpetuate her testimony via videotape. The conviction also hinged on DNA evidence. The jury convicted the defendant on all charges and, due to his habitual felony status, he was sentenced to life in prison. The appellate court affirmed his conviction and life sentence.

Opposing Counsel: Paul Sullivan
Arnold D. Levine & Associates
505 East Jackson Street
Tampa, Florida 33602
(813) 229-6585

7. *State v. Langill*, Fla. Twentieth Judicial Circuit Court, No. 94-CF-944, *aff'd*, 720 So. 2d 525 (Fla. 2d Dist. App. 1998); Hon. William J. Nelson; 1994 – 1996.

This case involved charges of first degree murder and aggravated stalking for which I served as lead prosecutor. The defendant was accused of stalking his girlfriend and murdering her in the parking lot of a restaurant. Because there were no eyewitnesses to the murder and the defendant maintained he acted in self-defense, the case rested solely on circumstantial and forensic evidence. The jury found the defendant guilty and the court imposed a life sentence. The appellate court affirmed the conviction and sentence.

Opposing Counsel: Marquin S. Rinard
P.O. Box 151088
Cape Coral, Florida 33915
(239) 793-5297

8. *State v. Jones*, Fla. Twentieth Judicial Circuit Court, No. 95-CF-889; Hon. William J. Nelson; 1995 – 1997.

I served as lead prosecutor in this case against the defendant who was charged with first degree premeditated murder, armed burglary, violation of an injunction, aggravated assault with a deadly weapon, aggravated fleeing or eluding arrest, and attempted murder of law enforcement officers. The charges stemmed from the defendant breaking and entering his estranged wife's house, killing her, shooting at neighbors, leading responding officers on a high-speed chase, and shooting at the officers before surrendering. These events resulted in multiple crime scenes with hundreds of pieces of evidence. Additionally, the victim was pregnant at the time of the homicide and was the niece of a police sergeant within the department that responded to the scene. The defendant was convicted as charged on all counts except the aggravated assault with a deadly weapon, and was sentenced to life.

Opposing Counsel: John D. Mills
5237 Summerlin Commons Boulevard, Suite 314
Fort Myers, Florida 33907
(239) 337-3535

9. *State v. Meynard*, Fla. Twentieth Judicial Circuit Court, No. 97-CF-115, *aff'd*, 764 So. 2d 590 (Fla. 2d Dist. App. 2000); Hon. R. Wallace Pack; 1997 – 1999.

This case stemmed from the defendant's choking, stabbing, and bludgeoning murder of a practicing dentist who lived across the street from the defendant's family. The victim's body was found by her elderly mother. This particularly heinous case presented difficulties because the defendant was 16-years-old at the time he committed the crime, and at trial the defendant's 14-year-old brother refused to testify against his brother despite previously giving a statement to authorities implicating his brother. The evidence presented during trial consisted of DNA, and bloody fingerprints and footprints. The jury found defendant guilty of first degree premeditated murder and first degree felony murder. Due to the age of the defendant, the court imposed a life sentence that was affirmed by the appellate court.

Opposing Counsel: Mark Cooper
Public Defender's Office
P.O. Drawer 1980
Fort Myers, Florida 33902
(239) 533-2911

10. *State v. Marquis*, Fla. Twentieth Judicial Circuit Court, No. 98-CF-460; Hon. Cynthia Ellis; 1998 – 1999.

This case involved a mother's abuse and neglect of her 3-month-old baby boy. The defendant previously had another child removed from her custody due to neglect. The baby was found blue-faced, underweight, filthy, and wet. I became involved in the case and took over the prosecution of the defendant when an amended information was filed. I prepared the case for trial, but after I finished my opening statement, the defendant waived her right to a jury trial and entered a plea of guilty as charged.

Opposing Counsel: Joseph Lombardo, Jr.
Law Office of Joseph Lombardo, Jr., P.A.
203 Wood Street
Punta Gorda, Florida 33950
(941) 621-2840

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.)

Prior to becoming a judge, I spent my legal career as a prosecutor for the State Attorney's Office, and served as an office head and member of the executive staff responsible for determining policy, promotional, and budgetary issues in the four branch offices comprising the Twentieth Judicial Circuit. During that time, I also participated in the Lee, Charlotte, and Hendry County Bar Associations. In addition, I taught at the Southwest Florida Criminal Justice Academy and for the Florida Prosecuting Attorney's Association.

As a Lee County Court Judge, I was involved in the Lee County Bar Association and served as a judge for moot court competitions and Lee County Teen Court. During this time, I hosted numerous groups of school-aged children educating them on the civil and criminal justice system.

As a United States Magistrate Judge, I have been involved in numerous court governance committees. At the district level, I have served on the following committees: Automation, Bench Bar, Education Sub-Committee of the Historical Committee, Congressional Relations, Security, Case Management and Judicial Relations, Judicial Resources, CM/ECF Policies and Procedures, and Jury Management. I have also served as a board member for the Calusa American Inn of Court, a professional organization for attorneys and judges promoting professionalism, civility, and excellence in the practice of law.

On the national level, I serve on the Judges IT Training Advisory Committee and have been selected by the Administrative Office of the United States Courts and the Federal Judicial Center to teach at the New Magistrate Judges IT Training and Chambers IT Training sessions.

I have not performed any legal or lobbying activities for 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.

I have not taught any 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.

I have no financial or business interests from which I might expect to be compensated in the future. I did participate in the Florida Retirement System and maintain a vested benefit therein payable monthly upon attaining normal retirement age. I also anticipate

receiving income through the State of Florida's Deferred Compensation Plan established under Internal Revenue Code 457. As a federal employee, I anticipate receiving income through the federal Thrift Savings Plan.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I intend to participate in the presentation of continuing legal education and community outreach efforts. I have no plans, commitment, or agreements to pursue outside employment.

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 Statement.

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.

If confirmed, I will continue to adhere to the Code of Conduct for United States Judges and other applicable authority regarding the conflicts of interest and recuse myself accordingly. I am not aware of any conflicts of interest presently.

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

To prevent conflicts of interest from arising, I do not have investments other than personal real estate and the Thrift Savings Plan. If confirmed, I intend to continue to be guided by the Code of Conduct for United States Judges and other applicable authority in resolving any conflicts of interest that might arise.

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

As a public servant, I have been limited to community service activities that did not ethically interfere with my job function. The Code of Conduct for United States Judges and Florida's Code of Judicial Conduct both prohibit practicing law, thereby precluding a judge from participating in *pro bono* legal representation. Likewise as an Assistant State Attorney, I was also precluded from participating in the legal representation of others. However, despite these limitations, I found it important to explore other avenues to improve the law, the legal system, and the administration of justice.

I am most proud of my community service work in exposing students to the legal system. Unfortunately, many children have a negative impression of the court system because of their exposure to television, speaking with friends who have been involved in the system, or witnessing firsthand a court proceeding involving a family member. To alleviate these misconceptions, I found as a young prosecutor that I could enter the classroom setting and speak about my profession and the law and engage students, leaving them with a positive impression of the system.

Since becoming a judge, I have expanded those speaking opportunities to conducting mock trials and mock courtroom proceedings for school children of all ages. Many of the mock trials I have written myself. I also involve court staff, law enforcement officers, and other members of the legal community in presenting the scenarios to the students so the students can explore the varied opportunities for work in the justice system.

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 January 3, 2012, I submitted an application to the Florida Federal Judicial Nominating Commission in connection with the vacancy posted on November 29, 2011. On February 17, 2012, I interviewed with the Middle District Conference of the Judicial Nominating Commission in Orlando, Florida, and was notified by the Judicial Nominating Commission that my name, along with two others, was being submitted to Senator Bill Nelson and Senator Marco Rubio. On March 28,

2012, I interviewed with Senators Nelson and Rubio in Senator Nelson's office in Washington, DC. Both Senators advised me they were submitting my name along with two others, to the White House for consideration in connection with the vacancy.

Since April 26, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 29, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On June 25, 2012, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

I, Sheri Polster Chappell, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

June 25, 2012
(DATE)

Sheri Polster Chappell
(NAME)

Jeffrey D. Thomas
(NOTARY)

