

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Dale Alan Drozd

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

United States District Judge for the Eastern District of California

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

Office: United States District Court  
Eastern District of California  
Robert T. Matsui United States Courthouse  
501 I Street, Suite 8-240  
Sacramento, California 95814

Residence: Clarksburg, California

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

1955; Long Beach, California

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

1977 – 1980, U.C.L.A. School of Law; J.D. (Order of the Coif), 1980  
1975 – 1977, San Diego State University; B.A. (*magna cum laude*), 1977  
1973 – 1975, University of Southern California; no degree received

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.

1997 – present  
United States District Court for the Eastern District of California  
Robert T. Matsui United States Courthouse  
501 I Street, Suite 8-240  
Sacramento, CA 95814  
United States Magistrate Judge (1997 – present)  
Chief Magistrate Judge (2011 – present)

1986 – 1997  
Blackmon, Drozd & Snellings (formerly Blackmon & Drozd (1986 – 1995), Blackmon &  
Associates (1986))  
(since dissolved)  
Sacramento, CA  
Partner (1986 – 1997)  
Associate (1986)

1982 – 1985  
Hallinan, Osterhoudt & Poplack (since dissolved)  
San Francisco, CA  
Associate

1980 – 1982  
United States District Court for the Eastern District of California  
650 Capitol Mall  
Sacramento, CA 95814  
Law Clerk for Judge Lawrence K. Karlton

1979 – 1980  
Hugh R. Manes, Esq.  
3435 Wilshire Boulevard  
Los Angeles, CA 90010  
Law Clerk/Legal Researcher (part-time)

Summer 1979  
United States Department of Interior  
Office of Surface Mining Enforcement  
1951 Constitution Avenue, N.W.  
Washington, D.C. 20240  
Summer Legal Intern

June – December 1978  
National Prison Project  
1346 Connecticut Avenue, N.W., Suite 1031  
Washington, D.C. 20036  
Legal Intern

Other Affiliations (volunteer/uncompensated)

2005 – 2010

Christian Brothers High School

Boosters Club

4315 Martin Luther King Jr. Boulevard

Sacramento, CA 95820

President (2008 – 2010)

Executive Board (2005 – 2010)

1997 – 2005

West Sacramento Little League

P.O. Box 155

West Sacramento, CA 95691

Board Member

1993 – 1994

Team Tisdale

801 K Street, Suite 2124

Sacramento, CA 95814

Secretary

1993

Criminal Defense Lawyers of Sacramento

(no longer in existence)

Sacramento, California

President

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 did timely register for selective service.

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

A-V Rating in Martindale – Hubbell (1990 – 1997)

Listed in The Best Lawyers in America (1995 – 1997)

Karen Dory Book Award, U.C.L.A. School of Law (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

Anthony M. Kennedy American Inn of Court at McGeorge School of Law

California Attorneys for Criminal Justice

Criminal Defense Lawyers of Sacramento (1993)

President

Federal Bar Association

Federal Magistrate Judges Association

National Association of Criminal Defense Lawyers

Sacramento County Bar Association

United States Court of Appeals for the Ninth Circuit

Ninth Circuit Judicial Conference Executive Committee (2012 – present)

Magistrate Judges Executive Board (2009 – 2012)

Lawyer Representative Coordinating Committee (1997)

Lawyer Representative (Eastern District of California) to the Circuit Conference (1996 – 1997)

Merit Selection Committee – Federal Defender for Eastern District of California (1991)

United States District Court for the Eastern District of California

Budget Committee (2011 – present)

Judicial Advisory Committee (2011 – present)

District Conference Planning Committee (2011 – present, 1987 – 1997)

Ad Hoc Committee on Space Allocation & Planning (2010 – present)

Chief Probation Officer Selection Screening Committee (2009)

Ad Hoc Committee on Temporary Staff Attorney Hiring (2008 – present)

Chief Pretrial Services Officer Selection Screening Committee (2008, 2011)

Committee on Ninth Circuit Resource Committee Report (2008 – 2012)

Word Conversion Subcommittee (2012)

Judicial Liaison for Naturalization Ceremonies (2004 – 2011)

Federal Defender Criminal Justice Act Panel Screening Committee (1996 – 1997)

Civil Justice Reform Act Advisory Committee (1996 – 1997)

Death Penalty Habeas & Prisoner Litigation Subcommittees (1996 – 1997)

Local Rules Committee (1995 – 1997)

Magistrate Judge Selection Screening Panel (1989)

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.

California, 1980 (inactive)

In California, a person serving as a judge is placed on inactive status.

- 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.

Supreme Court of the United States, 1988  
United States Court of Appeals for the Ninth Circuit, 1981  
United States District Court for the Eastern District of California, 1981  
United States District Court for the Northern District of California, 1982  
United States District Court for the Southern District of California, 1984  
United States District Court for the Central District of California, 1997  
United States Tax Court, 1985

There have been no lapses in membership in the bars of these courts. The United States District Court for the Northern District of California cross references with California State Bar records and therefore also lists my membership as in inactive status due to my position as a magistrate judge.

#### 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.

Operation Protect & Defend (2002 – present)  
Christian Brothers High School Boosters Club (2005 – 2010)  
    Executive Board (2005 – 2010)  
    President (2008 – 2010)  
West Sacramento Little League (1997 – 2005)  
    Board Member  
Team Tisdale (1993 – 1994)  
    Secretary

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

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

**12. Published Writings and Public Statements:**

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

“U.S. District Judge Lawrence K. Karlton Steps Down From the Bench,”  
*Sacramento Lawyer* (September/October 2014). Copy supplied.

Prisoners’ Rights, Volumes I and II, Practising Law Institute, New York, NY  
(1979) (compiled and edited under attorney supervision). Copy supplied.

“The Therapeutic Communities Act of 1978,” 1 *Prison Law Monitor* 68 (1978).  
Copy supplied.

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

None of which I am aware.

- 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.

Sometime between August 1991 and May 1992, I submitted written comments opposing a proposed amendment that would have allowed the electronic recording of depositions to the Judicial Conference of the United States, Standing Committee on Rules of Practice and Procedure regarding Proposed Amendments to the Federal Rules of Civil Procedure and the Federal Rules of Evidence. I have been unable to obtain a copy of those written comments.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports

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

I have searched both my paper and electronic files, my calendars and publicly available information in seeking to list below all speeches, talks, remarks and lectures I have delivered, as well as all panel discussions and question-and-answer sessions in which I have participated. There may, however, be others I have been unable to recall or identify as a result of my search. Finally, I should note that at many of the events listed below, I speak contemporaneously or with the aid of a few notecards which I discard afterward.

1998 – present: I have given courthouse tours to elementary, middle school and high school students approximately three times a year. Those tours always involve remarks regarding the work of the federal courts and a question-and-answer period. However, I do not normally keep records of the schools which I have provided tours to and do not speak from notes. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

September 30, 2014: Speaker, “Planned Federal Residential Reentry Center in the Sacramento Area – View from the Bench,” United States Attorney’s Office for the Eastern District of California, Sacramento, California. I spoke at this informational meeting of the need for a Federal Residential Reentry Center in the Sacramento area, after a 13-year absence of such a facility, from the perspective of the court’s judges. I have no notes, transcript or recording, but press coverage is supplied. The address for the United States Attorney’s Office for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 10th Floor, Sacramento, California 95814.

June 26, 2014: Speaker, read short speech by Justice Sandra Day O’Connor on the topic of judicial independence, American Legion – California Boys’ State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes supplied.

May 1, 2014: Master of Ceremonies, Annual Law Day Student Awards Dinner, Sacramento Chapter of the Federal Bar Association, Sacramento County Bar Association and Operation Protect and Defend, Sacramento, California. Notes and PowerPoint supplied.

March 6, 2014: Presiding Judge, U.S. District Court for the Eastern District of California’s Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as

witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

February 19, 2014: Speaker, "Criminal Due Process in 2014: Taking the Fifth – Reasonable Doubt – Impartial Juries in the Social Media Age," Operation Protect and Defend at Luther Burbank High School, Sacramento, California. Following the students' completion of a lesson plan on these subjects, a lawyer and I led a classroom discussion of principles of due process in criminal proceedings. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

October 5, 2013: Panel Moderator, "ADR and Access to Justice," Eastern District Conference, Olympic Valley, California. Notes of introductory remarks supplied.

July 29, 2013: Panelist, "Relief for Pro Se Headaches," Federal Judicial Center, Workshop for U.S. Magistrate Judges II, San Diego, California. Outline and notes supplied.

June 27, 2013: Speaker, read short speech by Justice Sandra Day O'Connor on the topic of judicial independence, American Legion – California Boys' State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes previously supplied in response to the event on June 26, 2014.

June 5, 2013: Presiding Judge, administering oath to new members of the Bar of the Eastern District of California, Sacramento, California. I spoke generally about professional responsibility and the importance of maintaining credibility with clients, opposing counsel and the court. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

April 24, 2013: Panelist, "Relief for Pro Se Headaches," Federal Judicial Center, Workshop for U.S. Magistrate Judges I, New Orleans, Louisiana. Outline and notes supplied in response to the event on July 29, 2013.

April 17, 2013: Panelist, "CJA Panel Training Program on Detention Hearings," Office of the Federal Defender for the Eastern District of California, Sacramento, California. I appeared with the court's Chief Pretrial Services Officer to provide information to CJA panel lawyers regarding initial appearances and detention hearings. I have no notes, transcript or recording. The address of the Office of the



Federal Defender for the Eastern District of California is 801 I Street, Third Floor, Sacramento, California 95814.

March 6, 2013: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

February 27, 2013: Speaker, "The Fourteenth Amendment: Equal Protection and Education," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on these subjects, a lawyer and I led a classroom discussion at McClatchy High School of equal protection principles and the extent of one's right to an education. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

June 21, 2012: Speaker, read short speech by Justice Sandra Day O'Connor on the topic of judicial independence, American Legion – California Boys' State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes previously supplied in response to the event on June 26, 2014.

June 7, 2012: Presiding Judge, administering oath to new members of the Bar of the Eastern District of California, Sacramento, California. I spoke generally about professional responsibility and the importance of maintaining credibility with clients, opposing counsel and the court. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

March 6, 2012: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

February 22, 2012: Speaker, classroom lesson plan entitled, "Immigrants and the Constitution," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on these subjects, a lawyer and I led a classroom discussion at McClatchy High School of equal protection principles and the extent of immigrants' right to an education. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

December 21, 2011: Presiding Judge, Naturalization Ceremony for new citizens at Memorial Auditorium, Sacramento, California. Since January 2008, I have conducted 13 ceremonies at that location on the following dates, including the one indicated above: August 24, 2011, March 16, 2011, October 20, 2010, April 21, 2010, November 18, 2009, June 11, 2009, March 18, 2009, September 17, 2008, July 2, 2008, May 28, 2008, February 20, 2008, and January 24, 2008. In my remarks at these ceremonies I administered the oath and typically congratulated the new citizens on their accomplishment, and I used the story of a particular immigrant group from our nation's history to make the point that the greatness of the United States stems in part from its elimination of barriers to success and its placement of all of its citizens on a level field, free from discrimination of any kind. I also encouraged the new citizens to become active participants in our constitutional democracy. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

December 2, 2011: Panelist, "Section 1983 Training Prisoner Litigation Fundamentals: Introduction to the Pro Bono Panel, How the Court Manages Its Prisoner Case Docket, Appointment of Counsel, Engagement Letters and Motion to Withdraw," co-sponsored by the U.C. Davis School of Law and the Sacramento Chapter of the Federal Bar Association, Davis, California. The panel discussed how the court handles its prisoner case docket. I have no notes, transcript or recording. The address for the U.C. Davis School of Law is 400 Mrak Hall Drive, Davis, California 95616.

November 29, 2011: Presenter, Retirement Ceremony of Senior United States District Judge Frank C. Damrell, Jr., United States District Court for the Eastern District of California. Upon his retirement from the bench I presented Judge Damrell with a gift on behalf of the Magistrate Judges of the court and thanked him for being our colleague. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

October 6, 2011: Speaker, Retirement Ceremony of U.S. Magistrate Judge Sandra M. Snyder, United States District Court for the Eastern District of California. In my remarks I recounted Judge Snyder's accomplishments on behalf of our court and thanked her for being our colleague. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California in Fresno is Robert E. Coyle United States Courthouse, 2500 Tulare Street, Room 1501, Fresno, California 93721.

June 23, 2011: Speaker, "Remarks on Judicial Independence by Justice Sandra Day O'Connor." American Legion – California Boys' State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes previously supplied in response to the event on June 26, 2014.

March 11, 2011: Speaker, "Investiture of United States District Judge Kimberly J. Mueller – History of the Magistrate Judge System and Judge Mueller's Contributions as a Magistrate Judge," Sacramento, California. Transcript supplied.

March 10, 2011: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814

March 2, 2011: Speaker, classroom lesson plan entitled, "Constitutional Rights on Campus: How Free?," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on these subjects, a lawyer and I led a classroom discussion at Kennedy High School of the First Amendment rights of students. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 17, 2011: Speaker, "Annual Federal Day in Court – Dos and Don'ts in Federal Court," Sacramento Legal Secretaries Association, Sacramento, California. Notes supplied.

February 5, 2011: Panel Member, "2010-11 Asylum and Refugee Law, National Moot Court Competition, Finals hosted by U.C. Davis School of Law," Sacramento, California. I have no notes, transcript or recording. The address for the U.C. Davis School of Law is 400 Mrak Hall Drive, Davis, California 95616

December 6, 2010: Presiding Judge, administering oath to new members of the Bar of the Eastern District of California, Sacramento, California. I spoke generally about professional responsibility and the importance of maintaining credibility with clients, opposing counsel and the court. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

June 24, 2010: Speaker, read short speech by Justice Sandra Day O'Connor on the topic of judicial independence, American Legion – California Boys' State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes previously supplied in response to the event on June 26, 2014.

June 1, 2010: Presiding Judge, administering oath to new members of the Bar of the Eastern District of California, Sacramento, California. I spoke generally about professional responsibility and the importance of maintaining credibility with clients, opposing counsel and the court. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

February 23, 2010: Speaker, classroom lesson plan entitled, "Constitutional Rights on Campus: How Free?," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on these subjects, a lawyer and I led a classroom discussion at Sacramento High School of the First Amendment rights of students. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 18, 2010: Speaker, "Annual Federal Day in Court – Dos and Don'ts in Federal Court," Sacramento Legal Secretaries Association, Sacramento, California. Notes previously supplied in response to the event on February 17, 2011.

February 11, 2010: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

June 25, 2009: Speaker, read short speech by Justice Sandra Day O'Connor on the topic of judicial independence, American Legion – California Boys' State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes previously supplied in response to the event on June 26, 2014.

May 7, 2009: Co-Master of Ceremonies, "Annual Law Day Student Awards Dinner," Operation Protect and Defend, Sacramento, California. As co-master of ceremonies, I read excerpts from the winning essays and provided background regarding the students who wrote them, while presenting them with their scholarships and awards. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 26, 2009: Speaker, classroom lesson plan entitled, "Constitutional Rights on Campus: How Free?," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on these subjects, a lawyer and I led a classroom discussion at Sacramento High School of the First Amendment rights of students. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 10, 2009: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

May 1, 2008: Co-Master of Ceremonies, "Annual Law Day Student Awards Dinner," Operation Protect and Defend, Sacramento, California. As co-master of ceremonies, I read excerpts from the winning essays and provided background regarding the students who wrote them, while presenting them with their scholarships and awards. I have no notes, transcript or recording, but press coverage is supplied. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 25, 2008: Speaker, classroom discussion based on Mark Curriden's lesson plan entitled, "Contempt of Court: The Turn-of-the-Century Lynching that Launched 100 Years of Federalism," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on this subject, I led a classroom discussion at Rio Americano High School of the role of the federal courts in ensuring equal protection under the Fourteenth Amendment. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 13, 2008: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

December 19, 2007: Presiding Judge, Naturalization Ceremonies for new citizens held at the Crest Theater, Sacramento, California. Since March 1998, I have conducted 99 ceremonies at that location including many that were held back-to-back on the same day. I presided over ceremonies on the following dates, including two on the date indicated above: October 24, 2007, September 19, 2007, March 14, 2007, August 30, 2006, June 29, 2006, January 18, 2006, December 14, 2005, October 27, 2005, September 14, 2005, July 27, 2005, January 19, 2005, December 15, 2004, July 21, 2004, March 15, 2004, January 7, 2004, October 22, 2003, July 9, 2003, May 21, 2003, February 5, 2003, November 12, 2002, July 17, 2002, June 19, 2002, May 22, 2002, March 13, 2002, January 23, 2002, December 5, 2001, October 3, 2001, September 5, 2001, July 11, 2001, June 13, 2001, April 25, 2001, February 28, 2001, January 24, 2001, September 6, 2000, August 2, 2000, July 26, 2000, July 5, 2000, June 28, 2000, May 31, 2000, April 12, 2000, February 9, 2000, January 5, 2000, December 15, 1999, December 8, 1999, October 27, 1999, September 15, 1999, September 8, 1999, July 14, 1999, April 28, 1999, January 27, 1999, November 18, 1998, September 9, 1998 and March 25, 1998. In my remarks at these ceremonies I administered the oath and typically congratulated the new citizens on their accomplishment, and I used the story of a particular immigrant group from our nation's history to make the point that the greatness of the United States stems in part from its elimination of barriers to success and its placement of all of its citizens on a level field, free from discrimination of any kind. I also encouraged the new citizens to become active participants in our constitutional democracy. I have no notes, transcript or recording, but press coverage is supplied where available. The

address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

December 3, 2007: Presiding Judge, administering oath to new members of the Bar of the Eastern District of California, Sacramento, California. I spoke generally about professional responsibility and the importance of maintaining credibility with clients, opposing counsel and the court. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

November 27, 2007: Presiding Judge, Naturalization Ceremony for new citizens held at the Robert T. Matsui United States Courthouse, Sacramento, California. Since March 2006, I have conducted 15 ceremonies at that location on the following dates, including the one indicated above: July 26, 2007, June 26, 2007, May 25, 2007, April 24, 2007, February 23, 2007, January 26, 2007, December 22, 2006, October 27, 2006, September 22, 2006, September 21, 2006, May 25, 2006, May 12, 2006, March 28, 2006 and March 15, 2006. In my remarks at these ceremonies I administered the oath and typically congratulated the new citizens on their accomplishment, and I used the story of a particular immigrant group from our nation's history to make the point that the greatness of the United States stems in part from its elimination of barriers to success and its placement of all of its citizens on a level field, free from discrimination of any kind. I also encouraged the new citizens to become active participants in our constitutional democracy. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

May 10, 2007: Co-Master of Ceremonies, "Annual Law Day Student Awards Dinner," Operation Protect and Defend, Sacramento, California. As co-master of ceremonies I read excerpts from the winning essays and provided background regarding the students that wrote them, while presenting them with their scholarships and awards. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

February 27, 2007: Speaker, classroom discussion based on Mark Curriden's lesson plan entitled, "Contempt of Court: The Turn-of-the-Century Lynching that Launched 100 Years of Federalism," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on this subject, a lawyer and I led a classroom discussion at Kennedy High School of the role of the federal courts in ensuring equal protection under the Fourteenth Amendment. I have no notes, transcript or recording. The address for Operation Protect and

Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

November 15, 2006: Panelist, "CJA Panel Training Program on Detention Hearings," Office of the Federal Defender for the Eastern District of California, Sacramento, California. I appeared with the court's Chief Pretrial Services Officer to provide information to CJA panel lawyers regarding how to prepare for and present detention hearings. I have no notes, transcript or recording. The address of the Office of the Federal Defender for the Eastern District of California is 801 I Street, Third Floor, Sacramento, California 95814.

June 22, 2006: Speaker, read short speech by Justice Sandra Day O'Connor on the topic of judicial independence, American Legion – California Boys' State Inauguration Ceremony at Sacramento State University, Sacramento, California. Notes previously supplied in response to the event on June 26, 2014.

February 17, 2006: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

March 4, 2005: Presiding Judge, U.S. District Court for the Eastern District of California's Open Doors Program, Sacramento, California. For this annual program at our court, I hosted a high school class in my courtroom for a mock trial, involving lawyers and courtroom personnel with the students serving as witnesses and jurors, followed by a discussion and a question-and-answer session regarding careers in the legal field. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

February 2004: Speaker, classroom discussion based on Mark Curriden's lesson plan entitled, "Contempt of Court: The Turn-of-the-Century Lynching that Launched 100 Years of Federalism," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on this subject, a lawyer and I led a classroom discussion at Kennedy High School of the role of the federal courts in ensuring equal protection under the Fourteenth Amendment. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center



Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

May 6, 2003: Speaker, classroom discussion based on Mark Curriden's lesson plan entitled, "Contempt of Court: The Turn-of-the-Century Lynching that Launched 100 Years of Federalism," Operation Protect and Defend, Sacramento, California. Following the students' completion of a lesson plan on this subject, a lawyer and I led a classroom discussion at Kennedy High School of the role of the federal courts in ensuring equal protection under the Fourteenth Amendment. I have no notes, transcript or recording. The address for Operation Protect and Defend is c/o Sacramento Federal Judicial Library and Learning Center Foundation, Justice Anthony M. Kennedy Library and Learning Center, Robert T. Matsui United States Courthouse, 501 I Street, Suite 1-400, Sacramento, California 95814.

November 27, 2001: Presenter, "Won't You Be My (Free) Lawyer?," Anthony M. Kennedy American Inn of Court at McGeorge School of Law, Sacramento, California. I served as the narrator for this satirical sketch, which touched upon both the need for and duty of lawyers to provide voluntary pro bono public service, as well as the pitfalls for lawyers to avoid in doing so. I have no notes, transcript or recording. The address for the Anthony M. Kennedy Inn of Court is c/o the University of the Pacific, McGeorge School of Law, 3200 Fifth Avenue, Sacramento, California 95817.

October 11, 2001: Speaker, "Dos and Don'ts in Federal Court," Capital City Legal Secretaries Association, Sacramento, California. I provided practical suggestions for legal assistants regarding local rules and requirements applicable in federal court. I have no notes, transcript or recording. The Capital City Legal Secretaries Association has no physical address.

April 17, 2001: Presenter, "Total Recall - I Thought I Deleted That," Anthony M. Kennedy American Inn of Court, McGeorge School of Law, Sacramento, California. I introduced the two guest speakers at this presentation, noting their qualifications and commenting on the timeliness of their presentation for lawyers and judges. The speakers were computer forensics and security experts, one from law enforcement and the other from the private sector. I have no notes, transcript or recording. The address for the Anthony M. Kennedy American Inn of Court is c/o the University of the Pacific, McGeorge School of Law, 3200 Fifth Avenue, Sacramento, California 95817.

March 20, 2001: Luncheon Speaker, "The Role of a United States Magistrate Judge," West Sacramento Kiwanis Club, West Sacramento, California. I spoke regarding the role Magistrate Judges play in the administration of justice in the federal courts and my work in particular. I have no notes, transcript or recording.

The address of the West Sacramento Kiwanis Club is 2902 Angel Street, West Sacramento, California 95691.

May 25, 2000: Speaker, "Clerks on Karlton at Dinner Honoring U.S. District Judge Lawrence K. Karlton on his taking of Senior Status," Sacramento Chapter of the Federal Bar Association, Sacramento, California. Video supplied.

February 16, 2000: Lecturer, "Fourth Amendment and the Exclusionary Rule," Christian Brothers High School (A.P. Government Class), Sacramento, California. Outline supplied.

February 15, 2000: Presenter, "Getting Into Your Genes – The Trial of DNA," Anthony M. Kennedy American Inn of Court at McGeorge School of Law, Sacramento, California. Handout and video supplied.

June 23, 1999: Panelist, "Nuts & Bolts: An Introduction to Federal Practice in Sacramento," The Sacramento Barristers' Club & the Sacramento Chapter of the Federal Bar Association, Sponsored by the Daily Recorder, Sacramento, California. Handout upon which my comments were based is supplied.

June 7, 1999: Presiding Judge, administering oath to new members of the Bar of the Eastern District of California, Sacramento, California. I spoke generally about professional responsibility and the importance of maintaining credibility with clients, opposing counsel and the court. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

January 19, 1999: Presenter, "What's Truth Got to Do with It: The Lessons of Whitewater," Anthony M. Kennedy American Inn of Court at McGeorge School of Law, Sacramento, California. Notes supplied.

March 3, 1998: Guest Lecturer, Civil Rights Litigation, U.C. Davis Law School, Davis, California. I discussed civil rights litigation practice before the federal court at Professor Margaret Johns' class on that subject. I have no notes, transcript or recording. The address of U.C. Davis Law School is 400 Mrak Hall Drive, Davis, California 95616.

September 4, 1997: Speaker, Investiture Ceremony of United States Magistrate Judge Dale A. Drozd, Sacramento, California. In my remarks I thanked all of those who had given me the opportunity to succeed as lawyer, as well as my entire family, and thanked the district judges of the court for the confidence they had shown in me by their selection. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

July 21, 1997: Luncheon Speaker, "Life as a Trial Lawyer," South Sacramento Rotary Club, Sacramento, California. I spoke about my career as a practicing attorney and of my then-recent appointment as a United States Magistrate Judge. I have no notes, transcript or recording. The address of the South Sacramento Rotary Club is 937 Piedmont Drive, Sacramento, California 95822.

February 18, 1997: Panelist, "Conflicts of Interest," U.C. Davis School of Law, Professor Jill C. Peterson's Professional Responsibility class, Davis, California. The panel discussed how conflicts of interest may arise in the actual practice of law. I have no notes, transcript or recording. The address for the U.C. Davis School of Law is 400 Mrak Hall Drive, Davis, California 95616.

December 1, 1995: Panelist, "Conflicting Rights, Use of the Fifth Amendment Privilege in Civil Litigation," California State Bar Education Institute, San Diego, California. Outline supplied.

October 21, 1995: Panelist, "Pre-Charging Plea Negotiations," United States District Court for the Eastern District of California – District Conference, Yosemite, California. I participated in a panel discussion regarding the above described topic. I have no notes, transcript or recording. The address for the United States District Court for the Eastern District of California is Robert T. Matsui United States Courthouse, 501 I Street, 4th Floor, Sacramento, California 95814.

June 4, 1995: Panelist, "Basics of White Collar Criminal Law for Business Lawyers," California State Bar Education Institute, Monterey, California. Outline supplied.

June 3, 1995: Panelist, "Conflicting Rights, Use of the Fifth Amendment Privilege in Civil Litigation," California State Bar Education Institute, Monterey, California. Outline previously supplied in response to the event on December 1, 1995.

May 6, 1995: Panelist, "Nuts & Bolts: An Introduction to Federal Practice in Sacramento – Criminal Law Presentation," Sacramento Chapter of the Federal Bar Association, Sacramento, California. I participated in a panel discussion regarding the basics of the practice of criminal in the Eastern District of California including applicable local rules and practices of the various judges of the court. I have no notes, transcript or recording. The address for the Sacramento Chapter of the Federal Bar Association is 3104 O Street, #296, Sacramento, California 95816.

December 12, 1994: Panelist, "Lobbyist Ethics Orientation Course," California Legislature, Joint Legislative Ethics Committee, Sacramento, California. Materials supplied.

August 5, 1994: Panelist, "Ethics Orientation for California State Senators and Designated Employees," California Legislature, Senate Legislative Ethics Committee, Sacramento, California. Along with another attorney and the Chief Counsel of the California Joint Legislative Ethics Committee, I made a presentation to designated employees of the state legislature regarding state and federal public corruption laws. We also presented various case scenarios based upon then-recent court decisions to instruct the employees regarding their rights and responsibilities. I have no notes, transcript or recording. The address for the California Senate Legislative Ethics Committee is 1020 N Street, Room 238, Sacramento, California 95814.

April 29, 1994: Panelist, "Ethics Orientation for California State Senate Designated Employees," California Legislature, Senate Legislative Ethics Committee, Sacramento, California. Along with another attorney and the Chief Counsel of the California Joint Legislative Ethics Committee, I made a presentation to designated employees of the state legislature regarding state and federal public corruption laws. We also presented various case scenarios based upon then-recent court decisions to instruct the employees regarding their rights and responsibilities. I have no notes, transcript or recording. The address for the California Senate Legislative Ethics Committee is 1020 N Street, Room 238, Sacramento, California 95814.

April 18, 1994: Panelist, "Ethics Orientation for California State Senators," California Legislature, Senate Legislative Ethics Committee, Sacramento, California. Along with another attorney and the Chief Counsel of the California Joint Legislative Ethics Committee, I made a presentation to new state senators and designated employees of the state legislature regarding state and federal public corruption laws. We also presented various case scenarios based upon then-recent court decisions to instruct the employees regarding their rights and responsibilities. I have no notes, transcript or recording. The address for the California Senate Legislative Ethics Committee is 1020 N Street, Room 238, Sacramento, California 95814.

March 9, 1994: Panelist, "Lobbyist Ethics Orientation Course," California Legislature, Joint Legislative Ethics Committee, Sacramento, California. Materials supplied in response to the event on December 12, 1994.

February 8, 1993: Panelist, "Search and Seizure – 1992 Developments," Criminal Defense Lawyers of Sacramento, Sacramento, California. I spoke to members of the local criminal defense bar regarding developments in state and federal search and seizure law during 1992. I have no notes, transcript or recording. The Criminal Defense Lawyers of Sacramento is an organization that no longer exists and therefore has no current address.

January 19, 1993: Panelist, "CJA Panel Training Session - Presenting Allegations of Governmental Misconduct," Office of the Federal Defender for the Eastern District of California, Sacramento, California. I spoke to members of the CJA Panel regarding tips in moving to dismiss indictments based upon allegations of governmental misconduct. I have no notes, transcript or recording. The address for the Office of the Federal Defender, Eastern District of California is 801 I Street, 3rd Floor, Sacramento, California 95814.

January 11, 1990: Speaker, "Luncheon honoring Chief District Judge Lawrence K. Karlton," Sacramento Chapter of the Federal Bar Association, Sacramento, California. My remarks addressed the accomplishments of Judge Karlton on behalf of the Eastern District of California during the end of his seven-year tenure as Chief Judge. I have no notes, transcript or recording. The address for the Sacramento Chapter of the Federal Bar Association is 3104 O Street, #296, Sacramento, California 95816.

May 5, 1987: Special Guest, "Call a Lawyer: The Bicentennial of the U.S. Constitution," PBS/KVIE Broadcast, Sacramento, California. Video supplied.

January 28, 1984: Speaker, "International Extradition and the Case of William Quinn - Symposium on Comparative Criminal Law and Procedure," Pacific International Law Society at McGeorge School of Law, Sacramento, California. I spoke at this symposium regarding the international extradition case of *Quinn v. Robinson*, in which I had served as one of petitioner's attorneys in the district court and where relief had been obtained, which was at that time pending before the Ninth Circuit Court of Appeals. I have no notes, transcript or recording. The address of the University of the Pacific, McGeorge School of Law is 3200 Fifth Avenue, Sacramento, California 95817.

- 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.

Sacramento Chapter of the Federal Bar Association, Newsletter, *10 Things You May Not Know About Chief Magistrate Judge Dale A. Drozd*, March 2011. Copy supplied.

Linda Rapattoni, *Baseball-Trained Eye Now Keeps Its Gaze on the Law*, San Francisco Daily Journal, Vol. 112, No. 53, March 20, 2006. Copy supplied.

Denny Walsh, *New Judge Has Made Career of Beating Odds*, Sacramento Bee, Metro Section, B1, July 6, 1997. Copy supplied.

Anne D. Ellis & Angela V. Rush, *Lobbyist Says Bonadelle Urged Him to Resist FBI*, Fresno Bee, Feb. 11, 1997, at A1. Copy supplied.

Stephen Magagnini, *Chip Theft Suspects May Get Bailed Soon*, Sacramento Bee, Metro Section, B1, May 7, 1996. Copy supplied.

Denny Walsh, *Drug Currier Tied to "Brutal" Canada Gang Gets 5 Years*, Sacramento Bee, Oct. 19, 1995, at A1. Copy supplied.

Claire Cooper, *Drug Ruling Sets Up High Court Showdown*, Sacramento Bee, May 31, 1995, at B5. Copy supplied.

Denny Walsh, *Man Accused of \$3 Million Fraud: Retired Construction Loan Broker Faces Federal Charges*, Sacramento Bee, Nov. 1, 1994, at B2. Copy supplied.

Brad Hayward, *Lobbyist Warned About "Dangerous World" As They Brush Up on Ethics*, Fresno Bee, Mar. 10, 1994, at B10. Copy supplied. (Reprinted in multiple outlets).

Greg Lucas, *Lawyers Teach Lobbyists How to Stay Out of Jail*, The San Francisco Chronicle, Mar. 10, 1994, at A17. Copy supplied.

Cynthia Hubert, *Charged with Crime, He Took His Own Life, Left a Mystery*, Sacramento Bee, Feb. 6, 1994, at A1. Copy supplied. (Reprinted in multiple outlets).

Ramon Coronado, *4 of 5 Acquitted of Extorting Money From Viet Restaurant*, Sacramento Bee, May 28, 1993, at B4. Copy supplied.

Dan Bernstein, *Some Drug Dealers Pay Stiff Penalty for Right to Trial*, Sacramento Bee, Dec. 13, 1990, at A1. Copy supplied.

Dan Bernstein, *Prosecution Wins Ruling in Export Case*, Sacramento Bee, Sept. 25, 1990, at B1. Copy supplied. (Reprinted in multiple outlets).

Dan Bernstein, *Animal Activists Fail to Get Grand Jury Subpoena Quashed*, Sacramento Bee, May 10, 1990, at B1. Copy supplied.

P.H. Frammolino, *Reagan Backs Ban on Faked Endorsements*, Los Angeles Times, Feb. 1, 1990, at MN3. Copy supplied. (Reprinted in multiple outlets).

Daniel M. Weintraub, *Orange County Assemblyman Cleared in Forgery Case*, Los Angeles Times, Jan. 24, 1990, at MN1. Copy supplied. (Reprinted in multiple outlets).

*Claim of Van de Kamp Partisan Prosecuting Dismissed by Judge*, Los Angeles Times, Jan. 6, 1990, at MN33. Copy supplied.

Jim Lewis, *Port Pair Guilty in Payroll Padding*, Sacramento Bee, Metro Section, B3, April 9, 1988. Copy supplied.

*Law Student Interns Recall Moments They Won't Forget*, National Prison Project Journal, Fall 1987, Number 13 at 14. Copy supplied.

Jim Mayer, *Property Forfeitures Sting Drug Suspects*, Sacramento Bee, Oct. 18, 1987, at B1. Copy supplied.

*Judge Rescinds Release of Former IRA Member*, Philadelphia Inquirer, Oct. 5, 1983, at F20. Copy supplied.

Jack Schreibman, The Associated Press, Domestic News, Dateline: San Francisco, Oct. 4, 1983. Copy supplied.

Jack Schreibman, The Associated Press, Domestic News, Dateline: San Francisco, Oct. 3, 1983. Copy supplied.

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

In July 1997, I was appointed by the United States District Court for the Eastern District of California to serve an eight-year term as a United States Magistrate Judge. I was re-appointed to eight-year terms in 2005 and 2013. I have served as the Chief Magistrate Judge of our court since January 2011. I preside over civil cases on a limited basis on reference from district judges and in full where the parties consent to jurisdiction. I also handle social security appeals. In addition, I review and issue criminal complaints and warrants, preside over the criminal arraignment, bail and discovery motion calendar and over the misdemeanor and petty offense docket. Finally, from January 2010 through December 2013 I served as the presiding judge in Sacramento for our Better Choices Court, a program launched with our Pretrial Services Office to provide more intense supervision and monthly contact with a judicial officer for those pretrial releasees viewed as posing a high risk of violating the conditions of their release.

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

According to a report generated through our court's CM/ECF system, not counting petty offense criminal cases, I have presided over 36 trials and a total of 1,105 cases to verdict or judgment.

i. Of these, approximately what percent were:

jury trials:	75%
bench trials:	25%
civil proceedings:	64%
criminal proceedings:	36%

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

See attached list of opinions.

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

Below, I have listed the cases in reverse chronological order.

1. United States v. Jackson and Dorsey, 2:11-cr-0193 DAD JAM and 2:10-mj-0242 DAD

In this criminal case, the defendants were charged with assaulting an employee of the United States Post Office while he was engaged in the performance of official duties in violation of 18 U.S.C. § 111(a)(1), a Class A misdemeanor, and of Obstructing the Passage of Mail and a United States Postal Carrier, a Class B misdemeanor. Through counsel, the defendants waived their right to trial, judgment and sentencing before a district judge on the Class A misdemeanor charge and consented to proceed before a magistrate judge. Defendant Jackson entered pleas of guilty to the charged offenses. I subsequently sentenced Ms. Jackson to the custody of the United States Bureau of Prisons for two one-month terms, to be served concurrently, followed by a one-year term of supervised release on conditions, including 210 days in a residential community corrections center and 40 hours of community service as well as the mandatory special assessment. Defendant Dorsey proceeded to trial and in January 2011, I presided over her two-day jury trial, at the conclusion of which verdicts were returned finding her guilty on both counts. Thereafter I sentenced Ms. Dorsey to the custody of the United States Bureau of Prisons for terms of 12 months and 6 months, served concurrently, to be followed by a one-year term of supervised release on conditions including the performance of 40 hours of community service as well as the mandatory special assessment. Defendant Dorsey appealed from her judgment and sentence. The assigned district judge affirmed.



Counsel for Plaintiff:

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501 I Street, Suite 10-100  
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(916) 554-2900

Counsel for Defendant Jackson:

Linda C. Harter  
Office of the Federal Defender  
801 I Street, 3rd Floor  
Sacramento, CA 95814  
(916) 498-5700

Counsel for Defendant Dorsey:

Preeti Kaur Bajwa  
(Formerly a Solo Practitioner)  
California Attorney General's Office  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102  
(415) 703-5843

2. Jones v. County of Sacramento, 2:09-cv-1025 DAD, 2011 WL 3163307 (E.D. Cal. July 25, 2011) and 2011 WL 3584332 (E.D. Cal. Aug. 12, 2011)

In this § 1983 civil suit, plaintiff alleged that while being held at the Sacramento County Main Jail following his arrest, the defendant deputy sheriffs used excessive force against him in violation of his rights under the Fourth Amendment. After the assigned district judge denied the defendants' motion for summary judgment, the parties consented to magistrate judge jurisdiction for trial. I presided over the three-week long jury trial in February 2011. The jury returned a defense verdict as to the first aspect of plaintiff's excessive force claim but a verdict in favor of plaintiff on the second aspect of his claim. The jury also found that the defendants had acted maliciously, oppressively or in reckless disregard of plaintiff's constitutional rights, but declined to award punitive damages. Following the verdict, the defendants renewed their motion for judgment as a matter of law and plaintiff's counsel filed a motion for an award of attorney's fees pursuant to 42 U.S.C. § 1988. I addressed both motions in written orders, denying defendants' renewed motion for judgment as a matter of law and granting plaintiff's motion for attorney's fees and costs in part, awarding a total of \$316,626 in fees and costs. A notice of appeal was filed but the appeal was dismissed by stipulation.

Counsel for Plaintiff:

Stewart Lee Katz  
Law Offices of Stewart Katz  
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Sacramento, CA 95825  
(916) 444-5678

Counsel for Defendants:

John A. Lavra  
Longyear O'Dea and Lavra  
3620 American River Drive, Suite 230  
Sacramento, CA 95864  
(916) 974-8510

3. In re Searches and Seizures, 2:08-SW-0361-63, 2008 WL 5411772 (E.D. Cal. Dec. 19, 2008)

The government had sought and obtained an *ex parte* order from me sealing the supporting affidavits at the time several search warrants were issued. Following the execution of the search, lawyers on behalf of the targets of the searches, an investment company and its principal, moved to unseal the affidavits. After conducting an *in camera* review of the affiant's supplemental affidavit addressing the government's need for continued secrecy, I denied the motion to unseal. The resulting order reviewed the law with respect to the pre-indictment right of access to search warrant materials by those whose property is the subject of search. No review of that order was sought.

Counsel for the United States:

Russell Carlberg (currently on detail assignment)  
United States Attorney's Office  
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Sacramento, CA 95814  
(916) 544-2700

Counsel for Defendants:

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Segal & Associates  
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Sacramento, CA 95814  
(916) 441-0886

Patrick K. Hanley  
Law Office of Patrick K. Hanley  
431 I Street, #201  
Sacramento, CA 95814  
(916) 773-2211

4. Risso v. City of Placerville, et al., 2:07-cv-0451 DAD

This consent case was a civil rights action brought by a father and grandmother, as Guardian Ad Litem, on behalf of a young girl who had been removed from the father's custody by County Child Protective Services officers acting in conjunction with a city police officer. As a result of the subsequent juvenile dependency proceedings, the child was returned to her father's custody. Plaintiffs brought this § 1983 action alleging that the defendants had acted without evidence and without a warrant in violation of both the child's and the father's constitutional rights. There was also a Monell claim brought against both the city and the county based on the alleged failure to train their respective employees. The parties waived any disqualification of the trial judge acting as settlement judge and requested that I preside over the settlement conference in June 2008. I was able to assist the parties in reaching a settlement which, among many advantages to both parties, meant that the young girl was spared having to testify at trial.

Counsel for Plaintiff:

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Dennis R. Ingols  
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Counsel for Defendant:

Bruce A. Kilday (Defendant City of Placerville)  
Angelo, Kilday & Kilduff  
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(916) 564-6100 x202

Franklin G. Gumpert (Defendant County of El Dorado)  
Caulfield Law Firm  
1101 Investment Boulevard, Suite 120  
El Dorado Hills, CA 95762  
(916) 933-3200

5. United States v. Jack, et al., 2:07-cr-0266 FCD, 263 F.R.D. 640 (E.D. Cal. 2010) and 257 F.R.D. 221 (E.D. Cal. 2009)

In this criminal prosecution, the defendants were charged with conspiracy to, among other things, violate the Neutrality Act in connection with an alleged plot to overthrow the government of Laos. The case garnered a great deal of media attention. A significant aspect of my involvement in the case occurred on July 12, 2007, when a hearing before District Judge Frank C. Damrell, Jr. was scheduled on motions by the 11 detained defendants to revoke the previously entered orders that they be detained without bail. Judge Damrell referred the hearing to me and, after a two-day hearing, I set bail and fashioned conditions of release with respect to each of the defendants. The government elected not to seek review of those release orders. I was then specially assigned as the magistrate judge on the case for all purposes and heard a number of discovery motions and other pretrial matters. Charges against all defendants were eventually dismissed on motion by the government in January 2011.

Counsel for the United States:

Honorable Robert M. Twiss  
(Formerly at the United States Attorney's Office)  
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Jill M. Thomas  
S. Robert Tice-Raskin  
Jared C. Dolan  
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Counsel for Defendants:

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James J. Brosnahan (Defendant True Vang)  
George Clark Harris  
Somnath Raj Chatterjee  
Morrison & Foerster, LLP  
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Melissa Jones (Defendant True Vang)  
Stoel Rives, LLP  
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(916) 319-4649

William J. Portanova (Defendant Lo Thao)  
Law Offices of William Portanova  
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Daniel J. Broderick (retired) (Defendant Jack)  
(Formerly Federal Defender for the Eastern District of California)

Benjamin D. Galloway (Defendant Jack)  
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Mark J. Reichel (Defendant Lo Cha Thao)  
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Shari G. Rusk (Defendant Lo)  
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Krista J. Hart (Defendant Hue Vang)  
Law Office of Krista J. Hart

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Dina L. Santos (Defendant Yang Thao)  
Law Offices of Dina L. Santos  
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Michael B. Bigelow (Defendant Vue)  
Law Office of Michael B. Bigelow  
331 J Street, Suite 200  
Sacramento, CA 95814  
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Danny D. Brace, Jr. (Defendant Kao Vang)  
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6. Jesus Christ Prison Ministry v. Cal. Dep't of Corrections, 2:05-cv-0440 DAD, 456 F. Supp. 2d 1188 (E.D. Cal. 2006), withdrawn pursuant to settlement (Apr. 16, 2007)

This was a consent case brought by a prison ministry and a state prisoner against the California Department of Corrections in which it was alleged that the policy

of prohibiting the sending of free Christian books, pamphlets and tapes into California prisons violated the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the First Amendment. On cross-motions for summary judgment, I rejected the defendant's procedural defenses and held in favor of plaintiffs. Subsequently, the parties settled the lawsuit contingent upon the withdrawal of the opinion, a request which I accommodated.

Counsel for Plaintiff:

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Matthew B. McReynolds  
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Counsel for Defendant:

John W. Riches, II (retired)  
(Formerly at the California Attorney General's Office)

7. Paxton v. Squaw Valley Ski Corporation, 2:02-cv-1527 DAD

In this diversity action, Mr. and Mrs. Paxton brought suit against the defendant ski resort for serious injuries suffered by Mr. Paxton in a skiing accident. Plaintiffs alleged that the defendant negligently failed to place a rope-line closure or appropriate perimeter signage around a man-made, 15-foot-deep half pipe terrain feature constructed for a competition that had been cancelled due to weather conditions on the day in question. Plaintiffs claimed that as a result, Mr. Paxton had inadvertently skied into the half pipe and crashed to the bottom thereby suffering his injuries. After the assigned district judge denied the defendant's motion for summary judgment and issued a final pretrial order, the parties consented to magistrate judge jurisdiction for trial. I presided over the three-week jury trial in May 2005. The jury returned a verdict in favor of the plaintiffs on the negligence claim but found that Mr. Paxton's own negligence was responsible for 6% of the harm he suffered. The jury awarded Mr. Paxton over \$1.5 million in damages for economic loss and pain and suffering but awarded Mrs. Paxton nothing for loss of consortium. Following the verdict, the defendant filed a motion for new trial or, in the alternative, remittitur. After oral argument, I denied that motion in a written order, a copy of which is supplied. Thereafter, a notice of appeal was filed but the appeal was voluntarily dismissed by stipulation of the parties following the filing of a satisfaction of judgment with the court.

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Counsel for Defendants:

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Jill H. Penwarden  
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8. United States v. Wong, 2:01-cr-0254 DAD

In this criminal case, the defendant was charged by Information with theft of government property in violation of 18 U.S.C. § 641 and contributing to the delinquency of a minor by encouraging her daughter to assist in the shoplifting of clothing at the Travis Air Force Base Exchange, both Class A misdemeanors. Through counsel, the defendant consented to proceed before a magistrate judge. During the pretrial proceedings I denied a defense motion to suppress evidence in a written order, which has been supplied. In April 2002, I presided over a four-day jury trial, at the conclusion of which I declared a mistrial when the jury announced that it was deadlocked and unable to reach a verdict. Thereafter, a Superseding Information was filed. The case was subsequently resolved by way of plea agreement with a joint recommendation of a one-month term of imprisonment in the custody of the United States Bureau of Prisons followed by a one-year term of supervised release and the mandatory special assessment. I adopted that joint sentencing recommendation in imposing judgment and sentence.

Counsel for Plaintiff:

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Counsel for Defendant:

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9. United States v. Boyd, 2:98-cr-0043 DAD MLS

In this criminal case, the defendant was charged with assaulting a federal employee in violation of 18 U.S.C. § 111(a)(1), a Class A misdemeanor, and violating an order barring her from entering a military installation in violation of 18 U.S.C. § 1382, a Class B misdemeanor. I denied a defense motion to dismiss by written order, which is supplied. In September 1998 I presided over the three-day jury trial. The jury returned a verdict, finding the defendant guilty on both counts. Thereafter, I denied the defendant's motion for judgment of acquittal or for a new trial and imposed judgment and a sentence of a probationary term of 36 months with the conditions that the defendant pay a \$1,000 fine, perform 200 hours of unpaid community service, and pay the mandatory special assessments. The defendant appealed and the judgment was affirmed by the assigned district judge.

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10. Oxsen v. County of Plumas, 2:95-cv-9044 DAD.

In this § 1983 civil action, the plaintiff, a former appraiser in the County Assessor's Office, alleged that the defendants, the County of Plumas and the County Assessor, had violated his rights under the First Amendment by first issuing him an unjustified letter of reprimand and later eliminating his position in retaliation for his running for election to the position of County Assessor. After the assigned district judge granted summary judgment in favor of the county defendant but denied the defendant assessor's motion for summary judgment, the parties consented to magistrate judge jurisdiction for trial. I presided over the six-day jury trial in May 1998. The jury returned a verdict for plaintiff and awarded damages. Following the verdict, the defendant assessor renewed his motion for judgment as a matter of law or in the alternative for a new trial or remittitur. In addition, plaintiff's counsel filed a motion for an award of attorney's fees pursuant to 42 U.S.C. § 1988, as did counsel on behalf of the county defendant who had prevailed on summary judgment. I addressed those motions in written orders, which are supplied. I denied the defendant assessor's motion for judgment as a matter of law or for a new trial or remittitur, as well as the defendant county's motion for attorney fees and costs. As to the latter motion, I found that plaintiff's arguments in support of his claims against the county defendant could not be accurately characterized as unreasonable, frivolous, fully without merit or vexatious. I granted plaintiff's motion for attorney fees in part, awarding a total of \$62,019 in fees and costs. No appeal was taken from the judgment.

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- 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. Thompson v. Rosario, 2:12-cv-0776 KJM DAD, 2014 WL 1400856 (E.D. Cal. Apr. 10, 2014)

Counsel for Plaintiff:

Mr. Thompson, pro se

Counsel for Respondent:

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2. United States v. Hammet, et al., 2:13-cr-0011 JAM, Docket No. 30 (E.D. Cal. Mar. 22, 2013). Copy supplied.

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3. Malibu Media, LLC v. John Does 1 through 59, 2:12-cv-2481 JAM DAD,  
2012 WL 4864998 (E.D. Cal. Oct. 11, 2012)

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4. Jensen v. Hernandez, 864 F. Supp. 2d 869 (E.D. Cal. 2012)

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5. Jones v. County of Sacramento, 2:09-cv-1025 DAD, 2011 WL 3584332 (E.D. Cal. Aug. 12, 2011) and 2011 WL 3163307 (E.D. Cal. July 25, 2011)

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6. Santibanez v. Havlin, 750 F. Supp. 2d 1121 (E.D. Cal. 2010)

Counsel for Petitioner:

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Counsel for Respondent:

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7. United States v. Jack, et al., 263 F.R.D. 640 (E.D. Cal. 2010) and 257 F.R.D. 221 (E.D. Cal. 2009)

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8. Shirmohamadali v. Heinauer, 535 F. Supp. 2d 1059 (E.D. Cal. 2008)

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9. Drayton v. Castro, 2:99-cv-0708 GEB DAD P, 2006 WL 3531771 (E.D. Cal. Dec. 12, 2006)

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10. McDaniel v. Barnhart, 375 F. Supp. 2d 975 (E.D. Cal. 2004)

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

To the best of my knowledge, certiorari has not been granted in any of my cases.  
To the best of my knowledge, certiorari has been requested in the following cases  
which were assigned to me:

Jensen v. Hernandez, 864 F. Supp. 2d 869 (E.D. Cal. 2012), aff'd \_\_\_ F.  
App'x \_\_\_, 2014 WL 1928735 (9th Cir. May 15, 2014), cert. denied sub nom.  
Jensen v. Paramo, \_\_\_ U.S. \_\_\_, 2014 WL 4543003 (U.S. Nov. 3, 2014).

Marrero v. Ives, No. 2:08-cv-1853 FCD DAD P, 2009 WL 799253 (E.D. Cal.  
Mar. 23, 2009), aff'd 682 F.3d 1190 (9th Cir. 2012), cert. denied \_\_\_ U.S. \_\_\_, 133  
S. Ct. 1264 (2013).

Dungan v. Barnes, No. 2:10-cv-1191 DAD P, 2011 WL 5877064 (E.D. Cal. Nov.  
22, 2011), aff'd 491 Fed. Appx. 851 (9th Cir. Dec 06, 2012), cert. denied  
\_\_\_ U.S. \_\_\_, 134 S. Ct. 620 (2013).

Lopez v. Runnels, No. 2:03-cv-0543 JAM DAD P, 2008 WL 2383952 (E.D. Cal.  
June 09, 2008), adopted by 2008 WL 3200856 (E.D. Cal. Aug. 07, 2008), aff'd  
495 Fed. Appx. 855 (9th Cir. Nov. 14, 2012), cert. denied \_\_\_ U.S. \_\_\_, 133 S. Ct.  
1821 (2013).

Cox v. Small, No. 2:09-cv-2135 LKK DAD P, 2010 WL 4289868 (E.D. Cal. Oct.  
22, 2010), adopted by Docket No. 41 (E.D. Cal. Jan 1, 2011), aff'd 463 Fed.  
Appx. 661 (9th Cir. Dec 22, 2011), cert. denied \_\_\_ U.S. \_\_\_, 133 S. Ct. 440  
(2012).

Sims v. Rios, No. 2:10-cv-1893 LKK DAD P, 2010 WL 3505091 (E.D. Cal. Sept. 03, 2010), adopted by Docket No. 13 (E.D. Cal. Nov. 1, 2010), aff'd 457 Fed. Appx. 626 (9th Cir. Nov 01, 2011), cert. denied \_\_\_ U.S. \_\_\_, 133 S. Ct. 184 (2012).

King v. Hedgpeth, No. 2:08-cv-1524 GEB DAD P, 2010 WL 2698609 (E.D. Cal. July 07, 2010), adopted by Docket No. 28 (E.D. Cal. Aug. 27, 2010), aff'd 472 Fed. Appx. 818 (9th Cir. Apr. 30, 2012), cert. denied \_\_\_ U.S. \_\_\_, 133 S. Ct. 441 (2012).

Bettencourt v. Knowles, No. 2:07-cv-2246 FCD DAD P, 2009 WL 4755403 (E.D. Cal. Dec. 08, 2009), adopted by 2010 WL 431715 (E.D. Cal. Feb. 02, 2010), aff'd 472 Fed. Appx. 661 (9th Cir. Apr. 18, 2012), cert. denied \_\_\_ U.S. \_\_\_, 133 S. Ct. 344 (2012).

Prenatt v. G.W. Williams Co., No. 2:06-cv-1633 GEB DAD PS, 2007 WL 3313660 (E.D. Cal. Nov. 06, 2007), adopted by 2007 WL 4239557 (E.D. Cal. Dec. 03, 2007), aff'd 437 Fed. Appx. 543 (9th Cir. June 08, 2011), cert. denied \_\_\_ U.S. \_\_\_, 133 S. Ct. 333 (2012).

Kitchen v. Felker, No. 2:07-cv-0701 MCE DAD P, 2010 WL 761207 (E.D. Cal. Mar. 03, 2010), adopted by Docket No. 52 (E.D. Cal. Mar. 29, 2010), aff'd 442 Fed. Appx. 318 (9th Cir. July 13, 2011), cert. denied \_\_\_ U.S. \_\_\_, 132 S. Ct. 1042 (2012).

Hassan v. Morawcznski, No. 2:05-cv-2144 MCE DAD P, 2009 WL 2407694 (E.D. Cal. Aug. 04, 2009), adopted by Docket No. 12 (E.D. Cal. Aug. 31, 2009), aff'd 405 Fed. Appx. 129 (9th Cir. Nov. 30, 2010), cert. denied \_\_\_ U.S. \_\_\_, 132 S. Ct. 245 (2011).

Lavirgne v. Yates, No. 2:09-cv-0649 DAD P, 2009 WL 700428 (E.D. Cal. Mar. 16, 2009), aff'd 421 Fed. Appx. 774 (9th Cir. Mar. 16, 2011), cert. denied \_\_\_ U.S. \_\_\_, 132 S. Ct. 163 (2011).

Pearson v. Brace, No. 2:06-cv-2505 FCD DAD PS, 2007 WL 2972744 (E.D. Cal. Oct. 10, 2007), adopted by 2007 WL 3293368 (E.D. Cal. Nov. 06, 2007), aff'd 329 Fed. Appx. 743 (9th Cir. 2009), cert. denied \_\_\_ U.S. \_\_\_, 131 S. Ct. 149 (2010).

Thomas v. Scribner, No. 2:04-cv-00733 MCE DAD P, 2008 WL 483575 (E.D. Cal. Feb. 20, 2008), adopted by Docket No. 90 (E.D. Cal. Feb. 20, 2008), aff'd 389 Fed. Appx. 726 (9th Cir. July 29, 2010), cert. denied \_\_\_ U.S. \_\_\_, 131 S. Ct. 667 (2010).

Newsom v. Runnels, No. 2:04-cv-2134 GEB DAD P, 2008 WL 4455855 (E.D. Cal. Sept. 30, 2008), adopted by 2008 WL 4933762 (E.D. Cal. Nov. 18, 2008),

aff'd 378 Fed. Appx. 641 (9th Cir. May 03, 2010), cert. denied \_\_\_ U.S. \_\_\_, 131 S. Ct. 470 (2010).

Faurot v. Terhune, No. 2:08-cv-0254 MCE DAD P, 2008 WL 2169451 (E.D. Cal. May 23, 2008), adopted by Docket No. 22 (E.D. Cal. Nov. 17, 2008), aff'd 357 Fed. Appx. 137 (9th Cir. Dec. 08, 2009), cert. denied \_\_\_ U.S. \_\_\_, 131 S. Ct. 1048 (2011).

Burgos v. Yarborough, No. 2:04-cv-0021 FCD DAD P, 2008 WL 2236383 (E.D. Cal. May 29, 2008), adopted by 2008 WL 2789776 (E.D. Cal. July 18, 2008), aff'd 369 Fed. Appx. 799 (9th Cir. Mar. 04, 2010), cert. denied \_\_\_ U.S. \_\_\_, 131 S. Ct. 147 (2010).

Peterson v. Roe, No. 2:02-cv-1720 FCD DAD P, 2006 WL 1455434 (E.D. Cal. May 25, 2006), adopted by 2006 WL 2711615 (E.D. Cal. Sept. 21, 2006), aff'd 337 Fed. Appx. 658 (9th Cir. 2009), cert. denied 558 U.S. 1000, 130 S. Ct. 513 (2009).

Davis v. Knowles, No. 2:07-cv-0416 LKK DAD P, 2008 WL 4307491 (E.D. Cal. Sept. 18, 2008), adopted by 2008 WL 4635428 (E.D. Cal. Oct. 17, 2008), aff'd 328 Fed. Appx. 557 (9th Cir. 2009), cert. denied 558 U.S. 998, 130 S. Ct. 507 (2009).

Ansel v. Superior Court of Sacramento County, No. 2:06-cv-2380 GEB DAD P, 2007 WL 1101455 (E.D. Cal. Apr. 12, 2007), adopted by 2007 WL 1501739 (E.D. Cal. May 21, 2007), aff'd 313 Fed. Appx. 34 (9th Cir. Nov. 25, 2008), cert. denied 558 U.S. 997, 130 S. Ct. 505 (2009).

Toliver v. Powers, No. 2:06-cv-0273 FCD DAD P, 2006 WL 3349546 (E.D. Cal. Nov. 16, 2006), adopted by 2006 WL 3762022 (E.D. Cal. Dec. 20, 2006), aff'd 298 Fed. Appx. 682 (9th Cir. Nov. 05, 2008), cert. denied 558 U.S. 834, 130 S. Ct. 77 (2009).

Drayton v. Castro, 2:99-cv-0708 GEB DAD P, 2006 WL 3531771 (E.D. Cal. Dec. 12, 2006), adopted by 2007 WL 273647 (E.D. Cal. Jan. 29, 2007), aff'd 319 Fed. App'x 632 (Mar. 17, 2009), cert. denied 556 U.S. 1272, 129 S. Ct. 2741 (2009).

Galvan v. Ayers, No. 2:00-cv-1142 DFL DAD P, 2006 WL 657121 (E.D. Cal. Mar. 15, 2006), adopted by 2006 WL 2734262 (E.D. Cal. Sept. 25, 2006), aff'd 292 Fed. Appx. 643 (9th Cir. Sep 09, 2008), cert. denied 555 U.S. 1172, 129 S. Ct. 1329 (2009).

Hammonds v. McGrath, No. 2:02-cv-0540 MCE DAD P, 2005 WL 1704402 (E.D. Cal. July 14, 2005), adopted by 2006 WL 707401 (E.D. Cal. Feb. 08, 2006), aff'd 267 Fed. Appx. 687 (9th Cir. Feb. 22, 2008), cert. denied 555 U.S. 891, 129 S. Ct. 213 (2008).

Anderson v. Terhune, No. 2:00-cv-2494 (Docket Nos. 19 & 21), aff'd 467 (9th Cir. 1208 (9th Cir. 2006), reversed and remanded on rehearing en banc 516 F.3d 781 (9th Cir. 2008), cert. denied 555 U.S. 818, 129 S. Ct. 344 (2008).

Tarkington v. Woodford, No. 2:06-cv-1021 RRB DAD P, 2007 WL 4365500 (E.D. Cal. Dec. 12, 2007), cert. denied 553 U.S. 1038, 128 S. Ct. 2439 (2008).

Fountain v. Yates, No. 2:04-cv-2350 GEB DAD P, 2006 WL 1627906 (E.D. Cal. June 8, 2006), adopted by 2006 WL 2065394 (E.D. Cal. July 24, 2006), aff'd 238 Fed. Appx. 213 (9th Cir. June 14, 2007), cert. denied 552 U.S. 1208, 128 S. Ct. 1264 (2008).

Reed v. Peterson, No. 2:04-cv-1822 LKK DAD P, 2006 WL 1130726 (E.D. Cal. Apr. 27, 2006), adopted by 2006 WL 1889876 (E.D. Cal. July 07, 2006), aff'd 255 Fed. Appx. 279 (9th Cir. Nov. 26, 2007), cert. denied 552 U.S. 1198, 128 S. Ct. 1253 (2008).

Curtis v. Guirbino, No. 2:01-cv-1562 GEB DAD P, 2005 WL 2789071 (E.D. Cal. Oct. 25, 2005), adopted by Docket No. 66 (E.D. Cal. Mar. 28, 2006), aff'd 248 Fed. Appx. 773 (9th Cir. Jun 13, 2007), cert. denied 552 U.S. 1046, 128 S. Ct. 662 (2007).

Williams v. Sheperd, No. 2:04-cv-2428 MCE DAD P, 2005 WL 1837133 (E.D. Cal. Aug. 01, 2005), adopted by 2005 WL 2400934 (E.D. Cal. Sept. 28, 2005), aff'd 238 Fed. Appx. 260 (9th Cir. June 27, 2007), cert. denied 552 U.S. 995, 128 S. Ct. 494 (2007).

Robinson v. State of California, No. 2:04-cv-1888 GEB DAD PS, 2005 WL 1561524 (E.D. Cal. June 29, 2005), adopted by Docket No. 85 (E.D. Cal. Nov. 22, 2005), aff'd 223 Fed. Appx. 607 (9th Cir. Feb. 28, 2007), cert. denied 552 U.S. 824, 128 S. Ct. 180 (2007).

Hufile v. Miccio-Fonseca, No. 2:03-cv-1522 FCD DAD, 2006 WL 572862 (E.D. Cal. Mar. 08, 2006), adopted by 2006 WL 1030094 (E.D. Cal. Apr. 19, 2006), aff'd in part, rev'd in part and remanded 410 F.3d 1136 (9th Cir. 2005), cert. denied 547 U.S. 1166, 126 S. Ct. 2325 (2006).

Planesi v. Peters, et al., No. 2:03cv2062 MCE DAD (Docket Nos. 37 & 41), aff'd 2005 WL 1939885 (9th Cir. Aug. 15, 2005), cert. denied 546 U.S. 1151, 126 S. Ct. 1182 (2006).

Stewart v. Terhune, No. 2:99-cv-0756 FCD DAD P, Docket No. 33 (E.D. Cal. Aug. 29, 2002), adopted by Docket No. 35 (E.D. Cal. Sept. 23, 2001), aff'd Fed. Appx. 205 (9th Cir. Mar. 04, 2004), cert. denied 543 U.S. 1060, 125 S. Ct. 877 (2005).

Webster v. Calderon, No. 2:93-cv-0306 LKK DAD DP (Docket No. 176), findings and recommendations re summary judgment motions adopted in part and declined in part and petitioner's motion for summary judgment granted (Docket Nos. 201 & 232), reversed sub nom. Webster v. Woodford, 361 F.3d 522 (9th Cir. 2004), amended and superseded 369 F.3d 1062 (9th Cir.), cert. denied sub nom. Webster v. Brown, 543 U.S. 1007, 125 S. Ct. 626 (2004).

- 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.

I have searched all decisions on Westlaw and Lexis/Nexis as well as my internal files to locate any of my decisions that have been reversed, my findings and recommendations which have been rejected or significantly modified by a reviewing court, and my findings and recommendations which have been adopted and then the order adopting was reversed on appeal. All of those instances are listed below.

Conservatively, in my over 17 years as a magistrate judge I have issued over 30,000 orders and 5,500 findings and recommendations. Each finding and recommendation is subject to objections by the parties and *de novo* review by the assigned district judge. I estimate that my findings and recommendations have been adopted nearly 99% of those cases.

#### Orders Reversed

Martinez v. Barnhart, No. 2:04-cv-0637 DAD, Docket No. 16 (E.D. Cal. Sept. 21, 2005) (copy supplied), rev'd and remanded sub nom. Martinez v. Astrue, 261 Fed. Appx. 33 (9th Cir. Dec. 20, 2007). In a Social Security appeal on consent, I affirmed the Commissioner's denial of benefits. On appeal, the Ninth Circuit rejected two of the claimant's arguments but reversed on the sole ground that the administrative law judge should have taken testimony from a vocational expert in finding the plaintiff not to be disabled in light of her non-exertional impairments.

In Morrison v. Astrue, No. 2:06-cv-0182 DAD, Docket No. 18 (E.D. Cal. Mar. 28, 2007) (copy supplied), aff'd in part, rev'd in part and remanded Morrison v. Astrue, 308 Fed. Appx. 89 (9th Cir. Jan. 9, 2009). In a Social Security appeal on consent, I affirmed the Commissioner's denial of benefits. On appeal, the Ninth Circuit affirmed in part and reversed and remanded the action. Although the Ninth Circuit rejected two of the claimant's arguments on appeal, it reversed in part because it found that the evidence did not support the administrative law judge's conclusion that the claimant's non-exertional impairments would impose no

additional functional limitations on her ability to perform work. In light of that conclusion, further administrative proceedings were deemed to be required.

Findings and Recommendations Rejected or Adopted in Part

Arista v. Mule Creek State Prison, No. 2:13-cv-2655 DAD KJM P, 2014 U.S. Dist. LEXIS 18072 (E.D. Cal. Feb. 12, 2014), declined to adopt by 2014 U.S. Dist. LEXIS 82528 (E.D. Cal. June 17, 2014). I issued findings and recommendations recommending that the plaintiff's filing, which I characterized as a petition for federal habeas relief, be denied, while advising the prisoner litigant that he could file a civil rights action. Plaintiff filed an objection to my characterization of his filing as a habeas petition. The assigned district judge declined to adopt my findings and recommendations, characterized the prisoner's filing as a civil rights complaint and dismissed it.

Escobar v. Smith, No. 2:12-cv-0773 GEB DAD P, 2013 WL 6389034 (E.D. Cal. Dec. 6, 2013), declined to adopt by Docket No. 35 (E.D. Cal. Jan. 28, 2014) (copy supplied). I issued findings and recommendations recommending defendants' motion for summary judgment on plaintiff's Eighth Amendment inadequate medical care claim be denied. The assigned district judge declined to adopt the findings and recommendations and granted defendants' motion for summary judgment, determining that plaintiff failed to provide sufficient evidence from which it could be reasonably inferred that defendants' treatment was medically unacceptable or that defendants acted in conscious disregard of plaintiff's health.

Bridgewater v. Cate, No. 2:10-cv-2971 TLN DAD P, 2013 U.S. Dist. LEXIS 112795 (E.D. Cal. Aug. 8, 2013), adopted in part, rejected in part by 2013 U.S. Dist. LEXIS 175379 (E.D. Cal. Dec. 11, 2013). I issued findings and recommendations recommending that defendants' motion to dismiss for failure to state a claim and failure to exhaust administrative remedies be granted. The assigned district judge adopted the findings and recommendations except on the issue of plaintiff's exhaustion of administrative remedies. Upon consideration of plaintiff's opposition, filed after the recommendation had issued, the district judge determined that plaintiff was excused from complying with the exhaustion requirement because prison officials had made administrative remedies effectively unavailable to him.

Mitchell v. Williams, No. 2:10-cv-1829 KJM DAD P, 2013 U.S. Dist. LEXIS 115770 (E.D. Cal. Aug. 15, 2013), adopted in part by 2013 U.S. Dist. LEXIS 138929 (E.D. Cal. Sept. 26, 2013). I issued findings and recommendations recommending defendants' motion for summary judgment on plaintiff's inadequate medical care claims and retaliation claims be granted. The assigned district judge adopted the findings and recommendations in part but based on the averments of plaintiff's complaint determined that there were material facts in dispute with respect to plaintiff's retaliation claim against one of the defendants.

Buckley v. Ritola, No. 2:11-cv-1310 KJM DAD P, 2013 U.S. Dist. LEXIS 70134 (E.D. Cal. May 16, 2013), declined to adopt by 2013 U.S. Dist. LEXIS 110696 (E.D. Cal. Aug. 5, 2013). I issued findings and recommendations recommending defendant's motion to dismiss be granted due to plaintiff's failure to exhaust administrative remedies prior to filing suit. The assigned district judge declined to adopt the findings and recommendations, concluding that defendants had not shown that further relief remained available to plaintiff after prison officials issued their informal and first level responses to his grievance.

Perry v. Wells Fargo Home Mortgage, No. 2:13-cv-0935 GEB DAD PS, 2013 WL 3214533 (E.D. Cal. June 24, 2013), adopted as modified by 2013 WL 3804836 (E.D. Cal. July 19, 2013). I issued findings and recommendations recommending that defendant's motion to dismiss be denied as moot and that the matter be remanded to the Placer County Superior Court. The assigned district judge adopted the findings and recommendations, except for a citation therein to a prior order of the assigned district judge which had subsequently been withdrawn and superseded.

Broadcast Music Inc. v. Antigua Cantina & Grill, LLC, No. 2:12-cv-1196 KJM DAD, 2013 WL 460329 (E.D. Cal. Feb. 5, 2013), adopted in part by Docket No. 16 (E.D. Cal. Mar. 29, 2013) (copy supplied). I issued findings and recommendations recommending that plaintiffs' motion for default judgment be granted, default judgment be entered against the defendants and defendants be ordered to pay statutory damages and attorney's fees. The assigned district judge adopted the findings and recommendations except as to the recommendation of an award of \$6,425 in attorney's fees, finding that the hourly rate recommended had not been justified by plaintiffs' counsel, who was given an opportunity to file a supplemental memorandum.

Knockum v. BAC Home Loans Servicing, L.P., et al., No. 2:12-cv-0416 GEB DAD PS, 2012 U.S. Dist. LEXIS (E.D. Cal. Aug. 27, 2012), adopted in part by 2012 U.S. Dist. LEXIS 137722 (E.D. Cal. Sept. 25, 2012). I issued findings and recommendations recommending defendants' motion to dismiss be granted in its entirety and that plaintiff's complaint be dismissed without leave to amend. The assigned district judge adopted my findings and recommendations as to the analysis concerning the deficiencies of the complaint under Federal Rule of Civil Procedure 8 and as to plaintiff's Title 18 claim under Rule 12(b)(6) which was dismissed with prejudice. The district judge declined to reach defendants' arguments as to plaintiff's Fair Debt Collection Practices, Truth in Lending Act, and Real Estate Settlement Procedures Act claims. When plaintiff failed to file an amended complaint, the case was dismissed.

Cooper v. Naku, No. 2:10-cv-1057 GEB DAD, 2012 WL 345941 (E.D. Cal. Feb. 1, 2012), adopted in part by 2012 WL 913561 (E.D. Cal. Mar. 16, 2012). I issued findings and recommendations recommending that defendants' motion for summary judgment be denied as to plaintiff's Eighth Amendment inadequate

medical care claim against a doctor and nurse. The assigned district judge adopted the findings and recommendations as to the defendant doctor, but granted the motion for summary judgment as to the defendant nurse.

Pavey v. Recontrust Company, N.A., No. 2:11-cv-1477 GEB DAD PS, 2012 WL 467405 (E.D. Cal. Feb. 13, 2012), adopted in part by 2012 WL 3393870 (E.D. Cal. Mar. 5, 2012). I issued findings and recommendations recommending that defendant's motion to strike be denied as moot, that defendant's motion to dismiss be granted in part, that plaintiffs' only federal claim be dismissed with prejudice, that the court decline to exercise supplemental jurisdiction over plaintiffs' state law claims, that plaintiffs' state law claims be dismissed without prejudice and that the action be closed. The recommendation was adopted except as to the defendant's motion to strike, which the district judge found did not need to be addressed in light of the dismissal of plaintiffs' only federal claim and the court's decision to decline to exercise supplemental jurisdiction over plaintiffs' state law claims.

Rodgers v. Tilton, No. 2:07-cv-2269 WBS DAD P, 2011 WL 2709078 (E.D. Cal. July 11, 2011), adopted in part by 2012 WL 3925085 (E.D. Cal. Sept. 1, 2011). I issued findings and recommendations recommending that one defendant's motion for summary judgment be granted in part and denied in part. The assigned district judge declined to adopt my recommendation that the motion be denied in part on the grounds that plaintiff had not properly exhausted his administrative remedies. The district judge found that although plaintiff included his medical care claim in his inmate grievance at the Director's Level of review, he had not included his claim in his initial inmate grievance or his grievance to the second level of review.

Greene v. Board of Prison Terms, No. 2:09-cv-0229 LKK DAD P, 2010 U.S. Dist. LEXIS (E.D. Cal. Sept. 21, 2010), declined to adopt by 2011 U.S. Dist. LEXIS 41775 (E.D. Cal. Apr. 18, 2011). I issued findings and recommendations recommending dismissal of this prisoner civil rights action for failure to state a claim because plaintiff's claims were Heck-barred. The assigned district judge declined to adopt that recommendations because by that time the plaintiff was no longer in custody and could therefore challenge his parole revocation under § 1983 without his claim falling within the Heck bar. My subsequent findings and recommendations recommending dismissal of the case for failure to state a claim were adopted in full.

Rios v. Mendoza-Powers, No. 2:05-cv-1711 MCE DAD P, 2009 U.S. Dist. LEXIS (E.D. Cal. Dec. 11, 2009), rejected in part and stayed by 2010 U.S. Dist. LEXIS 27050 (Mar. 19, 2010), subsequently adopted in part and rejected in part by 2010 U.S. Dist. LEXIS 94998 (E.D. Cal. Aug. 27, 2010). I issued findings and recommendations recommending that petitioner's application for a writ of habeas corpus, which I determined was not moot, be granted on due process grounds. The assigned district judge declined to adopt the findings and recommendations.



The district judge administratively stayed the case pending the Ninth Circuit's en banc rehearing in Hayward v. Marshall, 527 F.3d 797 (9th Cir. 2008). Subsequently, the district judge determined that both the Governor and state courts had improperly applied California's "some evidence" standard in petitioner's case. The district judge then adopted the findings and recommendations but denied petitioner's petition for writ of habeas corpus finding that the petition had been rendered moot.

Graves v. Martel, No. 2:06-cv-0885 LKK DAD P, 2008 WL 5101560 (E.D. Cal. Dec. 2, 2008), adopted in part by 2009 WL 197364 (E.D. Cal. Jan. 27, 2009). I issued findings and recommendations recommending respondent's motion to dismiss the petition as barred by the statute of limitations be denied and respondent be directed to file an answer. The assigned district judge found the findings and recommendations to be supported by the record and proper analysis, except as to a date listed as April 21, 2007, that should have been listed as April 21, 2006 but that the typographical error did not affect the accuracy of the findings and recommendations.

The Rice Corp. v. Grain Bd. of Iraq, 2:06-cv-1516 GEB DAD, 2008 WL 2115664 (E.D. Cal. May 19, 2008), declined to adopt by 582 F.Supp.2d 1309 (E.D. Cal. 2008). I issued findings and recommendations recommending that plaintiff's unopposed motion for default judgment be granted. Thereafter, counsel appeared on behalf of the defendant and filed objections to the findings and recommendations and moved to set aside the Clerk's entry of default as well. Based upon the new arguments presented by defendant's counsel, the assigned district judge granted defendants' motion to set aside the entry of default and rejected my recommendation that the motion for default judgment be granted. The district judge found that plaintiff had not shown that service on either defendant was effective and that therefore the court did not have personal jurisdiction over either defendant.

Robins v. California Department of Corrections, No. 2:06-cv-02943 JKS DAD P, 2007 WL 5001393 (E.D. Cal. Feb. 21, 2007), declined to adopt by 2008 WL 686565 (E.D. Cal. Mar. 11, 2008). I issued findings and recommendations recommending dismissal of this action due to plaintiff's failure to file a complaint and submit an application to proceed in forma pauperis or the required filing fee. The assigned district judge declined to adopt the findings and recommendations because plaintiff had, subsequent to the issuance of the findings and recommendations, timely filed a complaint and a partially completed application to proceed in forma pauperis.

Mitchum v. Yolo Sheriff's Dept., 2:07-cv-0158 JKS DAD P, 2007 U.S. Dist. LEXIS (E.D. Cal. April 12, 2007), vacated by 2008 U.S. Dist. LEXIS 18141 (E.D. Cal. Mar. 10, 2008). I issued findings and recommendations recommending that the prisoner-plaintiff's case be dismissed without prejudice due to his failure to file an amended complaint as ordered. When the plaintiff filed objections

indicating his desire to file an amended complaint, the assigned district judge vacated those findings and recommendations in order to allow plaintiff a final opportunity to file an amended complaint. Plaintiff did not file an amended complaint, and the district judge dismissed the case without prejudice.

Ashanti v. Cal. Med. Facility, 2:06-cv-1304 JKS DAD P, 2007 U.S. Dist. LEXIS 75212 (E.D. Cal. Oct. 10, 2007), adopted as modified by 2008 U.S. Dist. LEXIS 9562 (E.D. Cal. Feb. 8, 2008). I issued findings and recommendations that the prisoner-plaintiff's federal causes of action be dismissed for failure to state a claim and that the court decline to exercise supplemental jurisdiction over his state-law causes of action and that they be dismissed without prejudice to their being asserted in a state court action. The district judge assigned to the case adopted the findings and recommendations with the lone modification of allowing plaintiff to file an amended complaint as to a single claim. Plaintiff did not file an amended complaint, and the district judge dismissed the complaint and ordered the case closed.

Manago v. Knowles, No. 2:04-cv-1712 FCD DAD P, 2007 U.S. Dist. LEXIS 42861 (E.D. Cal. June 13, 2007), adopted in part by 2007 U.S. Dist. LEXIS 60502 (E.D. Cal. Aug. 17, 2007). I issued findings and recommendations recommending defendants' motion to dismiss be granted without prejudice due to plaintiff's failure to exhaust administrative remedies prior to filing suit. The assigned district judge declined to adopt that recommendation in part. In plaintiff's objections to the findings and recommendations, he presented the new argument that he had exhausted administrative remedies with respect to a deliberate indifference claim. The assigned district judge noted that plaintiff's inadequate medical care claim was vague and not well pled, but that defendants had not addressed it in their motion to dismiss. The assigned district judge adopted the findings and recommendations as to plaintiff's first two causes of action but ordered the case to proceed on plaintiff's third cause of action alleging deliberate indifference.

United States v. Dutson, et al., No. 2:06-cv-0650 DFL DAD PS, 2006 U.S. Dist. LEXIS 47283 (E.D. Cal. July 12, 2006), adopted as modified by 2007 U.S. Dist. LEXIS 21827 (E.D. Cal. Mar. 27, 2007). I issued findings and recommendations recommending that plaintiff's motion for summary judgment be granted, judgment for plaintiff be entered on all claims, multiple identified UCC Financing Statements be declared null, void and without legal effect and defendants be permanently enjoined from filing any document or instrument purporting to create a nonconsensual lien or encumbrance. The assigned district judge adopted my findings and recommendations except with a modification allowing defendants to file liens or encumbrances with the prior permission of the court.

Saifullah v. Carey, No. 2:02-cv-2664 MCE DAD P, 2005 U.S. Dist. LEXIS 43319 (E.D. Cal. June 28, 2005), adopted in part and rejected in part by 2006 U.S. Dist. LEXIS 74390 (E.D. Cal. Sept. 29, 2006). I issued findings and recommendations recommending that petitioner's application for a writ of habeas

corpus be granted on due process grounds and denied on all other grounds. The assigned district judge declined to adopt my recommendation that petitioner's application for writ of habeas corpus be granted based on due process grounds.

Von Staich v. Schwarzenegger, No. 2:04-cv-2167 DFL DAD P, 2005 U.S. Dist. LEXIS 36351 (E.D. Cal. Aug. 29, 2005), declined to adopt and remanded by 2006 U.S. Dist. Lexis 73105 (E.D. Cal. Sept. 22, 2006). I issued findings and recommendations recommending that this civil rights action be dismissed because I construed plaintiff's claims as seeking habeas relief, not relief under 42 U.S.C. § 1983. The district judge assigned to the case reversed and remanded, finding the complaint could be read as asserting a procedural challenge to plaintiff's parole hearing. Thereafter, plaintiff voluntarily dismissed his case.

Yonai v. S.V.S.P. Employees, No. 2:06-cv-0476 FCD DAD P, 2006 U.S. Dist. LEXIS 46850 (E.D. Cal. July 11, 2006), adopted in part by 2006 U.S. Dist. LEXIS 57833 (E.D. Cal. Aug. 16, 2006). I issued findings and recommendations recommending dismissal with prejudice due to plaintiff's failure to file a complete application to proceed in forma pauperis. The assigned district judge declined to adopt my findings and recommendations in part because although my earlier order had warned plaintiff that his failure to submit a complete in forma pauperis application would result in dismissal of the action it did not specify that the dismissal would be with prejudice. Accordingly, the district judge dismissed the action without prejudice.

United States v. Hayat, No. 2:05-cr-0240 GEB DAD, Docket No. 124 (E.D. Cal. Dec. 12, 2005) (copy supplied), reversed on de novo review by No. 134 (E.D. Cal. Jan. 4, 2006) (copy supplied). Following an evidentiary hearing, I issued an order finding proposed properties and sureties proffered by the defense to be sufficient to secure the defendant's release in the \$1.2 million bail set by the assigned district judge. At the request of the government, I simultaneously stayed that order to allow the government to seek reconsideration by the assigned district judge. The assigned district judge conducted a further evidentiary hearing and, based upon the additional evidence presented, issued an order finding the proposed sureties to be inadequate.

Directv v. Atwal, et al., No. 2:03-cv-2499 WBS DAD, Docket No 24 (E.D. Cal. Feb. 8, 2005) (copy supplied), adopted in part by Docket No. 25 (E.D. Cal. Mar. 22, 2005) (copy supplied). I issued findings and recommendations directing plaintiff's counsel to file a declaration addressing plaintiff's costs and attorney's fees and recommending that plaintiff's motion for default judgment be granted, default judgment be entered and that the court award \$1,000 in damages plus costs and reasonable attorney's fees. The assigned district judge declined to adopt my findings and recommendations as to an award of attorney's fees, finding that plaintiff's counsel failed to file a declaration adequately addressing fees and costs. The district judge adopted the findings and recommendations in all other respects.

Breaux v. Calderon, No. 2:93-cv-0570 JAM DAD DP, Docket No. 166 (E.D. Cal. Jan. 6, 2004) (copy supplied), adopted in part by Docket No.181 (E.D. Cal. Sept. 30, 2004) (copy supplied). In this capital habeas case, I issued findings and recommendations addressing approximately 35 claims and sub-claims for relief and recommending that petitioner's motion for summary judgment be denied and respondent's motion for summary be granted in part and denied in part. The assigned district judge adopted those findings and recommendations in part but declined to do so as to two sub-claims and my analysis with respect to another.

Webster v. Calderon, No. 2:93cv0306 LKK DAD DP, Docket No. 176 (E.D. Cal. Feb. 18, 1999) (copy supplied), adopted in part and declined to adopt in part by Docket No. 201 (E.D. Cal. June 23, 2000) (copy supplied), reversed and remanded sub nom. Webster v. Woodford, 361 F.3d 522 (9th Cir. 2004), amended and superseded 369 F.3d 1062 (9th Cir.), cert. denied sub nom. Webster v. Brown, 543 U.S. 1007, 125 S. Ct. 626 (2004). In this capital habeas case, I issued findings and recommendations recommending that petitioner's motion for summary judgment be denied and that respondent's motion for summary judgment be granted in part and denied in part. The assigned district judge adopted those findings and recommendations in part but declined to do so as to petitioner's motion for summary judgment and granted summary judgment in favor of petitioner as to his due process claim and ordered him to be retried. On appeal, the Ninth Circuit reversed the district judge's grant of summary judgment in favor of petitioner. Following a subsequent evidentiary hearing, I issued findings and recommendations recommending that the petition for writ of habeas corpus be granted only with respect to petitioner's claim that he received ineffective assistance of counsel at the penalty phase of his trial and be denied in all other respects. Those findings and recommendations were adopted in full by the assigned district judge. No appeal was taken by either party.

#### Findings and Recommendations Adopted and Reversed on Appeal

Davis v. Walker, Nos. 2:10-cv-2139 KJM DAD and 2:08-cv-0593 KJM DAD, 2012 U.S. Dist. LEXIS 22404 (E.D. Cal. Feb. 22, 2012), adopted by Docket Nos. 62 and 30 respectively (E.D. Cal. April 3, 2012) (copy supplied), vacated and remanded 745 F.3d 1303 (9th Cir. 2014). I issued findings and recommendations recommending that both cases be stayed until a party filed a motion to lift the stay accompanied by evidence that plaintiff had been found to be restored to competency. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit vacated and remanded the cases with instructions to consider whether the court should appoint a guardian ad litem for plaintiff, and if the court declined to appoint a guardian, to craft an order that adequately protected plaintiff's interests in prosecuting his lawsuits.

Heilman v. Sanchez, No. 2:10-cv-1120 JAM DAD P, 2011 WL 4458837 (E.D. Cal. Sept. 23, 2011), adopted by Docket No. 22 (E.D. Cal. Nov. 22, 2011) (copy supplied), affirmed in part, reversed in part \_\_\_ Fed. Appx. \_\_\_, 2014 WL

3703949 (9th Cir. July 28, 2014). I issued findings and recommendations recommending that the action be dismissed due to plaintiff's failure to state a cognizable claim. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, reversed in part, and remanded the case for further proceedings. The Ninth Circuit determined that the district court properly dismissed plaintiff's claim that a defendant's refusal to copy certain documents impaired an action the plaintiff had filed in state court, as well as plaintiff's claims against two other defendants, because he had not alleged plausible facts to support a claim for a constitutional violation. The Ninth Circuit also determined that the district court properly dismissed two bases of plaintiff's retaliation claim but had improperly dismissed the remainder of his claim that rested on a defendant allegedly threatening plaintiff with disciplinary action if he accessed the prison's grievance mechanisms.

Lopez v. Cook, No. 2:03-cv-1605 KJM DAD, No. 178 (E.D. Cal. Sept. 29, 2008), adopted by Docket No. 184 (E.D. Cal. Jan. 16, 2009) (copy supplied), affirmed in part, reversed in part and remanded 533 Fed. Appx. 763 (9th Cir. 2013), mandate recalled and amended \_\_\_ Fed. Appx. \_\_\_, 2014 WL 2937177 (9th Cir. July 1, 2014). I issued findings and recommendations recommending that defendants' motion for summary judgment be granted in part and denied in part. The surviving causes of action were tried before a jury and resulted in a verdict in favor of the defendants. The Ninth Circuit affirmed in part, reversed in part, and remanded. Specifically, the Ninth Circuit affirmed the granting of summary judgment in favor of several defendants. The Ninth Circuit concluded, however, that the district court had erred at trial in allowing a witness called by plaintiff with respect to his retaliation claim to invoke his Fifth Amendment privilege against self-incrimination which was not grounded upon any possible criminal prosecution. The appellate court also held that the district court had erred in dismissing plaintiff's due process claim against one particular officer, thereby dismissing him from the case, because it served to allow the remaining defendants to argue at trial that the dismissed defendant, rather than the defendants who remained in the case, was the critical decision-maker. The judgment on plaintiff's due process claim was reversed and remanded for a new trial as to the erroneously dismissed defendant as well as the other remaining defendants and the judgment on plaintiff's retaliation claim was reversed and remanded for a new trial as well.

Reece v. Traquina, No. 2:10-cv-2949 JAM DAD, 2012 WL 174947 (E.D. Cal. Jan. 20, 2012), adopted by Docket No. 25 (E.D. Cal. Mar. 29, 2012) (copy supplied), affirmed in part, vacated in part and remanded 507 Fed. Appx. 660, 2013 WL 491558 (9th Cir. Jan. 2, 2013). I issued findings and recommendations, recommending that defendant's motion to dismiss be granted and the action be dismissed for failure to state a claim. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, vacated in part, and remanded the case for further proceedings. The Ninth Circuit determined that the dismissal of one of plaintiff's claims without leave to

amend was premature because it was not “absolutely clear” that plaintiff could not cure the deficiencies of his complaint.

Davis v. Kissinger, No. 2:04-cv-0878 TLN DAD, 2009 WL 2043899 (E.D. Cal. July 14, 2009), adopted by 2009 WL 3201158 (E.D. Cal. Sept. 30, 2009), affirmed in part, reversed in part and remanded 465 Fed. Appx. 715, 2012 WL 76861 (9th Cir. Jan. 11, 2012). I issued findings and recommendations recommending that defendant’s motion for summary judgment be granted in part and denied in part. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, reversed in part, and remanded the case for further proceedings. The Ninth Circuit determined that the district court properly denied qualified immunity to four defendants on plaintiff’s equal protection claim but improperly denied qualified immunity to a fifth defendant because plaintiff had not raised a triable dispute as to whether that defendant used excessive force against him or failed to protect him.

Hardwick v. Clarke, No. 2:06-cv-0672 LKK DAD P, 2010 WL 1444575 (E.D. Cal. Apr. 12, 2010), adopted by Docket No. 23 (E.D. Cal. July 13, 2010) (copy supplied), reversed 2011 WL 12506526 (9th Cir. Mar. 15, 2011). I issued findings and recommendations recommending that the habeas petition be granted in part and denied in part. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit reversed pursuant to the U.S. Supreme Court’s intervening decision in Swarthout v. Cooke, 562 U.S. 216 (2011) which had overruled prior Ninth Circuit precedent and held that federal courts cannot review the application of California’s “some evidence” rule in a federal habeas corpus proceeding.

Walker v. Sisto, No. 2:07-cv-2070 JAM DAD P, 2009 WL 4755396 (E.D. Cal. Dec. 8, 2009), adopted by 2010 WL 1027608 (E.D. Cal. Mar. 4, 2010), reversed and remanded Docket No. 25 (9th Cir. June 28, 2011) (copy supplied). I issued findings and recommendations recommending that petitioner’s application for a writ of habeas corpus be granted and the California Board of Parole Hearings calculate petitioner’s term in keeping with the requirements of California Penal Code § 3041. The assigned district judge adopted the findings and recommendations in full. During the pendency of the appeal, the Supreme Court had decided Swarthout v. Cooke, 562 U.S. 216 (2011), overruling prior Ninth Circuit precedent on the issue. Accordingly, the Ninth Circuit reversed and remanded the case.

Pierce v. Woodford, No. 2:08-cv-01148 FCD DAD, 2009 WL 799079 (E.D. Cal. Mar. 24, 2009), adopted by Docket No. 126 (E.D. Cal. May 8, 2009) (copy supplied), affirmed in part, vacated in part and remanded sub nom. Pierce v. Alameida, 416 Fed. Appx. 664, 2011 WL 683786 (9th Cir. Feb. 15, 2011). I issued findings and recommendations recommending that the action be dismissed due to plaintiff’s failure to state a cognizable claim. The assigned district judge

adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, vacated in part, and remanded the case for further proceedings. The Ninth Circuit determined that the district court properly dismissed claims against supervisory defendants but concluded that plaintiff could have stated a colorable claim against the "Four Unknown by Name High Desert Officers" and that his failure to identify them by name did not support dismissal.

Ontiveros v. Subia, No. 2:07-cv-1441 JAM DAD, 2008 U.S. Dist. LEXIS 109469 (E.D. Cal. June 13, 2008), adopted by 2008 U.S. Dist. LEXIS 79307 (E.D. Cal. Sept. 30, 2008), affirmed in part, reversed in part and remanded 365 Fed. Appx. 848, 2010 U.S. App. LEXIS 3235 (9th Cir. Feb. 18, 2010). I issued findings and recommendations recommending that respondent's motion to dismiss a habeas petition as time-barred be granted. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part and reversed in part. The Ninth Circuit determined that the district court had not adequately addressed petitioner's claim for equitable tolling of the statute of limitations based on a documented learning disability and a prison lock-down.

Nwozuzu v. Runnels, No. 2:05-cv-1938 MCE DAD, 2007 WL 4374055 (E.D. Cal. Dec. 14, 2007), adopted by 2008 WL 275757 (E.D. Cal. Jan. 31, 2008), affirmed in part, reversed in part and remanded 338 Fed. Appx. 724, 2009 WL 2241573 (9th Cir. July 28, 2009). I issued findings and recommendations recommending that defendants' motion for summary judgment be granted. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, vacated in part, and remanded the case for further proceedings. The Ninth Circuit determined that the district court should have construed plaintiff's summary judgment opposition and his motion for injunctive relief as a motion to file an amended complaint to add a claim for damages. The Ninth Circuit instructed the district court to determine on remand whether plaintiff should be granted leave to amend.

Hallford v. California Department of Corrections, No. 2:05-cv-0573 FCD DAD, 2006 WL 3782701 (E.D. Cal. Dec. 21, 2006), adopted by 2007 WL 512365 (E.D. Cal. Feb. 14, 2007), affirmed in part, vacated in part and remanded 343 Fed. Appx. 176, 2009 WL 2015421 (9th Cir. July 8, 2009). I issued findings and recommendations recommending defendants' motion to dismiss for failure to exhaust administrative remedies be granted and the action be dismissed without prejudice. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, vacated in part, and remanded the case for further proceedings. The Ninth Circuit agreed that plaintiff's procedurally defective and post-suit inmate grievances did not satisfy the exhaustion requirement. However, the appellate court found that because plaintiff had terminated his inmate grievance after prison officials had granted his request for relief, he had effectively received all available remedies and was not required to pursue the administrative process further.

Anderson v. Terhune, No. 2:00-cv-2494 WBS DAD, Docket No. 19 (E.D. Cal. Sept. 28, 2004) (copy supplied), adopted by Docket No. 21 (E.D. Cal. Oct. 15, 2004) (copy supplied), affirmed 467 F.3d 1208 (9th Cir. 2006), reversed and remanded en banc 516 F.3d 781 (9th Cir. 2008) (en banc), cert. denied 555 U.S. 818, 129 S. Ct. 344 (2008). I issued findings and recommendations recommending that the petition for writ of habeas corpus be denied. Those findings and recommendations were adopted in full. On appeal, the judgment was initially affirmed. However, rehearing en banc was granted and the judgment was reversed and remanded with instructions to grant the writ. The en banc court concluded that the petitioner's statements to detectives were an unambiguous declaration of the right to remain silent and that the state court's decision to ignore petitioner's invocation of this right to remain silent was an unreasonable application of Supreme Court precedent, was based on an unreasonable determination of fact and could not survive review under AEDPA.

Greene v. Solano County Jail, et al., No. 2:04-cv-0917 MCE DAD P, 2006 WL 2067056 (E.D. Cal. July 24, 2006), adopted by 2006 WL 2671075 (E.D. Cal. Sept. 18, 2006), reversed in part, vacated in part and remanded 513 F.3d 982 (9th Cir. 2008). I issued findings and recommendations recommending that defendant's motion for summary judgment be granted and the case be dismissed. The assigned district judge adopted the findings and recommendations in full. The Ninth Circuit reversed, vacated the order of dismissal and remanded the case for further proceedings. The Ninth Circuit held that there were genuine issues of fact on whether a total ban on group religious worship in the county's maximum security facility was the least restrictive measure to be taken in furtherance of the compelling interest of prison security, as required under the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. §§ 2000cc, et seq. The Ninth Circuit also held that defendant's summary judgment motion addressed only the RLUIPA claims and that defendant had not submitted evidence negating an essential element of plaintiff's claims brought under 42 U.S.C. § 1983 or California Penal Code § 4027. The Ninth Circuit found that the court's grant of summary judgment on those claims left plaintiff without a full opportunity to oppose their dismissal.

Moyer v. Alameida, No. 2:03-cv-1350 FCD DAD, No. 12 (E.D. Cal. Mar. 17, 2004) (copy supplied), adopted by Docket No. 16 (E.D. Cal. May 6, 2004) (copy supplied), reversed and remanded 184 Fed. Appx. 633, 2006 WL 1666690 (9th Cir. June 9, 2006). I issued findings and recommendations recommending that the action be dismissed for failure to state a claim. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit reversed and remanded the case for further proceedings. The Ninth Circuit determined that plaintiff stated a colorable ex post facto claim based on a state law that imposed a 10% administrative fee on prisoners whose wages and trust account deposits were garnished to pay restitution fines.



Richardson v. Newland, No. 2:97-cv-2318 WBS DAD, 342 F.Supp.2d 900 (E.D. Cal. 2004), adopted by 342 F.Supp.2d 900, 2004 U.S. Dist. LEXIS 28341 (E.D. Cal. Nov. 5, 2004), reversed in part and remanded 171 Fed. Appx. 156, 2006 U.S. App. LEXIS 6718 (9th Cir. Mar. 15, 2006). I issued findings and recommendations recommending that respondent's motion to dismiss the petition as time-bared be denied and petitioner's motion for equitable tolling of the statute of limitations be granted. The assigned district judge adopted the findings and recommendations in full. Subsequently on reconsideration, the assigned district judge determined that petitioner was entitled to statutory tolling of the statute of limitations and the court did not need to reach the issue of equitable tolling. Thereafter, I issued findings and recommendations recommending that petitioner's application for a writ of habeas corpus be granted on petitioner's Confrontation Clause claim and denied in all other respects. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit reversed in part and remanded in part. The Ninth Circuit determined that the district court erred in deciding that petitioner was entitled to statutory tolling while his post-conviction habeas petition was pending in state court because it was not properly filed. In addition, because the district court did not reach petitioner's equitable tolling claim, the Ninth Circuit remanded for further proceedings.

Hufile v. Miccio-Fonseca, No. 2:03-cv-1522 FCD DAD, Docket No. 5 (E.D. Cal. Aug. 15, 2003) (copy supplied), adopted by Docket No. 8 (E.D. Cal. Sept. 4, 2003) (copy supplied), affirmed in part and reversed in part and remanded 410 F.3d 1136 (9th Cir. 2005). I issued findings and recommendations recommending that this action be dismissed as Heck-barred. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part but reversed the dismissal of plaintiff's claim for injunctive relief under Heck and remanded for further proceedings on the claim for injunctive relief.

Jones v. Cummings, No. 2:03-cv-0170 GEB DAD, Docket No. 44 (E.D. Cal. Aug. 30, 2004) (copy supplied), adopted by Docket No. 48 (E.D. Cal. Oct. 6, 2004) (copy supplied), vacated and remanded 131 Fed. Appx. 551, 2005 WL 1127109 (9th Cir. May 13, 2005). I issued findings and recommendations recommending that defendants' motion for judgment on the pleadings be granted and the action be dismissed without prejudice as Heck-barred. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit vacated and remanded with instructions to consider plaintiff's allegations in light of its then recent decision in Smith v. Hemet, 394 F.3d 689 (9th Cir. 2005) (en banc), in which the court had held that success on the merits of an excessive use of force claim does not necessarily imply the invalidity of a criminal conviction.

Lewis v. Mayle, No. 2:99-cv-1751 FCD DAD, Docket No. 31 (E.D. Cal. Apr. 15, 2003) (copy supplied), adopted by Docket No. 33 (E.D. Cal. May 20, 2003) (copy supplied), reversed and remanded 391 F.3d 989 (9th Cir. 2004). I issued findings

and recommendations recommending that petitioner's application for writ of habeas corpus be denied. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit reversed and remanded with directions to grant the habeas petition, finding that the petitioner's written and verbal waiver of his right to conflict-free representation was invalid, that counsel's conflict of interest adversely affected petitioner's defense and that the state court had unreasonably accepted counsel's explanation for his conduct.

Young v. Riley, No. 2:02-cv-2297 LKK DAD, Docket No. 15 (E.D. Cal. Feb. 11, 2003) (copy supplied), adopted by Docket No. 19 (E.D. Cal. Apr. 25, 2003) (copy supplied), affirmed in part, reversed in part and remanded 81 Fed. Appx. 233, 2003 U.S. App. LEXIS 23368 (9th Cir. Nov. 14, 2003). I issued findings and recommendations recommending that the action be dismissed for failure to state a claim. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part, reversed in part, and remanded the case for further proceedings. The Ninth Circuit affirmed the dismissal of plaintiff's access to the courts and Eighth Amendment claims but concluded that his retaliation claim should not have been dismissed.

Bell v. Barnhart, No. 2:00-cv-2586 WBS DAD, Docket No. 17 (E.D. Cal. Feb. 27, 2002) (copy supplied), adopted by Docket No. 19 (E.D. Cal. Mar. 19, 2002) (copy supplied), reversed and remanded 74 Fed. Appx. 798, 2003 U.S. App. LEXIS 18719 (9th Cir. Sept. 8, 2003). I issued findings and recommendations recommending that plaintiff's motion for summary judgment be granted, defendant's motion for summary judgment be denied, that the decision of the Commissioner of Social Security be reversed, and that the case be remanded for rehearing. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit reversed the decision to remand for rehearing and instead remanded with instructions to reinstate plaintiff's benefits.

Mancuso v. Olivarez, No. 2:96-cv-0787 LKK DAD, Docket No. 26 (E.D. Cal. Apr. 12, 2000) (copy supplied), adopted by Docket No. 34 (E.D. Cal. May 23, 2000) (copy supplied), affirmed in part and reversed in part 282 F.3d 728 (9th Cir. 2002), amended and superseded on denial of rehearing 292 F.3d 939 (9th Cir. 2002). I issued findings and recommendations recommending that the petition for writ of habeas corpus be granted only with respect to the petitioner's claim that the jury at his trial had considered impermissible and prejudicial extrinsic evidence. Those findings and recommendations were adopted in full. On cross-appeal, the judgment was affirmed in part and reversed in part with the appellate court concluding that the jury's consideration of the extrinsic evidence was not unduly prejudicial to petitioner.

Jones v. California Department of Corrections, No. 2:01-cv-1166 LKK DAD, Docket No. 5 (E.D. Cal. Sept. 14, 2001) (copy supplied), adopted by Docket No. 11 (E.D. Cal. Oct. 19, 2001) (copy supplied), vacated and remanded 51 Fed. Appx. 275, 2002 U.S. App. LEXIS 24226 (9th Cir. Nov. 22, 2002). I issued

findings and recommendations recommending dismissal of this action due to plaintiff's failure to exhaust administrative remedies prior to filing suit as required. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit vacated and remanded the case in light of its then recent decision in Wyatt v. Terhune, 305 F.3d 1033, 1044 (9th Cir. 2002), which held that failure to exhaust administrative remedies is an affirmative defense that defendants must raise and prove.

McQuillion v. McKenzie, No. 2:97-cv-0859 GEB DAD, Docket No. 71 (E.D. Cal. Feb. 4, 2000) (copy supplied), adopted by Docket No. 73 (E.D. Cal. Mar. 6, 2000) (copy supplied), affirmed in part, reversed in part 35 Fed. Appx. 547, 2002 U.S. App. LEXIS 9593 (9th Cir. May 16, 2002). I issued findings and recommendations recommending plaintiff's motion for summary judgment be denied, summary judgment be granted in favor of defendants, and the action be dismissed. The assigned district judge adopted the findings and recommendations in full. On appeal, the Ninth Circuit affirmed in part but reversed with respect to plaintiff's retaliation claim against two prison officials, which the court found turned on disputed issues of material fact precluding the grant of summary judgment.

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

As a magistrate judge, I issue orders on non-dispositive matters and orders on dispositive matters in consent cases. I also issue findings and recommendations on all dispositive motions in pro se and all prisoner cases, both of which are referred to magistrate judges by Local Rule. My non-dispositive orders include those addressing discovery motions, motions to amend the pleadings, motions to extend scheduling orders, final pretrial orders and other miscellaneous civil motions. In addition, in matters referred to me I issue findings and recommendations addressing dispositive motions to dismiss, for summary judgment, for entry of default judgment and the like. I estimate that I have issued over 30,000 orders and 5,500 findings and recommendations in my more than 17 years as a magistrate judge. Very few of those orders and findings and recommendations are published in the official reporters. They are all filed with our court's electronic case filing system and in that way are available to the public. In addition, the majority of my orders and findings and recommendations are published electronically on Westlaw and LexisNexis.

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

Thompson v. Rosario, 2:12-cv-0776 KJM DAD, 2014 WL 1400856 (E.D. Cal. Apr. 10, 2014), adopted in full Docket No. 47 (E.D. Cal. June 25, 2014).

Hall v. City of Fairfield, 2:10-cv-0508 DAD, 2014 WL 1303612 (E.D. Cal. Mar. 31, 2014).

Parkison v. Butte County Sheriff's Dep't, 2:09-cv-2257 MCE DAD P, 2013 WL 1007214 (E.D. Cal. Mar. 13, 2013), adopted in full 2013 WL 1345080 (E.D. Cal. Mar. 28, 2013).

Jensen v. Hernandez, 864 F. Supp. 2d 869 (E.D. Cal. 2012), aff'd \_\_\_ Fed. App'x \_\_\_, 2014 WL 1928735 (9th Cir. May 15, 2014), cert. denied sub nom. Jensen v. Paramo, \_\_\_ U.S. \_\_\_, 2014 WL 4543003 (U.S. Nov. 3, 2014).

Jones v. County of Sacramento, 2:09-cv-1025 DAD, 2011 WL 3163307 (E.D. Cal. July 25, 2011), appeal dismissed by stipulation, Docket No. 197 (E.D. Cal. Dec. 7, 2011).

Freeland v. Sacramento City Police Dep't, 2:06-cv-0187 LKK DAD, 2010 WL 408908 (E.D. Cal. Jan. 29, 2010), adopted in full by 2010 WL 960375 (Mar. 16, 2010).

Allen v. Shepard, 2:06-cv-1923 FCD DAD P, 2010 WL 424323 (E.D. Cal. Jan. 27, 2010), adopted in full by Docket No. 71 (E.D. Cal. Feb. 23, 2010), aff'd 456 Fed. App'x 710 (Nov. 1, 2011).

Rogers v. Shepard, 2:05-cv-1395 DAD P, 2009 WL 1768945 (E.D. Cal. June. 23, 2009), aff'd 438 Fed. App'x 546 (June 10, 2011).

Drayton v. Castro, 2:99-cv-0708 GEB DAD P, 2006 WL 3531771 (E.D. Cal. Dec. 12, 2006), adopted in full by 2007 WL 273647 (E.D. Cal. Jan 29, 2007), aff'd 319 Fed. App'x 632 (Mar. 17, 2009), cert. denied 556 U.S. 1272, 129 S. Ct. 2741 (2009).

South v. Gomez, et al., 2:95-cv-1070 DFL DAD P, Docket No. 269 (E.D. Cal. Feb. 26, 1999) (copy supplied), adopted by Docket No. 274 (E.D. Cal. Mar. 31, 1999), aff'd 211 F.3d 1275, 2000 WL 222611 (9th Cir. Feb. 25, 2000).

Perez v. Gomez, et al., 2:95-cv-0757 LKK DAD, Docket No. 70 (E.D. Cal. July 7, 1998) (copy supplied), adopted in full by Docket No. 73 (E.D. Cal. July 27, 1998).

- 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.

With assistance from the Administrative Office of the U.S. Courts, our court has instituted an automated system to aid judges in screening cases for conflicts of interest. I update the information for that automated system as needed. I rely on that system and also evaluate each case, both at the time of initial reference and again if it is assigned to me for all purposes on the consent of the parties, to identify any potential conflict.

A search of my court's CM/ECF system as well as my own records reflect that I have recused myself either sua sponte or upon request by one of the parties in the following cases:

Cemo v. Wannakuwatte, et al., 2:14-cv-0662 KJM CKD. In this civil fraud action, I immediately recused myself sua sponte prior to any appearance of the parties before me when I recognized the name of one of the parties as being a former client of mine over 20 years previously.

Schneider v. Bank of America, et al., 2:11-cv-2953 JAM EFB PS. In this mortgage foreclosure case, the plaintiff is proceeding pro se. After waiver of my disqualification for serving as the settlement judge, I conducted a settlement conference at which time a tentative settlement agreement was reached subject to corporate approval by defendant. At a subsequent status of settlement conference it became clear to me that the plaintiff was withdrawing from the tentative agreement. Because of what I had been exposed to as a result of the settlement conference, I sua sponte recused myself from the case.

United States v. Johnson, 2:11-cr-0007 JAM. I immediately recused myself sua sponte from this case when at defendant's detention hearing his father appeared in court and I realized I had represented the father while in private practice over 15 years earlier.

Castaneda v. Hartford Life and Accident Insurance Company, 2:06-cv-0305 RRB. Both myself and the assigned district judge were recused from this action and it was reassigned

to an out-of-district judge by sua sponte order of our Chief Judge, prior to any appearance of the parties in court, because the plaintiff was a former court staff interpreter.

Pronechen v. U.S. Department of Homeland Security, 2:06-cv-01726 LEW. The originally assigned district judge in this action issued an order recusing both he and I and reassigning the case to an out-of-district judge when the district judge learned at a status conference that the plaintiff was one of the court's security officers. The case had not come before me at the time the recusal order was issued.

Robinson v. Rymer, et al., 2:02-cv-1792 LKK PAN P. I immediately recused myself sua sponte from this case after reviewing the complaint and learning that the plaintiff had named me as a defendant therein.

Frye v. Calderon, et al., 2:99-cv-00628 KJM CKD (DP). This death penalty habeas case was reassigned to me following the appointment of the previously assigned magistrate judge to a district judgeship. In preparation for the initial status conference before me, I realized that the petitioner's trial counsel, whose performance at trial was being challenged as ineffective, was a close friend of mine. I sua sponte recused myself.

United States v. Nguyen, 2:99-cr-0433 WBS AC. This criminal case came before me as the general duty judge and I realized that in an earlier, related case I had represented a defendant who was not charged in this indictment. As a result of that representation, I was familiar with these defendants who had been co-defendants of my client in the earlier case. I disclosed that potential conflict to the parties who waived my disqualification for purposes of arraignment and other preliminary proceedings. I later recused myself from any substantive proceedings in the case.

United States v. Radunovich, 2:97-cr-0055 GEB JFM. I granted defendant's motion to recuse and disqualified myself based on defendant's representation that he was once my client. Although I had no memory of defendant, I removed myself from the case to avoid any appearance of impropriety. I vacated my previously issued findings and recommendations on defendant's motion for relief under 28 U.S.C. § 2255, and the case was reassigned.

A search of my court's CM/ECF system as well as my own records reflects that motions have been made seeking my recusal in the following cases in which I did not recuse:

Cevallos v. Cate, 2:12-cv-1433 DAD P. The pro se petitioner in this habeas action moved to recuse me based upon adverse rulings. I denied the motion under 28 U.S.C. § 144. The petition was dismissed, judgment was entered and no appeal was taken.

Gipbsin v. Kernan, et al., 2:12-cv-0556 GEB DAD P. The pro se plaintiff in this prisoner-civil rights action moved to recuse me based on adverse rulings. He later filed a "request for status" in which he withdrew the motion. I deemed the motion withdrawn but noted that adverse rulings are not a basis on which recusal can be granted. The case is currently still open.

Peck v. Wenstrom, et al., 2:11-cv-0151 JAM DAD PS. The pro se plaintiff moved to recuse me, alleging that in the absence of his consent “[n]o Magistrate Judge has authority to participate in this civil action.” Plaintiff did not allege bias or partiality. I denied the motion on the basis that no reasonable person with knowledge of the case would conclude that my impartiality might be questioned. I stated further that under 28 U.S.C. § 636 and the court’s local rules, referral of certain matters in a civil case to the magistrate judge does not require the parties’ consent. My recommendation that the case be dismissed for lack of subject matter jurisdiction was adopted and judgment was entered. Plaintiff appealed, and the Ninth Circuit affirmed this court’s decision.

Robinson v. Plumas County, 2:10-cv-2948 JAM DAD PS. The pro se plaintiff in this civil rights action moved to recuse me on the basis of adverse rulings and findings and recommendations I issued in a prior case, Robinson v. California State, et al., CIV S-04-1888 GEB DAD PS. I denied the motion on the basis that adverse rulings do not justify recusal. The district judge adopted my recommendation that the case be dismissed with prejudice, and judgment was entered. No appeal was taken.

Witkin v. Yates, 2:10-cv-0091 GEB DAD P. The pro se petitioner in this habeas action moved for my recusal under 28 U.S.C. § 455. I found that there were no grounds of bias or partiality to warrant recusal and denied the motion. My recommendation that the petition be dismissed as untimely was adopted and judgment was entered. Petitioner appealed, and the Ninth Circuit declined to issue a certificate of appealability.

Van Noland et al. v. Pelletier et al., 2:09-cv-2035 MCE DAD. The pro se plaintiffs in this patent action filed three motions for recusal, alleging bias and partiality, ex parte communications with defense counsel and a personal friendship with defense counsel. I denied the motions as factually baseless and noted further that 28 U.S.C. § 636 and the court’s local rules authorize assigning certain matters to the magistrate judge’s authority without the parties’ consent. The case was subsequently settled and dismissed pursuant to stipulation.

Allustiarte et al. v. United States et al., 2:05-cv-2284 DFL DAD PS. The pro se plaintiffs in this action filed two requests for recusal, alleging bias and friendship with defendants, judges and attorneys. I denied the motions, finding no reasonable person with knowledge of the case would conclude my impartiality might reasonably be questioned. I stated further that adverse rulings are not grounds for recusal. Plaintiffs voluntarily dismissed their case, and it was closed.

Atterbury v. Van Diver et al., 2:05-cv-1365 DAD P. In this pro se civil rights case, I construed plaintiff’s request for judicial reassignment as a request for recusal. The request was based on previous adverse orders. I denied the request on the basis that adverse orders do not justify recusal and stated further that there was no basis for finding partiality or bias. The complaint was dismissed, and judgment was entered. Plaintiff took no appeal.

Rupe v. Woodward, et al., 2:04-cv-2630 LKK DAD P. The pro se plaintiff in this prisoner-civil rights action requested my recusal on the basis of adverse rulings that he claimed evinced an unwillingness to carry out the law. While that request was still pending, the assigned district judge adopted my recommendation that the case be dismissed, and judgment was entered. That decision terminated the motion to recuse; therefore I issued no ruling on the request for recusal. Plaintiff's appeal to the Ninth Circuit was dismissed for failure to prosecute.

Israel v. Hargrave, et al., 2:04-cv-2111 LKK DAD PS. The pro se plaintiff in this civil rights action filed a motion to recuse, alleging bias and denial of meaningful access to the courts. I denied the motion, finding no merit to the assertion of partiality or bias. The district judge adopted my recommendation of dismissal for failure to prosecute, and judgment was entered. Plaintiff took no appeal.

Chappell v. Pliler, et al., 2:04-cv-1183 TLN DAD P. The pro se plaintiff in this prisoner-civil rights action requested recusal on the basis of prior adverse rulings. I denied the motion as being substantively insufficient to support the allegation that I exhibited bias or prejudice toward plaintiff from an extrajudicial source. I stated further that adverse rulings do not justify recusal. The case remains pending before me and the assigned district judge.

Maciel v. Stratton, et al., 2:02-cv-0329 FCD DAD P. The pro se plaintiff in this prisoner-civil rights action requested recusal, alleging that adverse rulings in prior cases evinced a bias against him. He also sought recusal because his criminal conviction was mentioned in one ruling. I denied the motion on the basis that adverse rulings do not justify recusal. The district judge adopted my recommendation of dismissal for failure to pay the appropriate filing fee, and judgment was entered. Plaintiff took no appeal.

United States v. Schmidt, et al., 2:02-cv-0041 MCE DAD. Several pro se defendants in this action on unpaid taxes filed a motion for recusal, alleging that I had a conflict of interest in light of their administrative tort action against me, the district judge assigned to the case and the clerk of court. The tort action, which they filed well after the suit for unpaid taxes began, alleged the court's adverse rulings in the case constituted "false writings with the intent to defraud." I denied the motion to recuse, finding that adverse rulings do not justify recusal. I stated further that no reasonable person with knowledge of the case would conclude that my impartiality could reasonably be questioned. Judgment and tax liens in favor of the United States were entered. The Ninth Circuit affirmed.

Dustin v. Terhune, et al., 2:01-cv-0426 WBS DAD P. The pro se plaintiff in this prisoner-civil rights action requested recusal but provided no grounds for the request. I denied the request, stating that adverse rulings do not justify recusal. The district judge adopted my recommendation to dismiss the case for failure to comply with court orders and failure to file a timely amended complaint, and judgment was entered. The Ninth Circuit affirmed.



Chaidez v. Weir, et al., 2:99-cv-0744 LKK DAD P. The pro se petitioner in this habeas action filed a motion for recusal one week after I issued findings and recommendations that his petition be dismissed without prejudice. The district judge adopted the recommendation while the motion for recusal was still pending, and judgment was entered. The district judge's decision terminated the motion to recuse; therefore I did not rule on the request for recusal. The Ninth Circuit denied a certificate of appealability.

Chaidez v. Moulds, et al., 2:98-cv-0867 GEB DAD P. The pro se plaintiff in this prisoner-civil rights action filed a motion to recuse. I denied the motion. Given the age of the case, there is no electronic record of the motion to recuse or of the order denying that motion. The assigned district judge adopted my recommendation that the case be dismissed without prejudice, and judgment was entered. The Ninth Circuit affirmed.

Bismillah v. Gomez, et al., 2:94-cv-0419 DAD P. The pro se plaintiff in this prisoner-civil rights action filed a motion for magistrate review. I construed it as a motion to recuse me from the case. The motion was denied. Given the ages of the case, there is no electronic record of the construed motion to recuse or the order denying the motion.

Webster v. Ornoski, et al., 2:93-cv-0306 LKK DAD DP. Approximately nine months after the case was reassigned to me upon my appointment, respondent's counsel moved to recuse me based upon my relationship with petitioner's penalty phase trial counsel whom petitioner claimed had provided him ineffective assistance. At the hearing on the motion I disclosed the extremely limited nature of that professional relationship and found that no reasonable person with knowledge of the case would conclude that my impartiality could reasonably be questioned under the circumstances. Accordingly, I denied the motion. Respondent did not seek review of that ruling.

**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 never held any public office other than the judicial office I currently hold.

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

I was an uncompensated volunteer without title in a few political campaigns before I became a judge. Typically, I knocked on doors and made telephone calls to encourage registered voters to vote, and I stuffed envelopes. The specific

campaigns in which I recall participating are: Barbara Boxer for United States Senate (1992), Dianne Feinstein for United States Senate (1992), Walter Mondale for President (1984), and Ted Kennedy for President (1980). In addition, I was on host committees for fundraising dinners for Phil Eisenberg's successful campaign for California State Assembly, Ninth District (1993) and for Michael Sands' unsuccessful campaign for Sacramento County Superior Court Judge (1988).

From 1976 to 1977, I served as President for the San Diego State University Student Democrats. To the best of my recollection, I did not participate in any campaign activities in that position.

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;

From 1980 to 1982, I served as a law clerk to the Honorable Lawrence K. Karlton, United States District Judge for the Eastern District of California.

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

I have never practiced law alone.

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

1982 – 1985  
Hallinan, Osterhoudt & Poplack  
(since dissolved)  
San Francisco, CA  
Associate

1986 – 1997  
Blackmon, Drozd & Snellings (formerly Blackmon & Drozd (1986 – 1995), Blackmon & Associates (1986))  
(since dissolved)  
Sacramento, CA  
Associate (1986)  
Partner (1986 – 1997)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant

matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

My law practice was primarily devoted to the defense of those under investigation for or charged with the commission of crimes in federal and state courts at both the trial and appellate levels.

Following my judicial clerkship, I practiced as a litigation associate at Hallinan, Osterhoudt and Poplack in San Francisco. There, I participated in all phases of the firm's criminal practice, which was devoted largely to the defense of those charged in state and federal courts with controlled substances violations but also included defending against fraud and RICO charges in federal court as well as international extradition proceedings. My work included meeting with clients and investigators, preparing research memoranda, the drafting and arguing of pretrial motions and the drafting of appellate briefs. During that time I also served as second chair counsel in three trials in the United States District Court for the Northern District of California.

In 1986, I joined the firm of Clyde Blackmon and Associates and became a partner later that year with the firm's name becoming Blackmon & Drozd and later Blackmon, Drozd & Snellings. I served as lead counsel in most of the criminal cases I handled in both the state and federal trial and appellate courts. I worked on a wide variety of criminal cases including those involving allegations of political corruption, business related fraud, environmental crimes, and controlled substances violations. To a lesser extent, I also represented individuals in international extradition proceedings, civil forfeiture litigation and on rare occasion other civil actions.

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

My typical clients were individuals, although during the latter half of my practice, I represented a number of corporations as well. During my career in private practice I specialized in the defense of those charged with a full spectrum of crimes in federal and state courts and did so at both the trial and appellate levels.

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

My practice was 99% litigation. I appeared in federal and state courts in different matters very frequently. I would estimate that from 1986 through 1997, I appeared in federal and state court on practically a daily basis. As an associate attorney from 1982 to 1986, I appeared in court less frequently but still on a regular basis.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 67% |
| 2. state courts of record:  | 33% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 2%  |
| 2. criminal proceedings: | 98% |

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

I tried eight criminal jury trials to verdict during my career as a litigator. In the first three, I served as associate counsel. In the last five I was either the sole or chief counsel for the defendant. In addition, during my years in private practice I appeared regularly in the federal and state trials courts. I conducted many evidentiary hearings and argued countless motions as lead counsel. I also practiced before appellate courts, appearing on briefs in ten cases and at oral argument in seven cases before the United States Court of Appeals for the Ninth Circuit and before the California Court of Appeals in nine cases.

- i. What percentage of these trials were:

- |              |      |
|--------------|------|
| 1. jury:     | 100% |
| 2. non-jury: | 0%   |

- 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.

My practice before the Supreme Court was limited to filing of Petitions for Writ of Certiorari. I believe I may have done so on more than one occasion, however, database searches have yielded only the one case cited below. I no longer have access to my files from my private practice.

Lance R. Dozier v. United States, No. 88-438 (Sept. 6, 1988), cert. denied 488 U.S. 927 (Oct. 31, 1988). Petition is available at 1988 WL 1093844.

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

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

1. United States v. Reeves, No. 2:91-cr-255 LKK (E.D. Cal.), on appeal 999 F.2d 440 (9th Cir. 1993)

I was the chief counsel in this case in which our client, an attorney, was indicted in federal court for fraud in connection with the filing of a bankruptcy petition on behalf of one of his clients. The case ran the full range of litigation, involving hearings before the district court, the Ninth Circuit and a lengthy evidentiary hearing before a magistrate judge on the issue of "taint" flowing from an unlawful search following the remand of the case from the Ninth Circuit. The district court granted a motion to suppress evidence seized from our client's law office based on the court's finding that the affiant had falsely represented how the law office search would be executed and had exceeded the scope of the warrant in its execution. On appeal, the Ninth Circuit panel found that the suppression order based upon the affiant's misrepresentations with respect to the execution of the warrant was not justified. The appellate court vacated that order and remanded the case for a determination of whether the law office search as conducted amounted to an "impermissible general search," making suppression of all evidence seized appropriate. I briefed and argued the matter on appeal. On remand, the case was referred to a magistrate judge to conduct an evidentiary hearing with respect to the degree of taint. I conducted that hearing on behalf of our client. As a result, some but not all, of the evidence seized from our client's law office was ordered suppressed on remand. After several years of litigation, a successful negotiated disposition was reached, whereby our client pled guilty to a lesser charge and received a probationary sentence.

Dates of Representation: 1991 – 1996

Trial Judge: Honorable Lawrence K. Karlton

Magistrate Judge: Honorable Peter A. Nowinski (retired)

Opposing counsel:

Donald W. Searles  
(Formerly at the United States Attorney's Office)  
U.S. Securities & Exchange Commission  
5670 Wilshire Boulevard, 11th Floor  
Los Angeles, CA 90036  
(323) 965-3998

2. United States v. Emley, 2:92-cr-0455 EJD (E.D. Cal.)

This case was a federal criminal prosecution involving charges of bank fraud and money laundering with criminal forfeiture counts stemming from an alleged check-kiting scheme. I was sole counsel for Mr. Emley, one of the two named defendants. I filed motions to suppress evidence and to dismiss duplicative counts of the indictment. Following hearing, the motion to suppress was denied but the motion to dismiss was granted, resulting in the dismissal of several counts of the indictment and reducing my client's maximum exposure. The subsequent ten-day jury trial resulted in a hung jury. Following the filing of post-trial motions for judgment of acquittal, the matter was resolved favorably to my client by way of negotiated plea agreement resulting in a sentence of a five-year term of probation with the condition that Mr. Emley serve six months in a halfway house.

Dates of Representation: 1992 – 1994

Trial Judge: Honorable Edward J. Garcia (inactive)

Opposing counsel:

Donald W. Searles  
(Formerly at the United States Attorney's Office)  
U.S. Securities & Exchange Commission  
5670 Wilshire Boulevard, 11th Floor  
Los Angeles, CA 90036  
(323) 965-3998

Co-defendant's counsel:

Donald H. Heller  
Donald H. Heller, A Law Corporation  
3638 American River Drive  
Sacramento, CA 95864  
(916) 974-3500

3. United States v. Huffman, 2:88-cr-0201 RAR (E.D. Cal.), on appeal 951 F.2d 988 (9th Cir. 1991)

In this federal criminal prosecution, I served as co-counsel, along with my partner, on behalf of Mr. Huffman, who was charged with exporting controlled commodities in violation of the Arms Export Control Act (AECA) and with conspiracy to violate the AECA and the Export Administration Act of 1979. After extensive pretrial litigation, the case was resolved by way of plea agreement, with Mr. Huffman being sentenced to the custody of the United States Bureau of Prisons for a term of 41 months to be followed by a three-year term of supervised release and a fine of \$7,500. On appeal from the sentence imposed, I briefed and argued the matter before the Ninth Circuit. The Ninth Circuit affirmed the co-defendant's sentence, but reversed as to my client, concluding that the district court had erred in increasing Mr. Huffman's offense level in calculating his sentencing guideline range sentence by finding him to be a manager within the meaning of U.S.S.G. § 3B1.1(b) solely on the basis of his activities with respect to unwitting participants. Accordingly, his sentence was vacated and the matter remanded to the district court for re-sentencing.

Dates of Representation: 1988 – 1994

Trial Judge: Raul A. Ramirez (retired from bench)

Opposing counsel:

Thomas E. Flynn (retired)  
(Formerly at the United States Attorney's Office)

Co-defendant's counsel:

Marcus S. Topel  
Daniel F. Cook  
Kasowitz, Benson, Torres & Friedman  
101 California Street, Suite 2300  
San Francisco, CA 94111  
(415) 421-6140

4. United States v. Watson, 2:89-cr-0470 EJG (E.D. Cal.)

Our client in this case was a legislative aide for a California Assemblyman. She was the first individual charged with extortion under color of official right in violation of 18 U.S.C. § 1951 as part of an undercover investigation in the California Legislature conducted by the Federal Bureau of Investigation. I served as co-counsel in the case with my partner. Following extensive defense investigation and lengthy negotiations, our client entered a plea agreement with the government. Pursuant to that agreement she was called upon to testify in a number of proceedings as part of the Federal Bureau of Investigation's probe. The case culminated with her being sentenced to a three-year term

of straight probation in July 1994, at which time I presented the argument on her behalf.

Dates of Representation: 1989 – 1994

Trial Judge: Honorable Edward J. Garcia (inactive)

Opposing counsel:

David F. Levi  
(Formerly United States Attorney, Eastern District of California)  
Dean, Duke University School of Law  
Box 90362  
Towerview Road & Science Drive  
Durham, NC 27708  
(919) 613-7001

John P. Panneton  
(Formerly at the United States Attorney's Office)  
Solo Practitioner  
845 University Avenue  
Sacramento, CA 95825  
(916) 996-2821

Bradford C. Lewis  
(Formerly at the United States Attorney's Office)  
BlackRock Legal Group  
400 Howard Street, 2d Floor  
San Francisco, CA 94105  
(415) 670-2311

John K. Vincent  
United States Attorney's Office  
501 I Street, Suite 10-100  
Sacramento, CA 95814  
(916) 544-2795

5. United States v. Holland, 2:87-cr-0266 MLS (E.D. Cal.), aff'd, 880 F.2d 1091 (9th Cir. 1989)

I served as chief counsel for our client in this case in which he was charged with conspiracy to falsely represent social security numbers and subscribe to false tax returns, conspiracy to obstruct justice and a substantive count of obstruction of justice in connection with a payroll padding scheme at the Port of Sacramento. I was the sole counsel for Mr. Holland at the four-week trial of him and his co-defendant. Both were convicted. Mr. Holland was sentenced to the custody of the United States Bureau of Prisons for a term of three years and a concurrent three-year term of probation, a fine of



\$25,000 and a restitution order of \$14,760. I was Mr. Holland's sole counsel on appeal and briefed and argued the case before the Ninth Circuit, where the convictions were affirmed.

Dates of Representation: 1987 – 1989

Trial Judge: Honorable Milton L. Schwartz (deceased)

Opposing counsel:

Prof. Rory K. Little  
(Formerly at the United States Department of Justice)  
U.C. Hastings College of the Law  
200 McAllister  
San Francisco, CA 94102  
(415) 565-4669

Co-defendant's counsel:

Malcolm S. Segal  
Segal & Associates  
400 Capitol Mall, Suite 2550  
Sacramento, CA 95814  
(916) 441-0886

6. United States v. Dozier, 2:85-cr-0320 EJM (E.D. Cal.), on appeal 844 F.2d 701 (9th Cir. 1988)

Our client was charged with possession with the intent to distribute marijuana. I was co-counsel with my partner in the district court proceedings where our challenge to the underlying search warrant was denied on a number of grounds. Following a conditional guilty plea by the client, we appealed the conviction to the Ninth Circuit, where I was the sole counsel on the briefs and at oral argument. The Ninth Circuit agreed that the search warrant was unconstitutionally overbroad, reversed in part and remanded the case to the district court, where the case was resolved by way of plea agreement.

Dates of Representation: 1985 – 1989

Trial Judge: Honorable Edward J. Garcia (inactive)

Opposing counsel:

Richard Bender  
United States Attorney's Office  
501 I Street

Sacramento, CA 95814  
(916) 554-2731

Co-defendant's counsel:

Timothy L. Zeff  
Larscheid, Buchanan & Zeff  
2609 Capitol Avenue  
Sacramento, CA 95816  
(916) 441-7500

7. People v. Chi Luong, Case No. 114818 (Sacramento County Superior Court)

I was the sole counsel for the lead defendant in this multi-defendant trial on state charges of conspiracy and extortion. The jury trial lasted approximately five weeks. Ultimately my client and all but one of the co-defendants were acquitted on all charges. The prosecution relied upon the testimony of the alleged victim and of tape-recordings of the alleged extortion attempts that he had made with the assistance of law enforcement. As lead counsel, I conducted the primary examination of all the prosecution witnesses, delivered the bulk of the closing argument on behalf of the defense and presented my client as the only defendant to take the witness stand at trial.

Dates of Representation: 1992 – 1993

Trial Judge: Honorable James T. Ford (deceased)

Opposing counsel:

Mark R. Swartz  
(Formerly at the Sacramento County District Attorney's Office)  
Solo Practitioner  
2366 Gold Meadow Way, 2d Floor  
Gold River, CA 95670  
(916) 631-7722

8. Lewis v. Superior Court of Sacramento County, Case No. 87992 (Sacramento County Superior Court), on appeal 217 Cal. App. 3d 379, 265 Cal. Rptr. 855 (1990)

Our client, then a member of the California Assembly, was indicted in state court for forgery based upon his alleged fabrication of the signature of the President of the United States on letters endorsing candidates for the State Assembly. I served as co-counsel with my partner. We moved to dismiss the indictment on the grounds that the conduct alleged did not come within the definition of forgery provided by California Penal Code § 470. The trial court denied the motion. However, the California Court of Appeal for the Third Appellate District granted our application for a writ of prohibition and directed that the indictment be dismissed. In doing so, the court agreed that the version of Penal Code §

470 then in effect had to be interpreted according to the common law definition of forgery, which included an intent to defraud, and that without such a limitation the statute would be overbroad. As a result, all charges against our client were dismissed.

Dates of Representation: 1989 – 1990

Trial Judge: Honorable James I. Morris (retired)

Appellate Justices: Honorable Coleman Blease, Honorable Robert Puglia (deceased), Honorable Keith Sparks (retired)

Opposing counsel:

W. Scott Thorpe (retired)  
(Formerly at the California Attorney General's Office)

John Gordinier (retired)  
(Formerly at the California Attorney General's Office)

9. People v. Pereira, Case No. 78733 (Sacramento County Superior Court), on appeal, 207 Cal. App. 3d 1057 (1989)

I served as co-counsel with my partner for Mr. Pereira who was charged with offering false evidence under Penal Code § 132 and preparing false documentary evidence under Penal Code § 134 in connection with an investigation conducted by the Fair Political Practices Commission. The trial court granted a defense motion to set aside the counts alleging the offering of false evidence. On appeal, a divided panel reversed the judgment. On remand, the matter was successfully resolved by way of plea agreement with Mr. Pereira being sentenced to straight probation and a fine.

Dates of Representation: 1988 – 1990

Trial Judge: Honorable Rodney Davis, Jr. (retired)

Opposing counsel:

Frank C. Meyer (retired)  
(Formerly at the Sacramento County District Attorney's Office)

10. Republic of France v. Moghadam, 617 F. Supp. 777 (N.D. Cal. 1985)

In this matter the Republic of France sought the extradition of my client from the United States. I was the sole counsel of record for the defendant. Following briefing and an evidentiary hearing, the district court held that the government had not established probable cause supporting its request to extradite my client to France to stand trial and the doctrine of dual criminality had not been satisfied. Under that doctrine, the act

charged must be criminal in both the requesting and extraditing jurisdictions in order to justify extradition. As a result, the court ruled that the client could not be extradited.

Dates of Representation: 1985

Trial Judge: Honorable Marilyn Hall Patel

Opposing counsel:

Honorable Charles B. Burch  
(Formerly at the United States Attorney's Office)  
Contra Costa County Superior Court  
725 Court Street  
Martinez, CA 94553  
(925) 957-5723

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In January 2010 I became the presiding judge for our newly launched Better Choices program. The program was a cooperative effort involving our court, our Pretrial Services Office, the Office of the Federal Defender and the United States Attorney's Office aimed at providing increased programming, supervision, assistance, and regular interaction with a judicial officer for those pretrial releasees found to pose a particular risk of violating the conditions of their release while their case was pending. The program has had a significant number of graduates who have transitioned to more typical levels of pretrial supervision successfully and has decreased the number of revocations of release orders. I served as the presiding judge for the program in Sacramento until December 2013.

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

None.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business

relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

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

No.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

Because my wife and I have no outside business interests or significant investments, conflicts arising from financial arrangements have been virtually non-existent for me in the more than 17 years I have served as a United States Magistrate Judge. Given the length of time I have served on the bench, conflicts arising from my past representation of individuals or entities rarely arise. I would expect this to continue to be the case. Of course, if a conflict were to arise, I would continue to recuse myself immediately.

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

I would intend to continue my present practice with respect to identifying conflicts and determining whether recusal is appropriate. I would continue to adhere to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all

applicable policies and procedures of the United States Courts. In addition, I will remain vigilant during the pendency of any case before me for any new information that might require disclosure or recusal.

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

As a magistrate judge, I am not permitted to represent clients, pro bono or otherwise. However, I participate in several volunteer civic education programs, primarily those aimed at students. For example, I have been involved for many years in Operation Protect and Defend, a program involving judges, lawyers and teachers, who reach out to non-Advance Placement high school students with the goal of connecting them to the U.S. Constitution and American history and exploring with them the rights and responsibilities of active United States citizens. In addition, I participate yearly in my court's Open Doors program, which brings high school students into our courtrooms for a mock trial exercise followed by a discussion regarding our federal courts and the career paths of the many professionals who work in them. Finally, I regularly lead school group tours at our courthouse. I also have participated in the training of lawyers who have volunteered to participate in our court's robust pro bono panel program, which provides representation to pro se litigants, primarily prisoners, when appointment of counsel is deemed warranted.

While in private practice, my partners and I regularly represented individuals on a pro bono or reduced fee basis. Moreover, our policy was to never move to withdraw from representation, once commenced, due to a client's inability to continue to pay for our legal services. Finally, for several years I provided legal advice and assistance to the West Sacramento Legal League, a non-profit corporation, on a pro bono basis.

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 July 31, 2014, I submitted my District Court Judicial Appointment Application for the vacancy in the Eastern District of California to Senator Boxer's office. On August 22, 2014, I interviewed with the Senator's Eastern

District of California Selection Committee in Sacramento, California. Since September 4, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On October 22, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On November 12, 2014, the President submitted my nomination to the Senate.

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

No.