

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Eleanor Louise Ross (Eleanor Louise Barnwell)

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

United States District Court Judge for the Northern District of Georgia

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:           DeKalb County Courthouse  
                    556 North McDonough Street  
                    Suite #3230  
                    Decatur, Georgia 30030

Residence:     Lithonia, Georgia

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

1967; Washington, D.C.

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.

1991 – 1994, University of Houston; J.D., 1994  
1985 – 1989, American University; B.A. in Public Communication, 1989

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

2011 – present  
DeKalb County State Court  
556 North McDonough Street, Suite #3230

Decatur, Georgia 30030  
Judge

2007 – 2011, 1998 – 2002  
Fulton County District Attorney's Office  
136 Pryor Street, Suite #640  
Atlanta, Georgia 30303  
Executive Assistant District Attorney (2007 – 2011)  
Senior Assistant District Attorney (1998 – 2002)

2002 – 2005  
United States Attorney's Office, Northern District of Georgia  
75 Spring Street, SW, Suite #600  
Atlanta, Georgia 30303  
Assistant United States Attorney

1997 – 1998, May – June 1993  
DeKalb County Solicitor's Office  
556 North McDonough Street, Suite #500  
Decatur, Georgia 30030  
Assistant Solicitor-General

1993 – 1996  
Tarrant County District Attorney's Office  
401 West Belknap  
Fort Worth, Texas 76106  
Assistant District Attorney (1994 – 1996)  
Legal Intern (August – October 1994)  
Summer Intern (May – June 1993)

Fall 1993, Spring 1992 (part-time)  
Moriarty and Associates (now known as Moriarty Leyendecker)  
4203 Montrose Boulevard, Suite #150  
Houston, Texas 77006

Summer 1993  
Miles and Stockbridge  
100 Light Street  
Baltimore, Maryland 21202  
Intern (June – August 1993)

Other affiliations (uncompensated):

2007 – 2011  
His Word 'N Motion  
His Word 'N Motion School of Dance, Inc.

3579 Portsmouth Circle  
Lithonia, Georgia 30038  
Board of Directors

2006 – 2011  
Herzing University  
3393 Peachtree Road NE  
Suite #1003  
Atlanta, Georgia 30326  
Board of Directors

2006 – 2008  
Eagle Ridge Homeowners Association  
(no physical address)  
Secretary for the Board of Directors

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 was not required to register for the 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.

Georgia's Most Powerful and Influential Attorney Award by *Women Looking Ahead Magazine* (2011)  
Fulton County Assistant District Attorney of the Year (2010)  
Fulton County District Attorney Homicide Attorney of the Year (2000)  
Fulton County Voice for Victims Award (2000)

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.

DeKalb Bar Association (1997 – present)  
DeKalb Lawyers Association (2011 – present)  
State Bar of Georgia (1997 – present)  
State Bar of Texas (1995 – 1997)

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.

State Bar of Georgia, 1997  
State Bar of Texas, 1995

I allowed my membership to lapse in the State Bar of Texas once I determined that I would not be returning to Texas to reside or work.

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

United States Court of Appeals for the Eleventh Circuit, 2003  
United States District Court, Northern District of Georgia, 2002  
Supreme Court of the State of Georgia, 1997  
Court of Appeals of the State of Georgia, 1997

There have been no lapses in membership.

**11. Memberships:**

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

Aerobics & Fitness Association of America (2005 – present)

Certified Fitness Instructor

Delta Sigma Theta Sorority (1986 – present)

Eagle Ridge Homeowners Association (2003 – present)

Secretary for the Board of Directors (2006 – 2008)

Herzing University (2006 – 2011)

Board of Directors

His Word 'N Motion School of Dance, Inc. (2007 – 2011)

Board of Directors

Parent-Teacher Organization, Bouie Elementary School (2007 – present)

Parent-Teacher Organization, Greenforest-McCalep Christian Academic Center  
(August 2013 – present)

- 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.

Eleanor Barnwell, *D.C. General Hospital's Children's Center*, Washington View, June 1991. Copy supplied.

Eleanor Barnwell, *Sweet Honey In the Rock: Music With A Message*, Washington View, April 1991. Copy supplied.

Eleanor Barnwell, *All That Jazz*, Washington View, October 1990. I have been unable to locate a copy.

Eleanor Barnwell, *On New Year's, Corks Will Pop On All Channels*, USA Today, December 30, 1988. Copy supplied.

Eleanor Barnwell, *A Roundup of Annual Top-10 Lists*, USA Today, December 29, 1988. 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.

Although I did not participate in the drafting or editing of the June 30, 2011 Special Report on the allegations of test tampering and related matters in the Atlanta Public School System, I was part of the special investigation team that assisted in conducting the interviews during the investigation. Out of an abundance of caution, I have supplied the report.

- 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.

Questionnaire for DeKalb County State Court Vacancy, March 1, 2011. Copy supplied.

- 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.

December 2, 2013: I welcomed participants and parents and announced the winners of the Third Annual Division V Art Challenge at a reception held in my courtroom, in the DeKalb County Courthouse. I have no notes, transcript, or recording. The address of the DeKalb County Courthouse is 556 North McDonough Street, Courtroom 3C, Decatur, Georgia 30030.

December 17, 2012: I welcomed participants and parents and announced the winners of the Second Annual Division V Art Challenge at a reception held in my courtroom, in the DeKalb County Courthouse. I have no notes, transcript, or recording. The address of the DeKalb County Courthouse is 556 North McDonough Street, Courtroom 3C, Decatur, Georgia 30030.

October 24, 2012: Guest Speaker, DeKalb Lawyers Association (DLA) meeting held at the Gregory A. Adams Juvenile Justice Center. The subject matter included ethical responsibilities in the practice of law and appropriate courtroom decorum from a judge's perspective. I have no notes, transcript, or recording. The address of the DeKalb Lawyers Association is P.O. Box 2403, Decatur, Georgia 30031.

June 23, 2012: Guest Speaker, Women's Day Service at Kelley Chapel United Methodist Church. I spoke on the topic of renewing one's mind to accept certain life changes. I have no notes, transcript, or recording. The address of Kelley Chapel United Methodist Church is 3411 Kelley Chapel Road, Decatur, Georgia 30034.

May 11, 2012: Presenter, "Georgia DUI Update: Ethical Considerations in DUI Cases and Sentencing" for the Institute of Continuing Legal Education (ICLE) in Georgia at the State Bar of Georgia Headquarters. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, NW, Atlanta, Georgia 30303.

May 8, 2012: Panelist with Steve C. Jones, United States District Court Judge for the Northern District of Georgia, sponsored by the Georgia Association of Black Women Attorneys (GABWA) as part of their Judicial and Public Office Academy. The subject matter was navigating through a judicial appointment process. I have no notes, transcript, or recording. The address of the Georgia Association of Black Women Attorneys (GABWA) is P.O. Box 4381, Atlanta, Georgia 30302.

February 11, 2012: Guest Speaker, a local chapter of the Boy Scouts of America at Greater Traveler's Rest Baptist Church. The topic was the legal profession and my judicial career. I have no notes, transcript, or recording. The address of Greater Traveler's Rest Baptist Church is 4650 Flat Shoals Parkway, Decatur, Georgia 30034.

December 6, 2011: I welcomed participants and parents and announced the winners of the First Annual Division V Art Challenge at a reception held in my courtroom, in the DeKalb County Courthouse. I have no notes, transcript, or recording. The address of the DeKalb County Courthouse is 556 North McDonough Street, Courtroom 3C, Decatur, Georgia 30030.

April 29, 2011: Acceptance speech, Georgia State Capital, swearing-in ceremony as a DeKalb County State Court judge by Governor Nathan Deal on the subject of my gratitude for the opportunity to serve in my current position as well as my pledge to perform to the best of my ability. I have no notes, transcript, or recording. The address of the Georgia State Capitol Building is 206 Washington Street, SW, Atlanta, Georgia 30334.

August 2007 – April 2011: As a prosecutor for the Fulton County District Attorney's Office, I frequently made presentations to various civic groups about recognizing the signs of gang activity within communities. I have no notes, transcript, or recording. The address of the Fulton County District Attorney's Office is 136 Pryor Street, Atlanta, Georgia 30303.

- 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.

Burke Brenan & Angela Walton, *Press Release Announcing the Third Annual Division V Art Challenge*, DeKalb County Webmail, September 13, 2013. Copy supplied.

Burke Brenan & Angela Walton, *Press Release Announcing the Second Division V Art Challenge*, DeKalb County Webmail, November 29, 2012. Copy supplied.

Stormy Kage, *Middle and High School Students Win Top Prizes in Judge's Art Contest*, Cross Roads News, December 10, 2011. Copy supplied.

Carla Parker, *Talented Students Nab First Place in State Court Judge's Art Contest*, CrossRoads News, December 8, 2011. Copy supplied.

Burke Brennan & Angela Walton, *Press Release announcing the 1st Division V Art Challenge*, DeKalb County Webmail, October 7, 2011. Copy supplied.

Jennifer French-Parker, *Veteran Prosecutors Joining DeKalb State Court Bench*, Cross Roads News, April 16, 2011. Copy supplied.

February 2010: Interview and legal commentary on truTV's "In Session" court program following the station's full coverage of the Fulton County murder trial of Devonni Burton, which I prosecuted (*State of Georgia v. Devonni Benton*, 09SC84683). I have been unable to obtain a copy. I also recall providing legal commentary for Court TV at various other times as an attorney for the Fulton County District Attorney's Office from 1998 to 2002 and from 2007 to 2011, but I do not recall the specific dates or cases discussed.

Keith Morrison, *Justice for Sparkle; Man Hires Hit Man to Kill his Daughter-in-Law*. NBC News Transcripts, August 30, 2009. Copy supplied.

Marcus K. Garner, *Jury Deadlocks in Road Rage Trial*, The Atlanta Journal Constitution, August 20, 2008. Copy supplied.

Drew Jubera, *Hearing No Problem for Deaf Juror*, The Atlanta Journal Constitution, March 15, 2008. Copy supplied.

Jay Croft, *Fulton Woman, Mother Guilty in Revenge Killing*, The Atlanta Journal Constitution, November 21, 1998. Copy supplied.

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

April 2011 – present: Judge, State Court of DeKalb County in Decatur, Georgia. I was appointed to this position by Georgia Governor Nathan Deal on April 29, 2011 for the period beginning on May 2, 2011. I was elected to the same position in November 2012 for a four-year term. This court presides over civil matters not exclusively with the Superior Court's jurisdiction, including cases involving personal injury and contract disputes, as well as criminal misdemeanors. The State Court also has appellate jurisdiction over Magistrate Court and Recorder's Court.

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



I have presided over approximately 235 cases that have gone to verdict or judgment.

jury trials:	10%
bench trials:	90%
civil proceedings:	60%
criminal proceedings:	40%

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

As a state court trial judge, I have not written any published opinions for any reported cases. All of my opinions are issued in the form of written orders which are filed with the DeKalb County State Court Clerk. They are of public record and are available in the Clerk's office, but are not published.

- 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).

I have included five civil cases and five criminal cases over which I have presided. All of the listed cases are from the State Court of DeKalb County, Georgia.

1. *Davis v. Perimeter OB/GYN Care, LLC*, et. al. (10A33677). Decision Supplied.

This medical malpractice case involves allegations that the patient, one day after abdominal surgery, was misdiagnosed by the hospital's ICU Pulmonologist upon her admission from the Emergency Room to the ICU. Rather than getting a surgical consult, the ICU doctor diagnosed aspiration pneumonia and the patient died the next day, allegedly from infection caused by a perforated bowel from the prior surgery. I denied the defendants' Motion for Summary Judgment, which required a ruling on the construction of Official Code of Georgia Annotated (O.C.G.A.) § 51-1-29.5, Georgia's emergency room statute. The statute raises the plaintiff's burden of proof to "clear and convincing evidence," while lowering the medical provider's standard of care to gross negligence in medical malpractice cases arising from emergency room care. I determined the patient's claims against the intensive care physician who examined the patient, admitted her to the intensive care unit, and wrote new orders for her care would be not be governed by the special standard of the emergency room statute, despite the patient's location in the emergency room at the time the admissions work-up was performed. My decision was based on the statute's inclusion of both surgical and

obstetrical procedures on emergency room patients that were performed outside the emergency room by specialists in those areas, but did not include intensive care physicians and procedures. I certified this question for immediate review by the Georgia Court of Appeals, which has accepted the issue for review. An interim decision is pending.

Attorneys:

Plaintiff: Marcus Howard and Gregory Pope  
Pope & Howard, P.C.  
945 East Paces Ferry Road, Suite #2525  
Atlanta, Georgia 30326  
404.885.9999

Erik Olson  
The Olson Law Firm, LLC  
6100 Lake Forrest Drive, Suite #104  
Atlanta, Georgia 30328  
404.897.1014

Defendant: Melissa Reading and Rolfe Martin (Nisbet, Pulmonary Group PC)  
Owen, Gleaton, Egan, Jones & Sweeney, LLP  
1180 Peachtree Street, NE, Suite #3000  
Atlanta, Georgia 30309  
404.688.2600

Defendant: Daniel Huff & Michael Frankson (Pancer, Perimeter OBGYN Care LLC)  
Huff, Powell & Bailey, LLC  
999 Peachtree Street, Suite #950  
Atlanta, Georgia 30309  
404.892.4022

*2. Metro Atlanta Task Force for the Homeless, Inc. v. Emory University and Emory Healthcare, Inc. (11A39185). Decisions Supplied.*

This case involves allegations based on O.C.G.A. § 9-11-11.1, commonly known as the Georgia anti-Strategic Lawsuit Against Public Participation, or “anti-SLAPP” provision. The claims involve allegations that a charitable business suffered loss of funding and loss of real property due to defamatory statements about them made by the defendants and co-conspirators to government and private sources of funding. I ruled on defendants’ Motion to Dismiss or Strike Complaint for the plaintiff’s failure to file affidavits verifying its Complaint as required by the statute and defendants’ Motion to Strike Plaintiff’s Notice of Voluntary Dismissal. While I found the plaintiff was on notice of the defendants’ allegations that the affidavits had not been filed, the Complaint’s allegations of

defamation, tortious interference with business and contractual relations and violations of Georgia's Racketeer Influenced and Corrupt Organizations Act (RICO) were not made in the context of an official proceeding authorized by law or in connection with an issue under consideration by an official proceeding.

The defendants filed a Motion for Certificate for Immediate Review. However, before the order was certified, the plaintiff voluntarily dismissed its case without prejudice. The defendants then filed a Motion to Strike Plaintiff's Notice of Voluntary Dismissal Without Prejudice. I upheld the plaintiff's right to voluntarily dismiss the case under O.C.G.A. 9-11-41(a). Both sides appealed the Anti-SLAPP order, and the defendant appealed the order allowing the plaintiff's voluntary dismissal of the action. The Georgia Court of Appeals affirmed the orders. The Georgia Supreme Court denied the defendants' petition for certiorari. I have entered an Order in the renewal action which requires a more definite statement of the content and context of the defamatory statements alleged and a listing of the contracts with which interference is claimed.

Attorneys:

Plaintiff: Mark E. Murray  
The Murray Law Firm LLC  
The Astoria 306  
2233 Peachtree Road  
Atlanta, Georgia 30309  
404.842.1600

Defendants: Henry R. Chalmers  
Arnall Golden & Gregory, LLP  
171 17th Street NW, Suite #2100  
Atlanta, Georgia 30363  
404.873.8646

3. *West et al. v. Children Healthcare of Atlanta, Inc.* (10A29581). Decisions Supplied.

This medical malpractice case was filed by the parents of a chronically ill child who died due to hyperammonemia during hospitalization. The defendant hospital wanted to conduct ex parte interviews of the patient's doctors, who sought protection pursuant to a Qualified Protection Order. I granted the Qualified Protective Order and Order Granting in Part the Defendants' Motion for Reconsideration of Qualified Protection Order. The case eventually settled and was dismissed with prejudice on December 18, 2013.

Attorneys:

Plaintiffs: Harvey Spiegel

Henry Spiegel Milling, LLP  
950 East Paces Ferry Road, NE, Suite #2450  
Atlanta, Georgia 30326  
404.832.8000

Defendant: Julye Johns  
Huff Powell & Bailey  
999 Peachtree Street, Suite #950  
Atlanta, Georgia 30309  
404.892.4022

4. *Crews v. The Kroger Company* (12A41592). Decision Supplied.

This was a slip-and-fall case involving a serious fall on a slippery supermarket floor, which was being waxed at the time of the fall. I denied Defendant's Motion for Summary Judgment. Although the plaintiff could provide only circumstantial evidence there was a slippery wax condition on the floor where he fell and lost consciousness, the defendant still is required to show some evidence either of the condition of the floor at the time of the fall or adherence to a policy to prevent such hazards. The parties settled this case in the midst of trial.

Attorneys:

Plaintiff: James Creasy  
Gillis & Creasey, LLC  
Two Ravinia Drive, Suite #650  
Atlanta, Georgia 30346  
770.394.3127

Defendant: Douglas A. Wilde  
Law Office of Douglas A. Wilde, LLC  
215 Market Road, Suite #2C  
Tyrone, Georgia 30290  
678.364.0055

5. *Wells, et al. v. Long, New Birth Missionary Baptist Church, et. al.* (11A39373). Decision Supplied.

This is a case of fraud, breach of fiduciary duty and securities fraud in which the plaintiffs, congregants of a church, allege their pastor brought to the pulpit and endorsed an investment broker, employed by an Ohio bank, who defrauded them out of the funds they invested with him. I denied defendants' Motion to Dismiss for Lack of Jurisdiction and Improper Venue. The relevant contracts contain a forum selection clause and choice of law provision that would require these issues to be determined in Ohio under Ohio law. All the plaintiffs and two of the four defendants who had been served were Georgia residents. I ruled that the forum selection and choice of law provisions were invalid both because the forum

selection clause was not part of a freely negotiated contract and because Ohio securities law would not have protected these Georgia residents' claims. The case is currently scheduled for a pretrial conference at which I expect to set a trial date.

Attorneys:

Plaintiffs: Quinton S. Seay  
Stewart, Seay & Felton, LLC  
260 Peachtree Street, Suite #1001  
Atlanta, Georgia 30303  
404.637.0248

Jason R. Doss and Joy L. Doss  
The Doss Firm, LLC  
P.O. Box 965669  
Marietta, Georgia 30066  
770.578.1314

Defendant: Chad Jacobs, Melanie C. Eyre and Barbara A. Marschalk (Long & New Birth Missionary Baptist Church)  
Drew, Eckl & Farnham, LLP  
P.O. Box 7600  
Atlanta, Georgia 30357  
404.885.1400

Defendant: William V. Hearnburg, Jr. and W. Parker Sanders (Batt & Equity Trust Company)  
Smith, Gambrell & Russell, LLP  
Promenade II, Suite #3100  
1230 Peachtree Street, NE  
Atlanta, Georgia 30309  
404.815.3679

Defendant: Kenneth Bravo, Issac Eddington and Francis Goins (Pro hac vice, Co-Counsel with Hearnburg)  
Ulmer & Berne, LLP  
1960 West Second Street, Suite #1100  
Cleveland, Ohio 44113  
216.583.7001

6. *State of Georgia v. Hutchins* (12C45475). Decision Supplied.

The defendant in this case was arrested during a sting operation and charged with pimping. He had two prior pimping convictions. I granted the state's motion to use the defendant's two prior pimping convictions as similar transactions but granted the defendant's motion in limine regarding the age of one of the

prostitutes from the prior cases. The state's main witness, the woman alleged to have been pimped by the defendant, failed to appear for trial despite having been properly served with a subpoena. I signed a material witness warrant for marshals to seize her, which was executed. Once the witness was located, the defendant was tried by a six-person jury and found guilty. I sentenced him to the maximum possible sentence, which was 12 months in jail.

Attorneys:

State: Sonja Brown & Keisha Storey  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Heather McLeod and Bryan Henderson  
DeKalb County Public Defender's Office  
The Callaway Building  
120 West Trinity Place, Suite #408  
Decatur, Georgia 30030  
404.371.2222

7. *State of Georgia v. Ditman* (12C51706). Decision Supplied.

In this case, the defendant was arrested for Driving While Under the Influence of Alcohol (DUI) after being involved in a one car accident. The responding officer observed an empty beer can in the defendant's cup holder, an odor of alcohol emanating from the defendant's breath, and that the defendant was unsteady on his feet. The defendant was not able to perform field sobriety evaluations to the officer's satisfaction. The defendant challenged the officer's reading of implied consent warnings as untimely because the officer testified he did the warnings before arresting the defendant. In relying on *Oliver v State*, 268 Ga. App. 290 (2004), I held that because the warnings were done in close proximity to the arrest, they were timely. Thus, I denied the defendant's Motion to Suppress his blood alcohol concentration, which exceeded the legal limit. Following my denial, the defendant entered a guilty plea.

Attorneys:

State: Lisa Bobb  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Justin Spizman  
The Hawkins Law Firm  
1535 Mt. Vernon Road, Suite #200  
Atlanta, Georgia 30338  
770.685.6400

8. *State of Georgia v. Ellison* (12C52852). Decision Supplied.

The defendant was charged with Family Violence Battery, Simple Battery, Cruelty to Children in the third degree, and Disorderly Conduct for striking the mother of his child after arguing about his suspicions that she was seeing another man. The State sought to introduce evidence of two prior incidents in which the defendant assaulted different women under similar circumstances and filed a motion to introduce the two prior acts as similar transactions. Under Georgia's new evidence rules that took effect on January 1, 2013 (and which now track the Federal Rules of Evidence), a prosecutor can no longer use other acts to demonstrate a defendant's "course of conduct" or "bent of mind." Because I determined the State's only purpose for introducing the prior acts was to establish a particular pattern of conduct on the part of the defendant, I denied the State's Motion to Introduce Similar Transaction Evidence. The case was later dismissed without prosecution because the listed victim failed to appear for trial.

Attorneys:

State: Lisa Bobb  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Heather McLeod  
DeKalb County Public Defender's Office  
The Callaway Building  
120 West Trinity Place, Suite #408  
Decatur, Georgia 30030  
404.371.2222

9. *State of Georgia v. Dawkins* (12C52884). Decision Supplied.

This was a DUI trial in which a deputy marshal observed a defendant driving erratically in the early morning hours. The officer noted a moderate smell of alcohol on the defendant and that the defendant had slurred speech and was unsteady on his feet. The defendant also admitted to consuming "a beer." After being placed under arrest, the defendant was advised of his implied consent rights. He refused to submit to the state-administered chemical test for his alcohol concentration. The state sought to introduce evidence of similar acts, which were

two prior DUI convictions. In this case, I did admit the prior DUI convictions based on O.C.G.A. § 24-4-417, which specifically deals with scenarios such as this one, where the defendant refuses to submit to the chemical testing. The defendant was found guilty by a jury and sentenced to twelve months in jail with the understanding that I would reconsider his sentence after six months if he presented what I found to be an appropriate treatment plan for his alcoholism. Within the first four months of his sentence, the defense attorney petitioned the court twice for a sentence modification. Both times the request was denied because: (1) it had not been six months since he was sentenced; and (2) there was no supporting documentation for a treatment plan. However, I have scheduled a sentence modification hearing for February 6, 2014, at which time the defendant will have been incarcerated for six months.

Attorneys:

State: Lisa Bobb  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Careton Matthews  
Law Offices of Careton Matthews  
9820 Redan Road, Suite B  
Stone Mountain, Georgia 30088  
404.298.9098

10. *State of Georgia v. Giovino* (10C24954). Decision Supplied.

This was a DUI case in which a police officer stopped the defendant after observing him make an improper right turn. The officer noticed a strong odor of alcohol coming from the defendant's breath and that he had bloodshot and watery eyes. The defendant admitted to consuming beer earlier in the day. After being placed under arrest and having implied consent warnings read to him, the defendant agreed to submit to a breath test, which revealed he was over the legal limit. What makes this case significant is that the defendant filed a motion to obtain the computer source code for the Intoxilyzer machine on which the breath test is performed. I issued a certificate of materiality which supports that the source code is central to the proper functioning of the Intoxilyzer. However, the source code is in Kentucky, where the machine is manufactured, and Kentucky courts have not honored certificates of materiality issued by Georgia courts. Currently this issue is on appeal in Kentucky. This case is scheduled for a status hearing.



Attorneys:

State: Solicitor Sherry Boston and Assistant Solicitor Wystan Getz  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Greg Willis  
Head, Thomas, Webb & Willis  
750 Hammond Drive; Building #5  
Atlanta, Georgia 30328  
404.250.1113

- 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.

Due to the nature of my caseload, I generally preside over juries, rule from the bench, or issue shorter written rulings, rather than issuing significant written opinions. To respond to this question, I have reviewed my files and provided my written decisions in the following ten cases.

1. *Davis v. Perimeter OB/GYN Care, LLC*, et. al. (10A33677). Decision previously supplied in 13c.

Attorneys:

Plaintiff: Marcus Howard and Gregory Pope  
Pope & Howard, P.C.  
945 East Paces Ferry Road, Suite #2525  
Atlanta, Georgia 30326  
404.885.9999

Erik Olson  
The Olson Law Firm, LLC  
6100 Lake Forrest Drive, Suite #104  
Atlanta, Georgia 30328  
404.897.1014

Defendant: Melissa Reading and Rolfe Martin (Nisbet & Pulmonary Group PC)  
Owen, Gleaton, Egan, Jones & Sweeney, LLP  
1180 Peachtree Street, NE, Suite #3000

Atlanta, Georgia 30309  
404.688.2600

Defendant: Daniel Huff & Michael Frankson (Pancer, Perimeter OBGYN  
Care, LLC  
Huff, Powell & Bailey, LLC  
999 Peachtree Street, Suite #950  
Atlanta, Georgia 30309  
404.892.4022

2. *Metro Atlanta Task Force for the Homeless, Inc. v. Emory University and Emory Healthcare, Inc.* (11A39185). Decision previously supplied in 13c.

Attorneys:

Plaintiff: Mark E. Murray  
The Murray Law Firm LLC  
The Astoria 306  
2233 Peachtree Road  
Atlanta, Georgia 30309  
404.842.1600

Defendant: Henry R. Chalmers  
Arnall Golden & Gregory, LLP  
171 17th Street NW, Suite #2100  
Atlanta, Georgia 30363  
404.873.8646

3. *Babineau v. Baughand FFE Transportation Services, Inc.* (11A34640). Decision supplied.

Attorneys:

Plaintiff: Trent Shuping  
Micahel Warshauer  
Warshauer Law Group, P.C.  
3350 Riverwood Parkway, Suite 2000  
Atlanta, Georgia 30339  
404.892.4900

Defendant: Sean Hynes (Baugh)  
Downey & Cleveland  
288 Washington Avenue  
Marietta, GA 30036  
770.422.3233

Defendant: E. Andrew Treese (FFE Transportation Services, Inc.)  
Stevan A. Miller  
Drew Eckl & Farnham, LLC  
P.O. Box 7600  
Atlanta, GA 30357  
404-885-1400

4. *Crews v. The Kroger Company* (12A41592). Decision previously supplied in 13c.

Attorneys:

Plaintiff: James Creasy  
Gillis & Creasey, LLC  
Two Ravinia Drive, Suite #650  
Atlanta, Georgia 30346  
770.394.3127

Defendant: Douglas A. Wilde  
Law Office of Douglas A. Wilde, LLC  
215 Market Road, Suite #2C  
Tyrone, Georgia 30290  
678.364.0055

5. *Wells, et al. v. Long, New Birth Missionary Baptist Church, et al.* (11A39373). Decision previously supplied in 13c.

Attorneys:

Plaintiffs: Quinton S. Seay  
Stewart, Seay & Felton, LLC  
260 Peachtree Street, Suite #1001  
Atlanta, Georgia 30303  
404.637.0248

Jason R. Doss and Joy L. Doss  
The Doss Firm, LLC  
P.O. Box 965669  
Marietta, Georgia 30066  
770.578.1314

Defendant: Chad Jacobs, Melanie C. Eyre and Barbara A. Marschalk (Long & New Birth Missionary Baptist Church)  
Drew, Eckl & Farnham, LLP  
P.O. Box 7600  
Atlanta, Georgia 30357  
404.885.1400

Defendant: William V. Hearnburg, Jr. and W. Parker Sanders (Batt & Equity Trust Company)  
Smith, Gambrell & Russell, LLP  
Promenade II, Suite #3100  
1230 Peachtree Street, NE  
Atlanta, Georgia 30309  
404.815.3679

Defendant: Kenneth Bravo, Issac Eddington and Francis Goins (Pro hac vice, Co-Counsel w/Hearnburg)  
Ulmer & Berne, LLP  
1960 West Second Street, Suite #1100  
Cleveland, Ohio 44113  
216.583.7001

6. *Cason v. Bakeroll, Inc. and Maloof* (10A31867). Decision supplied.

Attorneys:

Plaintiff: Douglas R. Powell  
Hinton & Powell  
2901 Piedmont Road, Suite A  
Atlanta, GA 30305  
404-365-7077

Defendant: Jerry A. Landers, Jr.  
166 Anderson Street, Suite 200  
Mariette, GA 30036  
770-795-1299

7. *State of Georgia v. Ditman* (12C51706). Decision previously supplied in 13c.

Attorneys:

State: Lisa Bobb  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Justin Spizman  
The Hawkins Law Firm  
1535 Mt. Vernon Road, Suite #200  
Atlanta, Georgia 30338  
770.685.6400

8. *State of Georgia v. Ellison* (12C52852). Decision previously supplied in 13c.

Attorneys:

State: Lisa Bobb  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Heather McLeod  
DeKalb County Public Defender's Office  
The Callaway Building  
120 West Trinity Place, Suite #408  
Decatur, Georgia 30030  
404.371.2222.

9. *State of Georgia v. Dawkins* (12C52884). Decision previously supplied in 13c.

Attorneys:

State: Lisa Bobb  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defense: Careton Matthews  
Law Offices of Careton Matthews  
9820 Redan Road, Suite B  
Stone Mountain, Georgia 30088  
404.298.9098

10. *State of Georgia v. Giovino* (10C24954). Decision previously supplied in 13c.

Attorneys:

State: Solicitor Sherry Boston and Assistant Solicitor Wystan Getz  
DeKalb County Solicitor's Office  
556 North McDonough Street, Fifth Floor  
Decatur, Georgia 30030  
404.371.2201

Defendant: Greg Willis  
Head, Thomas, Webb & Willis

750 Hammond Drive; Building #5  
Atlanta, Georgia 30328  
404.250.1113

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

I have not had any cases on which certiorari to the United States Supreme Court was requested or granted.

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

*Vol Repairs II, Inc. v. Knighten*, 745 S.E.2d 673 (2013) was a contract case for car repair. This was a jury verdict and judgment on which my denial of the defendants' motion for a directed verdict was reversed on the issue of attorney fees only. Otherwise, the judgment was affirmed.

*Michael C. Frasard v. The State*, 745 S.E.2d 716 (2013) was a misdemeanor traffic offense jury trial for speeding offenses. Because the sentence sheet failed to reflect the merger of the convictions for the two speeding charges, the judgment was vacated and the case was remanded for resentencing. The defendant appeared in court on August 22, 2013 for resentencing, at which time he received the same sentence originally given along with a revised sentencing sheet that reflected a merger of the two counts.

- 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.

I issue unpublished opinions, many of which are dispositive, on most of the motions that I hear. On average, that would be ten opinions on criminal cases (mostly on suppression motions) and about eight opinions on civil cases (often on motions for summary judgment) per month. All of my orders are filed with the Clerk of DeKalb County State Court in hard copy.

- 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.

Although none of my opinions on constitutional issues have resulted in a significant opinion, I do routinely rule on constitutional issues dealing with a criminal suspect's Fourth Amendment rights related to search and seizure of dwellings and vehicles, as well as compulsion of bodily substances for alcohol

and drug testing. I also routinely rule on issues surrounding a criminal suspect's Fifth Amendment right against self-incrimination as related to statements made during criminal investigations.

- 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 on any such cases.

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.

Since taking the bench almost two and a half years ago, I have recused myself on the following five cases, all of which were in the State Court of DeKalb County, Georgia:

*Custom Carriage Garage Doors, LLC v. Tisha Simmons-Lawson* (10A30127), which involved a contract dispute between the plaintiff-contractor and one of my neighbors. By order, I recused myself sua sponte due to the conflict that existed from my personal relationship with the defendant.

*Kimberly McRae v. Waterford Services, LLC, et. al.* (09A08077), which involved allegations of premises liability. After disclosing to attorneys for both parties that my staff attorney's daughter is employed as a paralegal by the plaintiff's attorney, I was asked by defense counsel to recuse myself. I did so voluntarily due to the conflict presented by the close relationship between my staff attorney, who would have been assisting me on the case, and her daughter, who would have been assisting the plaintiff's attorney.

*State v. Helen Richter* (12C46659), in which the defendant was charged with Obstruction and Disorderly Conduct. During the State's presentation of evidence at trial, I realized that the defendant was the nurse midwife who had rendered care during the pregnancy and birth of my oldest daughter ten years earlier. After excusing the jury from the courtroom, I disclosed this fact to both parties and granted the prosecutor's request for leave of court to confer with his supervisor. I subsequently granted the State's oral motion for my voluntary recusal due to my past personal relationship with the defendant.

*The Wynn Group v. Maria L. Walker, M.D., PC d/b/a Snapfinger Woods Family Practice Group and Piedmont Minor Emergency Clinic, P.C.* (12A42425), which involved allegations of billing improprieties by a medical practice. At calendar call, I asked attorneys for both parties to come back to chambers for a private discussion during which I disclosed that the defendant-doctor had been my primary care physician for several years. I also disclosed in chambers that I had elected to leave that practice following my dissatisfaction with the defendant-doctor. I granted defense counsel's request for leave of court to discuss the situation with his client. I subsequently granted defense counsel's request that I voluntarily recuse myself.

*Najah Drakes v. Kareem Hodges and Shekina Ward* (13A47284) which involved a dispossessory action. The plaintiff, Ms. Drakes, has been a close, personal friend of mine for several years. After noticing her name on the pleadings, I recused myself sua sponte based on the nature of my relationship with the plaintiff.

Although in each of these cases I assured the parties that I could be impartial, my concern for even the appearance of impropriety led to my decisions to voluntarily recuse myself upon request of one of the attorneys. There have been no other cases in which a litigant has requested that I recuse myself.

**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 my current position, nor have I ever sought any other public office by appointment or election.

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



the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Other than my own 2012 election campaign, the only political campaign in which I have participated was that of my husband, Brian B. Ross, for Solicitor-General of DeKalb County in 2006. Although I was listed as the Chairperson of his campaign, my sole responsibility was appearing at events with him. His candidacy was not successful.

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

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

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

I have not served as a clerk to a judge.

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

I have never practiced alone.

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

1994 – 1996  
Tarrant County District Attorney's Office  
401 West Belknap  
Fort Worth, Texas 76106  
Assistant District Attorney

1997 – 1998  
DeKalb County Solicitor's Office  
556 North McDonough Street, Suite #500  
Decatur, Georgia 30030  
Assistant Solicitor General

1998 – 2002  
Fulton County District Attorney's Office  
136 Pryor Street, Suite #640  
Atlanta, Georgia 30303  
Senior Assistant District Attorney

2002 – 2005

United States Attorney's Office, Northern District of Georgia  
75 Spring Street, SW, Suite #600  
Atlanta, Georgia 30303  
Assistant United States Attorney

2007 – 2011, 1998 – 2002

Fulton County District Attorney's Office  
136 Pryor Street, Suite #640  
Atlanta, Georgia 30303  
Executive Assistant District Attorney (2007 – 2011)  
Senior Assistant District Attorney (1998 – 2002)

2011 – present

DeKalb County State Court  
556 North McDonough Street, Suite #3230  
Decatur, Georgia 30030  
Judge

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

I have never served as a mediator or arbitrator.

b. Describe:

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

Before becoming a judge, I always served as a prosecutor. Initially, as a state prosecutor at the Tarrant County District Attorney's Office in Fort Worth, Texas from 1994 to 1996, I prosecuted various state misdemeanor offenses, including driving under the influence, crimes of domestic violence, assault and battery, and theft. Later at the DeKalb Solicitor-General's Office in Decatur, Georgia from 1997 to 1998, I again prosecuted various state misdemeanor offenses, including driving under the influence, crimes of domestic violence, assault and battery, and theft. Later, at the Fulton County District Attorney's Office in Atlanta, Georgia from 1998 to 2002 and 2007 to 2011, I prosecuted various state felony offenses, including homicide, rape, child molestation, armed robbery, aggravated assault and possession and sale of drugs. As an Assistant United States Attorney for the Northern District of Georgia from 2002 to 2005, I prosecuted various felony offenses including firearm offenses, mail fraud, illegal reentry, and gang related crimes. At several of the offices where I prosecuted, I also wrote appellate briefs for the cases I had

tried. I also argued before the United States Court of Appeals while working at the United States Attorney's Office.

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

As a state prosecutor I represented Tarrant County, Texas, DeKalb County, Georgia, and Fulton County, Georgia. As a federal prosecutor, I represented the United States, within the Northern District of Georgia.

- 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.

In private practice, I served as a state and federal prosecutor for over 15 years and appeared in court frequently. The following percentages reflect the amount of time I spent in court as a prosecutor over my career.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 15%
- 2. state courts of record: 85%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

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

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

I have tried approximately 150 cases over my career. I served as sole counsel for approximately 65% of these cases. I served as lead counsel with a junior co-counsel on approximately 25% of these cases. I served as associate counsel on approximately 10% of these cases.

- i. What percentage of these trials were:

- 1. jury: 90 %
- 2. non-jury: 10 %

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

I have never practiced before the Supreme Court of the United States.

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

a. the date of representation

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Heard*, 367 F.3d 1275 (11th Cir. 2004) – The United States Court of Appeals, Eleventh Circuit; Judges Birch, Marcus and Brunetti (sitting by designation).

In 2004, I argued a case of first impression in the Eleventh Circuit, which dealt with the question: when does an anonymous tip give rise to reasonable suspicion sufficient to justify a *Terry* (*Terry v. Ohio*, 392 U.S. 1 (1968)) stop. In the case, a police officer stopped a defendant and conducted a weapons pat-down based on a woman's tip that the defendant had a gun. The trial court acknowledged that the woman was akin to an anonymous tipster because she did not stay to speak with the officer or even provide her name. The Court of Appeals affirmed the trial court, holding that a face-to-face tip, even if given by an anonymous person, may provide an officer with a reasonable suspicion to conduct a pat-down if there are sufficient indicia of reliability.

Defense:                      W. Carl Lietz, III and Stephanie Kearns  
Federal Defender Program, Inc.  
1500 The Centennial Tower  
101 Marietta Street  
Atlanta, Georgia 30303  
404.688.7530

2. *State of Georgia v. Peterson & Peterson* (Y03703) (2000) – Fulton County Superior Court; Judge Bensonetta Lane.

In 2000, I was assigned as lead counsel to this case, which involved the death of a five-year-old, who died as a result of starvation and abuse by his grandmother and aunt. The district attorney filed a Notice of Intent to Seek the Death Penalty.

Along with co-counsel, I handled all pretrial motions and prepared the case for trial. The grandmother entered a guilty plea on February 22, 2002, and was sentenced to a life sentence without the possibility of parole. I did not handle the trial of the aunt because I had accepted employment at a different office by the time her case was called for trial.

Co-Counsel: Anna Cross  
DeKalb County District Attorney's Office  
556 McDonough Street  
Decatur, Georgia 30030  
404.371.2561

Defense: Bruce Harvey (T. Peterson)  
146 Nassau Street  
Atlanta, Georgia 30303  
404.659.4628

Defense: August Seimon (P. Peterson)  
Seimon Law Firm  
P.O. Box 599  
Atlanta, Georgia 30301  
770.884.7067

3. *State of Georgia v. Benton* (09SC84683) (2010) - Fulton County Superior Court; Judge T. Jackson Bedford.

In 2010, I was lead counsel in prosecuting defendant Benton for the murder of a Spelman College freshman on the campus of Clark-Atlanta University. The murder occurred on September 3, 2009, after Benton and some friends visited the campus and became involved in a verbal dispute with other men. During the dispute, Benton produced a firearm and shot into a crowd of students, killing the victim, who was an innocent bystander. The jury trial was covered in its entirety on truTV's "In Session" court program. The defendant was convicted and received a life sentence on February 20, 2010 following a week-long trial.

Co-Counsel: Pat Ducher  
Assistant District Attorney  
Fulton County District Attorney's Office  
136 Pryor Street, SW, Suite #C640  
Atlanta, Georgia 30303  
404.612.4518

Defense: Jackie Patterson  
The Patterson Law Firm  
2970 Peachtree Road, Suite #650

Atlanta, Georgia 30305  
404.841.4081

4. *State of Georgia v. Auletta, et. al.* (08SC73922) (2010) – Fulton County Superior Court; Judge T. Jackson Bedford.

In 2010, I successfully prosecuted ten members of the Nine Tre' Bloods street gang for three murders and two non-fatal stabbings committed over a seven-day period in 2008 in Atlanta. The defendants murdered two fellow gang members who had violated gang rules by cooperating with police during an investigation. Additionally, they murdered two potential witnesses who had knowledge of the first two murders. Following a two-week jury trial, each defendant tried was sentenced to a life sentence plus a term of years.

Co-Counsel: J. Gabriel Banks  
Assistant District Attorney  
Fulton County District Attorney's Office  
136 Pryor Street, SW, Suite #C640  
Atlanta, Georgia 30303  
404.613.4388

Defense: Raymond Giudice  
The Pinnacle  
3455 Peachtree Road, Suite #780  
Atlanta, Georgia 30326  
404.554.8800

5. *State of Georgia v. Drennon, et. al.* (08SC69501) (2009) – Fulton County Superior Court; Judge Henry Newkirk.

In 2009, I successfully prosecuted six members of the International Robbing Crew for numerous robberies and murders they committed throughout Atlanta over a three year period. Although ten murders were alleged in the indictment, the group was suspected of committing about 30. The incidents involved victims who were known drug dealers as well as some random victims. Following a two-week jury trial, each defendant tried was sentenced to a life sentence and some received an additional term of years.

Co-Counsel: J. Gabriel Banks  
Deputy District Attorney  
Fulton County District Attorney's Office  
136 Pryor Street, Suite #C640  
Atlanta, Georgia 30303  
404.613.4388

Defense: Elizabeth Markowitz  
Fulton County Public Defender's Office

55 Park Place, NE, Suite 1600  
Atlanta, Georgia 30303  
404.612.5200

6. *State of Georgia v. Rai* (06SC48640) (2008) – Fulton County Superior Court; Judge T. Jackson Bedford.

In 2008, I along with one other prosecutor, successfully prosecuted defendant Rai, a college professor, for arranging a murder hit on his daughter-in-law. Although our office sought the death penalty, the jury returned a non-death sentence and Rai was sentenced to life without the possibility of parole plus 25 years following a three-week jury trial. The case was covered on Court TV and featured on “Nightline.”

Co-Counsel: Sheila A. Ross (no relation)  
Deputy District Attorney  
Fulton County District Attorney’s Office  
136 Pryor Street, Suite #C640  
Atlanta, Georgia 30303  
404.612.4874

Defense: Donald Samuel  
Garland, Samuel & Loeb, PC  
3151 Maple Drive, NE  
Atlanta, Georgia 30305-2500  
404.262.2225.

Jack M. Martin  
The Benefits Law Group, P.K. Keesler, P.C.  
945 East Paces Ferry Road, Suite #2515  
Atlanta, Georgia 30326  
404.995.9505

7. *State of Georgia v. Mann* (07SC55680) (2008) – Fulton County Superior Court; Judge Jerry Baxter.

In 2008, I successfully prosecuted Mann, who fatally shot his estranged girlfriend in the CNN Center, where she was employed as part of a cleaning crew. Immediately following the shooting, Mann turned the gun on himself for an apparent suicide attempt. Although he sustained a permanently disfiguring injury to the face, Mann survived and was brought to trial, where he claimed the gun accidentally fired. The case served as a catalyst for the Teen Summit on Domestic Violence, a program hosted by the Fulton County District Attorney’s Office. Following a two-day jury trial, the defendant was sentenced to a life sentence plus five years.

Defense: Lawanda O'Bannon  
Fulton County Public Defender's Office  
55 Park Place, NE, Suite #1600  
Atlanta, Georgia 30303  
404.612.3510

8. *State of Georgia v. Moore* (07SC62497) (2008) – Fulton County Superior Court; Judge Stephanie Manis.

In 2008, I successfully prosecuted defendant Moore for a drug related murder at a mixed use (residential and business) complex in Atlanta called Atlantic Station. It was the first homicide at the complex, which had only recently opened. Moore attempted to rob the victim during a drug deal. At trial, I introduced evidence that Moore had previously been convicted of a drug related robbery. Following a four-day jury trial, Moore was sentenced to a life sentence plus five years.

Defense: Derek Wright  
Derek M. Wright, LLC  
260 Peachtree Street, Suite #2200  
Atlanta, Georgia 30303  
678.710.8395

9. *State of Georgia v. Lewis* (09SC85722) (2010) – Fulton County Superior Court; Judge Michael Johnson.

In 2010, I successfully prosecuted defendant Lewis for a robbery and murder. Lewis, only 17-years-old, shot a 19-year-old victim who had recently moved to the same apartment complex where Lewis lived. At the time he was shot, the victim was coming out of a convenience store in the complex. When Lewis demanded his money, the victim ran to his apartment where he screamed for his mother to let him inside. By the time the victim's mother opened the door, Lewis had shot him on his doorstep. Following a three-day jury trial, Lewis was convicted and sentenced to a life sentence plus five years.

Defense: John Russell Mayer  
Fulton County Public Defender's Office  
55 Park Place, NE, Suite #1600  
Atlanta, Georgia 30303  
404.612.3510

10. *State of Georgia v. Head, et. al.* (07SC55188) (2008) – Fulton County Superior Court; Judge Henry Newkirk.

In 2008, I successfully prosecuted defendant Head along with three co-defendants for the murder of a tattoo artist during a robbery attempt. Head masterminded a robbery of the victim, but enlisted the aid of three teenage accomplices since the victim would have recognized him as a previous client. During the robbery, the



victim lunged at one of the two gunmen who then fired a shot killing the victim. Although Head stayed home while the other three defendants carried out the murder, he was convicted as a party to the crime of murder for his role in planning the robbery. Following a week-long jury trial, Head and one of his co-defendants were convicted. A second co-defendant pleaded guilty prior to trial and testified against Head. The third co-defendant, Head's girlfriend, was acquitted. Head was sentenced to a life sentence plus five years.

Defense: Tony Aham  
Aham Law Firm  
P.O. Box 115238  
Atlanta, Georgia 30310  
404.524.2233

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.)

As a prosecutor, I pursued many legal matters that did not proceed to trial, mostly because those cases ended in pleas. As a Fulton County Executive Assistant District Attorney, I handled death penalty pretrial motions including ones involving *Brady* issues (pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963)) and DNA testing. I also worked on investigations involving local police officers and made presentations and recommendations to the District Attorney regarding whether the officers' actions constituted use of excessive force.

As an Assistant United States Attorney for the Northern District of Georgia, I handled many cases that resulted in pleas, especially cases involving the purchase, sale and possession of illegal firearms. For these cases, I worked closely with agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives.

As both a state and federal prosecutor, I assisted investigators in preparing search warrants for presentation to magistrate judges.

I have never been involved in any lobbying activities.

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

I have not taught any courses.

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

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.

If confirmed, I have no plans, commitments, or agreements of this sort.

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 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.

I do not foresee any such conflicts of interest. However, if one were to arise, I would consult the Code of Conduct for United States Judges to determine the appropriate steps to be taken.

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

To resolve a potential conflict of interest, I would first consult the Code of Conduct for United States Judges to determine whether there actually was such a conflict. If I felt there was, I would follow the requirements for recusal. If I felt uncertain as to whether a

true conflict existed, I would still disclose the potential conflict to the parties and litigants and hear their positions with respect to my recusal. As is the case in my current position, my general inclination would be to recuse myself upon objection by one of the parties unless I felt strongly that the objection was frivolous and being made to thwart the legal process.

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.

Since June 20, 2012, I have run a diversionary program called, "Alternative Path" for young first time offenders who are facing minor misdemeanor charges. The program is held twice a month in my courtroom. At the sessions, guest speakers share their experiences of overcoming different life obstacles with participants. By agreement with the Solicitor-General's office, if participants attend two to three sessions and are in compliance with their other bond conditions, including remaining out of legal trouble for a specified time, they will avoid having charges formally filed and in some cases are eligible to have the arrest expunged.

For the past six years, my husband, who also is an attorney, and I have coordinated a school-wide legal presentation for Career Day at our daughters' school in Lithonia, Georgia. The presentation consists of a mock trial that we write and then conduct with the students. We also include question and answer sessions to which we invite other presenters from the legal profession. The mock trial script always incorporates lessons regarding the importance of following school rules.

In addition to the annual Career Day presentation, I have taught a four session anti-bullying class to fourth and fifth graders called, "No Put Downs." The program teaches children how to respond to verbal and physical bullying, and reinforces the use of positive language when communicating with others.

I also sponsor an annual art contest for all DeKalb County middle and high school students, many of whom have experienced having arts funding cut from their schools. I donate gift cards for art supplies that are awarded to three middle school winners and three high school winners. Additionally each participant receives some small token such as a movie gift card. The contest has been covered by "11 Alive" reporter, Donna Lowery on her "Class Act" segment and featured in local newspapers. I have attached a copy of a brief article from *CrossRoadsNews* featuring the 2012 contest.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your

jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In the summer of 2013, I met with a member of the judicial nominating committee created by United States Senators Chambliss and Isakson to discuss my interest in being considered for a position on the United States District Court for the Northern District of Georgia. Since September 6, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On November 15, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On December 19, 2013, the President submitted my nomination to the Senate. On January 6, 2014, the President submitted my renomination to the Senate.

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

No.

AFFIDAVIT

I, Eleanor Louise Ross, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

January 7, 2014  
(DATE)

Eleanor Louise Ross  
(NAME)

Michelle L. Beck  
(NOTARY)

Michelle L. Beck

Notary Public, Rockdale County, Georgia  
My Commission Expires June 9, 2017