

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Darrin Phillip Gayles

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

United States District Judge for the Southern District of Florida

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

Office: Dade County Courthouse
 73 West Flagler Street, Suite 1304
 Miami, Florida 33130

Residence: Miami Shores, Florida

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

1966; Peoria, Illinois

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.

1990 – 1993, The George Washington University Law School; J.D., 1993

1985 – 1990, Howard University; B.A., 1990

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
Eleventh Judicial Circuit of Florida
73 West Flagler Street, Suite 1304
Miami, Florida 33130
Circuit Judge

2004 – 2011
Eleventh Judicial Circuit of Florida
1130 Washington Avenue, Suite 202
Miami Beach, Florida 33139
County Judge

1999 – 2004
United States Attorney's Office, Southern District of Florida
99 N.E. Fourth Street
Miami, Florida 33132
Assistant United States Attorney

1997 – 1999
United States Department of Justice, Immigration and Naturalization Service
155 South Miami Avenue
Miami, Florida 33130
Assistant District Counsel

1993 – 1997
Miami-Dade State Attorney's Office
1350 N.W. 12th Avenue
Miami, Florida 33136
Assistant State Attorney

July 1992 – May 1993
United States Department of Labor, Occupational Safety and Health Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Legal Intern

June – December 1991
United States Department of Labor, Directorate of Civil Rights
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Legal Intern

1990 – 1991
Woodward & Lothrop (The corporation was dissolved in 1995)
Washington, D.C. 20010
Salesman

Other Affiliations (uncompensated)

2006 – present
Spellman-Hoeveler American Inn of Court
Miami, Florida
Board of Directors

2010 – 2012
Peter London Global Dance Theater
212 N.E. 59th Terrace
Miami, Florida 33137
Chairman, Board of Directors

2008 – 2011
The George Washington University Law School Alumni Association
2000 H Street, N.W.
Washington, D.C. 20052
Board of Directors

2010 – 2011
Success for Kids, Inc. – South Florida (dissolved in 2011)
North Miami Beach, Florida
Advisory Board

2002 – 2004
BAME Development Corporation of South Florida, Inc.
245 N.W. Eighth Street
Miami, Florida 33136
Board of Directors

2001 – 2011
Greater Bethel African Methodist Episcopal Church
245 N.W. Eighth Street
Miami, Florida 33136
Board of Trustees

1997 – 2004
Howard University Alumni Association of South Florida
Miami, Florida
President (1997 – 2000)
Acting President (2000 – 2004)

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

I have never served in the military. I timely registered for selective service.

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

Professional:

Legacy 50: South Florida's Most Powerful Black Business Leaders of 2013, *Legacy Magazine* (Independent supplement to the *Miami Herald*) (2013)

Distinguished Alumni Award, Peoria High School (2010)

Making an Impact Award, The George Washington University Black Alumni Association (2008)

Outstanding Public Service Award, The National Black Justice Coalition (2008)

Mentor of the Year Award, St. Thomas University Black Law Students Association (2007)

"South Florida's Most Influential Black Professionals Under 40," *Success South Florida Magazine* (2006)

Dedicated Service Award, Big Brothers/Big Sisters of Greater Miami (1999)

Various plaques, certificates, and other forms of recognition from several schools and civic and charitable organizations in appreciation for mentoring, speaking, and other volunteer efforts

Academic:

Howard University Board of Trustees (elected student member, 1989 – 1990)

Howard University's Patricia Roberts Harris Public Affairs Program Fellow (1989 – 1990)

Howard University academic scholarship (1986 – 1990)

Howard University Speech Team (1989 Regional champion and national quarter-finalist)

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.

11th Judicial Circuit Professionalism Committee
Co-Chairman (2012 – present)
American Bar Association
Cuban American Bar Association
Dade County Bar Association
Miami Beach Bar Association
National Bar Association Judicial Council
National Black Prosecutors Association
Florida State Representative (2004)
Florida Bar President's Pro Bono Service Awards
Nominating Committee (2014)
Spellman-Hoeveler American Inn of Court
Board of Directors (2006 – present)
Wilkie D. Ferguson, Jr. Bar Association

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Florida, 1993

There has been no lapse in membership.

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

Florida state courts

There has been no lapse 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.

100 Black Men of South Florida (2006 – present)

5000 Role Models of Excellence Project (2005 – present)

BAME Development Corporation of South Florida, Inc. (2002 – 2004)

Board of Directors

Big Brothers/Big Sisters of Greater Miami (1994 – 2009)
 City of Hialeah, Florida, Canvassing Board (November 3, 2009)
 George Washington University Law Alumni Association (1993 – present)
 Board of Directors (2008 – 2011)
 Greater Bethel African Methodist Episcopal Church (1994 – present)
 Trustee (2001 – 2011)
 Howard University Alumni Association of South Florida (1993 – present)
 President (1997 – 2000)
 Acting president (2000 – 2004)
 Kappa Alpha Psi Fraternity, Inc. (2002 – present)
 Miami-Dade Gay & Lesbian Chamber of Commerce (2006 – 2012)
 Peter London Global Dance Theater (2010 – 2012)
 Board of Directors Chairman
 Spellman-Hoeveler American Inn of Court (2005 – present)
 Board of Directors (2006 – present)
 Success for Kids, Inc. – South Florida (2010 – 2011)
 Advisory Board

- 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.

100 Black Men of South Florida and Kappa Alpha Psi Fraternity have no female members, although female members are not specifically prohibited. 100 Black Men of South Florida has an affiliated organization (National Coalition of 100 Black Women), which is also dedicated to community service and enhancing educational and economic opportunities for African Americans. To the best of my knowledge, none of the other 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.

None.

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

None.

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

Black Gay Men's Call to Action (2003). 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.

The list that follows represents my best efforts, through searches of my records, calendars, and Internet databases, to identify speeches and remarks that I have given. There may be, however, other speeches or remarks that I have been unable to recall or identify.

November 13, 2013: I was a panelist for the Partnership for Professionalism program at the University of Miami in Coral Gables, Florida. To facilitate the discussion, the Associate Dean of the University of Miami's Law School provided the panelists and attendees with vignettes concerning a variety of ethical issues. I have no notes, transcript, or recording. The event was co-sponsored by the University of Miami Law School, 1311 Miller Drive, Coral Gables, Florida 33146, and the Spellman-Hoeveler American Inn of Court, which does not have a physical address.

June 11, 2013: I gave brief remarks prior to administering the oath of office to North Miami Councilwoman Carol F. Keys in North Miami, Florida. I have no notes, transcript, or recording. The event was sponsored by the City of North Miami, 776 N.E. 125th Street, North Miami, Florida 33161.

June 7, 2013: I gave brief remarks prior to administering the oath of office to student government officers of Miami Dade College - North Campus, in Miami, Florida. At the invitation of the campus president, I have given brief remarks and administered the oath of office to student government officers for several years. I have no notes, transcript, or recording. The annual event is sponsored by Miami Dade College – North Campus, 11380 N.W. 27th Avenue, Miami, Florida 33167.

February 25, 2013: I gave brief remarks to commend Teen Court participants at the Black Police Precinct and Courthouse Museum in Miami, Florida. I have no notes, transcript, or recording. Teen Court is sponsored by the Miami-Dade Economic Advocacy Trust, 111 N.W. First Street, Suite 2032, Miami, Florida 33128.

February 8, 2013: I was a panelist for the topic, “Criminal Law with the Legends,” for the 2013 Dade County Bar Association’s Bench and Bar Conference in Coral Gables, Florida. I spoke about ethics and the work of the Eleventh Judicial Circuit’s Committee on Professionalism. I have no notes, transcript, or recording. The event sponsor was the Dade County Bar Association, 123 N.W. First Avenue, Suite 214, Miami, Florida 33128.

February 7, 2013: I was a panelist for the Fifth Annual Black Judicial Forum in Coral Gables, Florida. The panel of judges discussed best practices for effective written and oral advocacy in Florida’s state and federal courts. I have no notes, transcript, or recording. The forum was sponsored by the Wilkie D. Ferguson, Jr. Bar Association, P.O. Box 15487, Miami, Florida 33101.

November 7, 2012: I was the featured speaker for a small “Meet the Judge” luncheon in Miami, Florida. During the luncheon, I answered questions and advised lawyers on how to effectively practice law before judges. I have no notes, transcript, or recording. The luncheon was sponsored by the Florida Association of Women Lawyers – Miami-Dade Chapter, which does not have a physical address.

March 9, 2012: I was a panelist for the topic, “Criminal Law: Prosecutorial Misconduct,” for the 2012 Dade County Bar Association’s Bench and Bar Conference in Miami, Florida. Notes supplied.

March 9, 2012: I was a panelist for the topic, “Nuts and Bolts of Criminal Defense for Young/New Lawyers,” for the 2012 Dade County Bar Association’s Bench and Bar Conference in Miami, Florida. The panel provided practical and legal advice for new criminal defense attorneys. I have no notes, transcript, or recording. The event sponsor was the Dade County Bar Association, 123 N.W. First Avenue, Suite 214, Miami, Florida 33128.

November 30, 2011: I gave brief remarks at a fundraiser in Miami, Florida, to support my retention as a Circuit Court Judge. During my remarks, I thanked

the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

November 17, 2011: I gave brief remarks at a fundraiser in Miami, Florida, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

November 10, 2011: I gave brief remarks at a fundraiser in Miami, Florida, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

November 5, 2011: I gave brief remarks at a fundraiser in Boston, Massachusetts, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

November 2, 2011: I gave brief remarks at a fundraiser in Miami, Florida, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

October 25, 2011: I gave brief remarks at a fundraiser in Coral Gables, Florida, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

October 22, 2011: I gave brief remarks at a fundraiser in Atlanta, Georgia, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

October 20, 2011: I was a panelist for the Fourth Annual Black Judicial Forum in Miami, Florida. The panel of judges discusses best practices for effective written and oral advocacy in Florida's state and federal courts. I have no notes, transcript, or recording. The forum was sponsored by the Wilkie D. Ferguson, Jr. Bar Association, P.O. Box 15487, Miami, Florida 33101.

September 17, 2011: I gave brief remarks at a fundraiser in New York, New York, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

September 11, 2011: I gave brief remarks at a fundraiser in Washington, D.C., to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

September 10, 2011: I gave brief remarks at a fundraiser in Silver Spring, Maryland, to support my retention as a Circuit Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Campaign to Retain Judge Darrin Gayles, which does not have a physical address.

September 9, 2011: I was a panelist for the topic, "A View from the Bench - Criminal Law," for the *Daily Business Review's* 2011 Litigation Best Practices Forum in Miami, Florida. The panel of judges provided advice on how to properly litigate and otherwise handle matters before judges in our circuit's criminal division. I have no notes, transcript, or recording. The event sponsor was the *Daily Business Review*, One S.E. Third Avenue, Suite 900, Miami, Florida 33131.

July 29, 2011: I gave a speech I informally titled, "The Declining Esteem of the Courts," for the Miami Beach Chamber of Commerce Pillar Breakfast in Miami Beach, Florida. Recording available at <http://youtu.be/gWiE8orKvgI>.

April 19, 2011: I administered the oath of office to the Miami Shores Village Council in Miami Shores, Florida. I have no notes, transcript, or recording. The event was sponsored by the Miami Shores Village, 10050 N.E. Second Avenue, Miami Shores, Florida 33138.

April 8, 2011: I gave remarks at the conclusion of my formal investiture as a Circuit Court Judge. Notes supplied.

March 2, 2011: I participated in a panel discussion on how to succeed in Florida's judicial appointment process. I answered questions and spoke about my own experience in being appointed by two of Florida's former governors. I have no notes, transcript, or recording, but press coverage is supplied. The event was co-sponsored by the Dade County Bar Association, 123 N.W. First Avenue, Suite 214, Miami, Florida 33128.

November 3, 2010: I was a speaker at the “Rise Above Violence Forum” in Miami, Florida. At the forum, I was one of several community leaders who spoke to high school students about how to succeed in school and how to avoid gang and other youth violence. I have no notes, transcript, or recording. I have provided press coverage about the event, although it mistakenly attributes statements made by another judge regarding graduation statistics to me. The Forum was sponsored by Miami-Dade County Commissioner Audrey Edmonson, 111 N.W. First Street, Suite 220, Miami, Florida 33128.

October 19, 2010: I gave a speech, “*Padilla v. Kentucky*, A Criminal Defense Lawyer’s Duty to Advise about Immigration and Other Consequences” for the Miami Beach Bar Association’s General Membership Meeting and CLE Luncheon in Miami Beach, Florida. Notes supplied.

August 25, 2010: I participated in the American Bar Association Criminal Justice Section’s symposium, “*Padilla* and Beyond,” in Washington, D.C. Pursuant to the symposium, I co-created, and was featured in, a video-recorded resource DVD for judges related to the United States Supreme Court’s decision in *Padilla v. Kentucky*, 559 U.S. 356 (2010). Recording available at http://www.youtube.com/watch?v=S1mlqzpqdT4&feature=player_embedded.

July 7, 2010: I gave a lecture titled, “The ABC’s of PVH’s (Probation Issues),” to fellow judges at the Conference of County Court Judges’ 2010 Summer Education Program in Orlando, Florida. PowerPoint supplied.

February 10, 2010: I gave a speech, “Florida Landlord/Tenant Law,” for the North Dade Real Estate Lawyers Association in Sunny Isles Beach, Florida. I also answered questions about Florida law related to commercial and residential landlord and tenant relationships. Outline supplied.

October 24, 2009: I was a panelist for the topic, “Driving Your Own Success: Bar Preparation, Selecting a Career Path, Increasing Your Marketability, and Making the Most of a Clerkship,” for students attending the Thurgood Marshall Leadership Institute in New York, New York. Notes supplied.

October 20, 2009: I gave a speech, “Florida Landlord/Tenant Law,” along with another judge for the Miami Beach Bar Association’s General Membership Meeting and CLE Luncheon in Miami Beach, Florida. We also answered questions about Florida law related to commercial and residential landlord and tenant relationships. I used the same outline as the one previously supplied for the February 10, 2010 event.

July 30, 2009: I was a panelist for the topic, “How to Effectively Represent Child Victims in Criminal Cases,” at the American Bar Association’s 2009 Annual Meeting in Chicago, Illinois. I discussed legal and practical considerations in protecting and otherwise handling child witnesses. I have no notes, transcript, or

recording of the discussion. The event was sponsored by the Child Victims Committee of the American Bar Association's Criminal Justice Section, 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

June 26, 2009: I was a speaker for the New Generation Leadership & Workforce Institute in Miami Beach, Florida. I spoke to the student participants about how I became a judge, the importance of setting goals, and how to succeed in school. I have no notes, transcript, or recording. The event was co-sponsored by the South Florida Workforce Investment Board, 7300 Corporate Center Drive, Suite 500, Miami, Florida 33126.

June 5, 2009: I gave brief remarks prior to administering the oath of office to student government officers of Miami Dade College - North Campus, in Miami, Florida. I have no notes, transcript, or recording. The event was sponsored by Miami Dade College – North Campus, 11380 N.W. 27th Avenue, Miami, Florida 33167.

April 21, 2009: I administered the oath of office to the Miami Shores Village Council in Miami Shores, Florida. I did not retain a copy of the oath. The event was sponsored by the Miami Shores Village, 10050 N.E. Second Avenue, Miami Shores, Florida 33138.

February 18, 2009: I participated in a panel discussion for young lawyers at Legal Services of Greater Miami in Miami, Florida. The panel consisted of judges who shared our observations and preferences concerning courtroom practice, conduct, and ethics. I have no notes, transcript, or recording. The event was sponsored by Legal Services of Greater Miami, 3000 Biscayne Boulevard, Suite 500, Miami, Florida 33137.

September 27, 2008: I gave brief remarks after receiving the “Making an Impact Award” from The George Washington University Black Alumni Association in Washington, D.C. I have no notes, transcript, or recording. The event was sponsored by The George Washington University Black Alumni Association, 1918 F Street, N.W., Washington, D.C. 20052.

June 27, 2008: I gave brief remarks prior to administering the oath of office to student government officers of Miami Dade College - North Campus, in Miami, Florida. At the invitation of the campus president, I have given brief remarks and administered the oath of office to student government officers for several years. I have no notes, transcript, or recording. The annual event is sponsored by Miami Dade College – North Campus, 11380 N.W. 27th Avenue, Miami, Florida 33167.

February 27, 2008: I gave a speech for the Arthur Ashe Middle School's Black History Month Celebration in Fort Lauderdale, Florida. Outline supplied.

February 9, 2008: At the invitation of U.S. Congresswoman Frederica Wilson, I gave brief remarks about setting educational and other life goals at a National Black HIV/AIDS Awareness Day program at Hialeah-Miami Lakes Senior High School in Hialeah, Florida. I was one of several speakers who addressed the audience of approximately 500 Miami-Dade County high school students. I have no notes, transcript, or recording, but press coverage is supplied. The event was sponsored by the 5000 Role Models of Excellence Project, 1450 N.E. Second Avenue, Room 227, Miami, Florida 33132.

June 7, 2007: I gave brief remarks prior to administering the oath of office to student government officers of Miami Dade College – North Campus, in Miami, Florida. I have no notes, transcript, or recording, but press coverage is supplied. The event was sponsored by Miami Dade College – North Campus, 11380 N.W. 27th Avenue, Miami, Florida 33167.

February 17, 2007: I participated in a panel discussion on how to succeed at a Teen Summit in Miami, Florida. The panel members also answered questions from the participating students. I have no notes, transcript, or recording. The Teen Summit was sponsored by the Greater Miami Chapter of the National Coalition of 100 Black Women, Inc., P.O. Box 174027, Miami, Florida 33017.

June 9, 2006: I gave brief remarks prior to administering the oath of office to student government officers of Miami Dade College – North Campus, in Miami, Florida. I have no notes, transcript, or recording. The event was sponsored by Miami Dade College – North Campus, 11380 N.W. 27th Avenue, Miami, Florida 33167.

April 8, 2006: I gave a speech for the University of Miami's Black Law Students Association banquet in Miami, Florida, based on their theme, "Celebrating the Past, Present, and Future." Notes supplied.

November 15, 2005: I gave a speech, "A Florida DUI Law Update," along with another judge for the Miami Beach Bar Association's General Membership Meeting and CLE Luncheon in Miami Beach, Florida. We also answered questions about Florida DUI law. Outline supplied.

November 12, 2005: I gave brief remarks at a fundraiser in Brooklyn, New York, to support my retention as a County Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Committee to Retain Judge Darrin Gayles, which does not have a physical address.

October 22, 2005: I gave brief remarks at a fundraiser in Washington, D.C., to support my retention as a County Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no

notes, transcript, or recording. The event was hosted by members of the Committee to Retain Judge Darrin Gayles, which does not have a physical address.

September 30, 2005: I gave brief remarks about domestic violence at the annual Brides Walk, which was created to raise awareness about domestic violence. In my remarks, I spoke about my experience handling domestic violence cases as a prosecutor and judge, and introduced the founder of the Brides Walk. I have no notes, transcript, or recording. The event was sponsored by the Miami-Dade State Attorney's Office, 1350 N.W. 12th Avenue, Miami, Florida 33136.

September 17, 2005: I gave brief remarks at a fundraiser in Key Biscayne, Florida, to support my retention as a County Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Committee to Retain Judge Darrin Gayles, which does not have a physical address.

July 29, 2005: I gave brief remarks at a fundraiser in Miami, Florida, to support my retention as a County Court Judge. During my remarks, I thanked the hosts and talked briefly about my educational and work experience. I have no notes, transcript, or recording. The event was hosted by members of the Committee to Retain Judge Darrin Gayles, which does not have a physical address.

May 5, 2005: I presided over a mock trial for students of the Teen Police Academy at the Richard E. Gerstein Justice Building in Miami, Florida. At the conclusion of the mock trial, I made brief remarks to the student participants, including a discussion about standard trial procedures. I have no notes, transcript, or recording. The mock trial was sponsored by the Metro-Miami Action Plan, and co-sponsored by several Miami-Dade County public officials, including Miami-Dade County Commissioner Dennis Moss, 111 N.W. First Street, Suite 320, Miami, Florida 33128.

August 10, 2004: I gave the keynote address, "Citizenship: The American Dream in Action," for a naturalization ceremony for 3,000 new U.S. citizens at the Miami Beach Convention Center in Miami Beach, Florida. Notes supplied.

July 9, 2004: I gave remarks at the conclusion of my formal investiture as a County Court Judge. Notes supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Carlos Harrison, *Reno Appointment Sold Gayles on Law Job*, Daily Business Review, February 25, 2013. Copy supplied.

Jose Pagliery, *Crist Picks Miami-Dade Circuit, Palm Beach County Judges*, Miami Herald, December 28, 2010. Copy supplied.

Carli Teproff, *Miami Beach Courthouse Back in Business at Historic City Hall*, The Miami Herald, August 4, 2009. Copy supplied.

Sandra J. Charite, *Are Black Judges Absent from the Bench*, Miami Times, December 3, 2008. The article contains several misstatements, inaccuracies, and grammatical errors, including the law school I attended. I made an immediate written request for corrections to the reporter. The reporter did not respond to my request or make the requested corrections. Copy supplied.

Susan Anasagasti, *Miami Beach: Repairs Force Tenants Out of Old City Hall*, The Miami Herald, May 21, 2006. Copy supplied.

Rose Reeder, *Judge Darrin Gayles to be sworn in July 9*, Westside Gazette, June 2004. I gave an interview to the Westside Gazette regarding my background and how I came to be appointed as a judge of the County Court. The Westside Gazette is a small, community newspaper. I have been unable to obtain a copy.

Patrick May, *Hot Cars, Cold Truth Few Are Ever Punished*. The Miami Herald, July 2, 1995. 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 April 2004, I was appointed to the County Court of the Eleventh Judicial Circuit of Florida by former Florida Governor Jeb Bush. In May 2006, I was subsequently retained without opposition for a full six-year term. I served in the Civil and Criminal Divisions of the County Court. The County Court has original jurisdiction in all misdemeanor cases not cognizable by the Circuit Courts, all violations of municipal and county ordinances, certain homeowners' association disputes, and civil actions in which the matter in controversy does not exceed \$15,000. The County Court has exclusive jurisdiction of proceedings related to eviction and the right of possession of real property. The County Court may also hear matters involving uncontested divorces.

Former Florida Governor Charlie Crist appointed me to the Circuit Court of the Eleventh Judicial Circuit in December 2010. In May 2012, I was retained on the Circuit Court without opposition for a full six-year term. Since my appointment, I have served in the Civil and Criminal Divisions of the Circuit Court. The Circuit Court has jurisdiction over most appeals from the County Courts and appeals from final administrative orders of local government hearing officers and code enforcement boards. The Circuit Court has

exclusive original jurisdiction in all actions not cognizable by the County Courts and in probate and estate matters, all cases in equity, all cases related to juveniles (except traffic offenses), all felonies (and of misdemeanors arising out of the same circumstances as charged felonies), ejectment actions, actions involving the title and boundaries of real property, and issues involving the legality of tax assessments and tolls.

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

I have presided over approximately 600 cases that have gone to verdict or judgment.

- i. Of these, approximately what percent were:

jury trials:	17%
bench trials:	83%
civil proceedings:	50%
criminal proceedings:	50%

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

Moreno v. United Automobile Insurance Co., App. Case No. 12-285-AP (Fla. 11th Cir. Ct. December 20, 2013) (unpublished opinion).

Banks v. New Life Shoe Repair, Inc., App. Case No. 12-321-AP (Fla. 11th Cir. Ct. October 18, 2013) (unpublished opinion).

Campbell v. State of Florida, 20 Fla. L. Weekly Supp. 766a (Fla. 11th Cir. Ct. June 10, 2013).

United Automobile Insurance Co. v. Lauderdale Physicians Association, 20 Fla. L. Weekly Supp. 115b (Fla. 11th Cir. Ct. November 6, 2012).

United Automobile Insurance Co. v. Glenn V. Quintana, D.C., P.A., a/a/o Maria Quesada, 19 Fla. L. Weekly Supp. 766a (Fla. 11th Cir. Ct. June 4, 2012).

Moors Master Maintenance Association, Inc. v. Gain, 19 Fla. L. Weekly Supp. 424b (Fla. 11th Cir. Ct. February 14, 2012).

Calderon v. Galloway, 19 Fla. L. Weekly Supp. 246a (Fla. 11th Cir. Ct. December 22, 2011).

United Automobile Insurance Co. v. Hallandale Beach Orthopedics, Inc., a/a/o Bianca Gonzalez, 19 Fla. L. Weekly Supp. 237a (Fla. 11th Cir. Ct. December 22, 2011).

Coconut Grove Playhouse, LLC v. The City of Miami, Florida, 18 Fla. L. Weekly Supp. 1116a (Fla. 11th Cir. Ct. September 16, 2011).

United Automobile Insurance Co. v. Advance Health Services, III, Inc., Case No. 09-383-AP (Fla. 11th Cir. Ct. June 15, 2011) (unpublished opinion).

In addition to the appellate cases set forth above, I have issued hundreds of unpublished orders on substantive civil and criminal matters in the Circuit and County Courts of the Eleventh Judicial Circuit of Florida. Those trial orders are too voluminous to list, but they are on file with the Clerk of Courts for Miami-Dade County, Florida. The Clerk maintains all trial court orders and Circuit Court appellate opinions on its computer mainframe. However, a searching party must know the case number or style of the case to locate such a file. A search cannot be done based solely on a judge's name.

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

1. *Dolcin v. Royal Caribbean Cruises, LTD*, Case No. 10-45257-CA-22.

Plaintiff Dolcin, a native and citizen of Haiti, was employed by the defendant on one of its cruise ships. Dolcin sustained a back injury while performing cleaning duties on the ship. Rather than arranging treatment for Dolcin in Miami, Florida, while the ship was docked there, the defendant sent Dolcin for treatment in the Dominican Republic. The neurosurgeon hired to treat Dolcin performed what he believed to be emergency surgery, which left Dolcin permanently injured. Dolcin sued the defendant for Jones Act negligence, alleging that the defendant failed to provide a safe workplace, that the defendant failed to warn him of the job dangers, and that the medical care was not proper or necessary. Following a ten-day jury trial, the jury found the defendant negligent and awarded Dolcin \$6.3 million.

Trial dates: December 9, 2013, through December 20, 2013.

Plaintiff's Counsel:

Brett Rivkind, Esq.
Bruce M. Margulies, Esq.
66 West Flagler Street, Suite 600
Miami, Florida 33130
(305) 374-0565

Defense Counsel:

David Horr, Esq.
Eduardo J. Hernandez, Esq.
9130 South Dadeland Boulevard, Suite 1700

Miami, Florida 33156
(305) 670-2525

2. *Mi-York, Inc. v. MK Contractors, LLC, et al.*, Case No. 06-24935-CA-22.

The plaintiff, Mi-York, is a shell contractor that handles large-scale commercial and residential construction projects. Mi-York entered into a construction contract with defendant MK Contractors, a general contractor, to perform shell construction work on a joint use project for \$2,950,000. The project was delayed substantially due to unforeseen issues unrelated to Mi-York and substantial changes to the scope of work. Despite the build issues unrelated to Mi-York, MK Contractors blamed Mi-York for failing to advance their work pursuant to the contract. The parties asserted competing claims for breach of contract. The parties introduced 318 exhibits and presented 28 days of testimony over the 30-day bench trial. Prior to trial, the parties advised the court that the trial would last for two weeks. After the third consecutive week of trial, the balance of the trial was completed intermittently when time permitted. At the conclusion of the trial, I entered a final judgment in favor of the plaintiff.

Trial dates: January 23, 2013, through August 28, 2013 (30-day non-jury trial).

Plaintiff's Counsel:	John H. Gregory, Esq. Welbaum, Guernsey, Hingston, et al. 901 Ponce de Leon Boulevard, Suite PH Coral Gables, Florida 33134 (305) 441-8900
----------------------	--

Defense Counsel:	Michael P. Peterson, Esq. Jose I. Baldor, Esq. Peterson & Espino, P.A. 10631 North Kendall Drive, Suite 220 Miami, Florida 33176 (305) 270-3773
------------------	--

3. *Vasquez v. Sarmiento, et al.*, Case No. 11-35080-CA-22, *rev'd*, 112 So. 3d 682 (Fla. 3d DCA 2013), 38 Fla. L. Weekly D855 (Fla. 3d DCA 2013). Decision supplied.

Plaintiff Vasquez, a native and citizen of Venezuela, brought this action against the defendants which asserted that defendants Sarmiento and Wahnnon defrauded a Venezuelan corporation for which the plaintiff was a shareholder while those defendants resided in Venezuela. The plaintiff also asserted that defendant Ramos, the appointed intervenor/liquidator for the Venezuelan corporation, attempted to extort the plaintiff. Defendants Sarmiento and Wahnnon filed motions to dismiss the action based on *forum non-conveniens*, arguing that the United States was not an appropriate forum for the lawsuit. The judge previously

assigned to the case denied their motions to dismiss. Florida's Third District Court of Appeal reversed that order, finding that the previous judge had not articulated the findings required pursuant to Florida law, and remanded the case for further proceedings. On remand, the case was assigned to me, and I conducted an evidentiary hearing. Based on my findings, I concluded that Venezuela is an adequate forum for the lawsuit and granted the motions to dismiss.

Hearing Date: August 8, 2013.

Plaintiff's Counsel:	Daniel Forman, Esq. Adele Bagley, Esq. Forman Law Group 1401 Brickell Avenue, Suite 910 Miami, Florida 33131 (305) 577-8888
Defense Counsel: (Defendant Sarmiento)	Robert J. Becerra, Esq. Devine, Goodman, Rasco & Wells, P.A. 777 Brickell Avenue, Suite 850 Miami, Florida 33131 (305) 374-8200
Defense Counsel: (Defendant Wahnnon)	Tom Manos, Esq. Manos, Alwine, P.L. 1001 Brickell Bay Drive, Suite 1200 Miami, Florida 33131 (305) 341-3100

4. *Spiegel v. Dargenson*, Case No. 13-13466-CA-22.

Plaintiff Spiegel, a North Miami Beach City Council Member, filed a civil complaint for declaratory and injunctive relief against defendant Dargenson, one of Spiegel's opponents in her City Council re-election campaign. In her complaint, Spiegel alleged that Dargenson was not a "bona fide resident" of North Miami Beach, as that term is defined in the city's code. Following an initial hearing on May 3, 2013, I denied without prejudice Spiegel's motion for injunctive relief and to remove Dargenson from the upcoming ballot. I denied the motion without prejudice because there was still outstanding discovery. Spiegel renewed her motion prior to the run-off election between the parties. Following a subsequent evidentiary hearing with additional evidence, I believed that Dargenson was not a bona fide resident of North Miami Beach, but I did not make specific findings given the imminent run-off election. Rather, I enjoined the city's canvassing board and the county's elections department from certifying the results until further order of the court. I also retained the ability to disqualify Dargenson based on my findings from the evidentiary hearings. After Spiegel

defeated Dargenson in the run-off election, I vacated that order and permitted the city and county to certify the election.

Hearing dates: May 3, 15, 21 – 22, 2013.

Plaintiff's Counsel: Joseph S. Geller, Esq.
Greenspoon Marder, P.A.
100 West Cypress Creek Road, Suite 700
Fort Lauderdale, Florida 33309
(954) 491-1120

Defense Counsel: Frank Wolland, Esq.
12865 West Dixie Highway
North Miami, Florida 33161
(305) 899-8588

5. *Nieto v. Banco Pastor, S.A., et al.*, Case No. 10-18501-CA-22.

The plaintiff, Nieto, had been employed as a junior loan officer for the defendant Banco Pastor, Spain's fifth largest bank. In his lawsuit against the bank and two corporate officers, Nieto alleged that during the course of his employment with Banco Pastor, he was subjected to extreme and outrageous discrimination and harassment based on his national origin. Nieto alleged that the harassment became more severe after he complained to the branch's human resources manager. At trial, Nieto's attorneys requested \$579,000 in compensatory damages, as well as punitive damages (which were previously permitted by another judge), under Florida civil rights and whistle-blower laws. The jury returned a verdict in favor of the defendant following a 12-day trial.

Trial dates: November 19, 2012, through December 7, 2012.

Plaintiff's Counsel: Pelayo M. Duran, Esq.
4640 N.W. Seventh Street
Miami, Florida 33126
(305) 266-9780

Roderick V. Hannah, Esq.
4120 Davie Road Extension, Suite 303
Hollywood, Florida 33024
(954) 362-3800

Defense Counsel: Judson L. Cohen, Esq.
Weinstein & Cohen, P.A.
14125 N.W. 80th Avenue, Suite 400
Miami Lakes, Florida 33016
(305) 374-1011

Harry N. Turk, Esq.
One S.E. Third Avenue, Suite 2900
Miami, Florida 33131
(305) 350-2223

6. *Baez, Trustee, v. Sea Breeze Ocean Developers, et al.*, Case No. 08-27002-CA-22.

The plaintiff executed a purchase and sale agreement with defendant Sea Breeze for two pre-construction, multi-million dollar condominiums which the plaintiff intended to convert into one penthouse-style unit. Although the closing documents clearly referenced the purchase of two units, the plaintiff believed that he was purchasing a single unit. The number of units purchased was significant because of the tax implications, the allocation of fees paid by all unit owners, and the voting structure for that building's condominium association and the master association for the whole development. Plaintiff sued the defendants for declaratory relief, unjust enrichment, conversion, and other fraud-based counts. A predecessor judge initially held that the plaintiff purchased one unit. However, that judge did not address the resulting problems incurred by the other unit owners and the condominium associations. Following a four-day non-jury trial, I entered a judgment in favor of the defendants, finding that the plaintiff purchased two units for all purposes except for tax purposes.

Trial dates: October 9, 2012, through October 12, 2012.

Plaintiff's Counsel:

Robin Corwin Campbell, Esq.
Kaplan Zeena, LLP
Two South Biscayne Boulevard, Suite 3050
Miami, Florida 33131
(305) 530-0800

Jan Douglas Atlas, Esq.
Kopelowitz, Ostrow, Ferguson, et al.
200 S.W. First Avenue, Suite 1200
Fort Lauderdale, Florida 33301
(954) 525-4100

Defense Counsel:

Eduardo Rasco, Esq.
Steve M. Bimston, Esq.
Rosenthal, Rasco, Kaplan, LLC
20900 N.E. 30th Avenue, Suite 600
Aventura, Florida 33180
(305) 937-0300

7. *Hernandez, et al., v. Gasso, et al.*, Case No. 02-29168-CA-22.

The plaintiffs, Mr. Hernandez and the estate of his deceased wife, filed a negligence and wrongful death action against two of the medical doctors who cared for Mrs. Hernandez up to her death. Specifically, the plaintiffs alleged that the defendants, a cardiologist and a pulmonologist, breached their duty of care by failing to intubate Mrs. Hernandez, causing her death. Several expert witnesses testified regarding the treatment rendered by the defendants and the cause of Mrs. Hernandez's death. This case involved a multitude of complex legal issues litigated, including expert testimony on causation and the defendants' ability to apportion fault to non-party defendants. Following a 12-day trial, the jury returned a verdict in favor of the defendants.

Trial dates: September 18, 2012, through October 3, 2012.

Plaintiffs' Counsel: Thomas P. Murphy, Esq.
555 N.E. 34th Street, Suite 603
Miami, Florida 33137
(305) 978-5817

Ibis J. Hillencamp, Esq.
P.O. Box 162700
Miami, Florida 33116
(305) 446-2211

Defense Counsel: Robert J. Cousins, Esq.
(Defendant Gasso) Scott C. Sanky, Esq.
Quintairos, Prieto, Wood & Boyer, P.A.
One East Broward Boulevard, Suite 1200
Fort Lauderdale, Florida 33301
(954) 523-7008

Defense Counsel: Peter R. Restani, Esq.
(Defendant Mangus) Restani Dittmar & Hauser P A
201 Alhambra Circle, Suite 1050
Coral Gables, Florida 33134
(305) 445-4090

8. *State of Florida v. Jackson*, Case No. F08-29786.

The defendant was arrested and charged by the State with second degree murder and attempted second degree murder based on a shooting at a Miami night club. The defendant denied being involved in the shooting. At trial, the State's witnesses gave varying accounts of what they observed regarding the shooting. During a break in the testimony, I was informed that a spectator in the gallery of the courtroom had taken pictures of the testifying witnesses and identified at least

one of them as a “snitch” online, including Facebook. With the agreement of counsel for the State and defense, I barred all spectators, other than immediate family, from the courtroom. The jury subsequently acquitted the defendant of both charges.

Trial dates: September 26, 2011, through October 3, 2011.

Assistant State Attorneys: Lisa Jacobs, Esq.
Ifikhar Memon, Esq.
State Attorney’s Office
1350 N.W. 12th Street
Miami, Florida 33136
(305) 547-0100

Defense Counsel: Richard Della Fera, Esq.
Entin & Della Fera, P.A.
110 S.E. Sixth Street, Suite 1970
Fort Lauderdale, Florida 33301
(954) 761-7201

9. *State of Florida v. Whitelock*, Case No. F09-29351.

The defendant fatally strangled his stepfather, a well-known South Florida festival organizer, after an argument in their home. Other than the defendant, the only witness to what had occurred was the defendant’s mother, the decedent’s widow. The defendant was arrested and the State subsequently charged him with second degree murder. To prove its case, the State relied, in great part, on the testimony of the medical examiner to establish that the defendant’s chokehold was prolonged and intentional. The jury acquitted the defendant.

Trial dates: March 21, 2011, through March 23, 2011.

Assistant State Attorneys: Scott Dunn, Esq.
Ana de la Rosa, Esq.
State Attorney’s Office
1350 N.W. 12th Street
Miami, Florida 33136
(305) 547-0100

Defense Counsel: David Ranck, Esq.
4141 Nautilus Drive, Apartment 4D
Miami Beach, Florida 33140
(786) 712-4220

Arnold Trevilla, Esq.
8180 N.W. 36th Street, Suite 327

Doral, Florida 33166
(305) 500-9232

10. *State of Florida v. Tarver*, Case No. F07-1250, aff'd, 108 So. 3d 1103, 2013 WL 692909 (Fla.App. 3d Dist.).

In 2007, a South Florida business owner discovered that one of his checking accounts had been drained of approximately \$40,000 over several months. Checks for the account were used to obtain cash, pay utility bills and purchase a variety of items. Although the checks were unauthorized by the victim, his bank refused to refund a majority of the funds because the victim had not been diligent in reviewing his account. The defendant, then approximately 15-years-old, was subsequently arrested for the theft. In a post-arrest statement, the defendant took responsibility for all the purchases. The lead detective retired soon after the defendant's arrest and the investigation terminated. The State charged the defendant as an adult with a single count of grand theft in the second degree, punishable by up to 15 years' state prison. By the time the trial commenced, the defendant was 19-years-old and was in the late stages of a terminal illness, which later created a number of legal and practical issues for sentencing. After a three-day jury trial, the jury found the defendant guilty of the lesser included offense of grand theft in the third degree. I sentenced the defendant to house arrest to be followed by several years of probation, with the special conditions that he serve several weekends in jail, pay restitution, and perform community service.

Trial Dates: January 15, 2011, through January 18, 2011.

Assistant State Attorneys:

Adam Goodman, Esq.
1200 Brickell Avenue, Suite 1440
Miami, Florida 33131
(305) 482-3265

Tim Whaley, Esq.
135 San Lorenzo Avenue, Suite 500
Coral Gables, Florida 33146
(305) 447-6500

Defense Counsel:

Sara Marken, Esq.
1450 N.E. Second Avenue, Suite 430
Miami, Florida 33132
(305) 995-1311

Stephen Kramer, Esq.
Assistant Public Defender
1320 N.W. 14th Street
Miami, Florida 33125
(305) 545-1600

- 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. *Vasquez v. Sarmiento, et al.*, Case No. 11-35080-CA-22, *rev'd*, 112 So. 3d 682 (Fla. 3d DCA 2013), 38 Fla. L. Weekly D855 (Fla. 3d DCA 2013). Decision supplied in response to Question 13c.

Plaintiff's Counsel: Daniel Forman, Esq.
Adele Bagley, Esq.
Forman Law Group
1401 Brickell Avenue, Suite 910
Miami, Florida 33131
(305) 577-8888

Defense Counsel: Robert J. Becerra, Esq.
(Defendant Sarmiento) Devine, Goodman, Rasco & Wells, P.A.
777 Brickell Avenue, Suite 850
Miami, Florida 33131
(305) 374-8200

Defense Counsel: Tom Manos, Esq.
(Defendant Wahnnon) Manos, Alwine, P.L.
1001 Brickell Bay Drive, Suite 1200
Miami, Florida 33131
(305) 341-3100

This order was written based on my detailed oral rulings following a hearing on the defendants' motions to dismiss. I substantially edited the proposed order after receiving a draft.

2. *Hernandez-Rey v. Jacobs, et al.*, Case No. 12-9159-CA-22. Decision supplied.

Plaintiff's Counsel: Melanie E. Damian, Esq.
Damian Valori
1000 Brickell Avenue, Suite 1020
Miami, Florida 33131
(305) 371-3960

Defense Counsel: Richard D. Tuschman, Esq.
(Defendant Hernandez-Rey) Akerman, LLP
One S.E. Third Avenue, 25th Floor

Miami, Florida 33131
(305) 982-5530

Defense Counsel:
(Defendant Akerman)

Susan Trench, Esq.
Arnstein & Lehr LLP
200 South Biscayne Boulevard, Suite 3600
Miami, Florida 33131
(305) 428-4500

This order was written based on my detailed oral rulings following a hearing on the plaintiff's motion for summary judgment. I substantially edited the proposed order after receiving a draft.

3. *State of Florida v. Castillo*, Case No. F10-849C. Decision supplied.

Assistant State Attorney:

Christopher A. Angell, Esq.
Office of the Miami-Dade County Attorney
111 N.W. First Street
Miami, Florida 33128
(305) 375-1024

Defense Counsel:

Michael H. Bloom, Esq.
2333 Brickell Avenue, Suite A1
Miami, Florida 33129
(305) 859-7373

4. *State of Florida v. Lageyre*, Case No. F10-30962. Decision supplied.

Assistant State Attorney:

Christina Rivera, Esq.
1350 N.W. 12th Street
Miami, Florida 33136
(305) 547-0100

Defense Counsel:

Emilio de la Cal, Esq.
6161 Blue Lagoon Drive, Suite 400
Miami, Florida 33126
(305) 267-4665

5. *State of Florida v. Joseph, et al.*, Case No. F08-44855A-D, *rev'd*, 79 So. 3d 49 (Fla. 3d DCA 2011). The appellate court reversed an order issued by the judge who preceded me in my court division. My decision, issued after remand, is supplied.

Assistant State Attorney:

Lisa Jacobs, Esq.
State Attorney's Office
1350 N.W. 12th Street

Miami, Florida 33136
(305) 547-0100

Defense Counsel:
(Defendant Joseph)

Lee Friedland, Esq.
Friedland & Bocksch
33 N.E. Second Street, Suite 101
Fort Lauderdale, Florida 33301
(954) 321-8810

Defense Counsel:
(Defendant Toussaint)

Scott Egelston, Esq.
12000 Biscayne Boulevard, Suite 220
Miami, Florida 33181
(305) 892-8088

6. *State of Florida v. Espinosa*, Case No. F10-6391. Decision supplied.

Assistant State Attorney:

Lisa Jacobs, Esq.
State Attorney's Office
1350 N.W. 12th Street
Miami, Florida 33136
(305) 547-0100

Defense Counsel:

Bijan S. Parwaresch, Esq.
407 Lincoln Road, Suite 12E
Miami Beach, Florida 33139
(305) 505-8858

7. *Calderon v. Galloway*, 19 Fla. L. Weekly Supp. 246a (Fla. 11th Cir. Ct. December 22, 2011). Decisions supplied.

Appellant Counsel:

Edward F. Holodak, Esq.
2500 Hollywood Boulevard, Suite 212
Hollywood, Florida 33020
(954) 927-3436

Appellee Counsel:

Andrean R. Eaton, Esq.
99 N.W. 183rd Street, Suite 120
Miami Gardens, Florida 33169
(954) 374-0707

8. *State of Florida v. Deas*, Case No. F09-4201. Decision supplied.

Assistant State Attorney:

Christine E. Zahralban, Esq.
1350 N.W. 12th Street
Miami, Florida 33136
(305) 547-0100

Defense Counsel: Sara Marken, Esq.
1450 N.E. Second Avenue, Suite 430
Miami, Florida 33132
(305) 995-1311

This order was written based on my detailed oral rulings following a hearing on the defendant's motion to dismiss. I substantially edited the proposed order after receiving a draft.

9. *William A. Hall, D.C. v. Mercury Ins. Co.*, 15 Fla. L. Weekly Supp. 93a (Fla. 11th Cir. Ct. Oct. 2, 2007). Decision supplied.

Plaintiff's Counsel: Stuart Yanofsky, Esq.
130 South University Drive, Suite A
Plantation, Florida 33324
(954) 473-0117

Jose Dapena, Esq.
4960 S.W. 72nd Avenue
Miami, Florida 33155
(305) 662-4323

Defense Counsel: William M. Gilmore, Esq.
Federal Building, Suite 800
310 New Bern Avenue
Raleigh, North Carolina 27601
(919) 856-4530

This order was written based on my detailed oral rulings following a hearing on the parties' cross motions for final summary judgment. I substantially edited the proposed order after receiving a draft.

10. *Millennium Diagnostic Imaging Center v. Allstate Property & Casualty Ins. Co.*, 14 Fla. L. Weekly Supp. 84a (Fla. 11th Cir. Ct. Oct. 12, 2006). Decision supplied.

Plaintiff's Counsel: Lewis Mertz, Esq.
6291 Bird Road
Miami, Florida 33155
(305) 821-4581

Defense Counsel: Scott E. Danner, Esq.
Kirwan, Spellacy & Danner, P.A.
200 South Andrews Avenue, Eighth Floor

Fort Lauderdale, Florida 33301
(954) 463-3008

This order was written based on my detailed oral rulings following a hearing on the defendant's motion for summary judgment. I substantially edited the proposed order after receiving a draft.

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

I am not aware of any cases in which certiorari was requested or granted based on an order I issued.

- 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.

State of Florida v. Harris, Case No. F97-28460B, *aff'd*, 109 So.3d 1165 (Fla. 3d DCA 2013), *rev'd in part*, -- So.3d -- 2014 WL 54789 (Fla. 3d DCA 2014).

Harris filed a post-conviction motion to correct the sentence imposed by the trial judge, who had passed away. For two of his seven counts, I found that Harris' sentence was illegal because the sentencing judge did not orally pronounce the sentence that was imposed in the written sentencing order. The State conceded error by the sentencing judge on another issue related to Harris' consecutive life sentences. I denied Harris' post-conviction motion on the remaining grounds. Florida's Third District Court of Appeal reversed my order granting a new sentencing hearing on the aforementioned counts. While the appellate court agreed that the oral pronouncement of sentence for those two counts was ambiguous, the appellate court concluded that the sentencing judge's intent was clearly discernible from the record.

Garcia v. State of Florida, F10-13607, *rev'd in part*, -- So.3d -- 2013 WL 6818385 (Fla. 3d DCA 2013). Following a three-day jury trial, Garcia was convicted of attempted voluntary manslaughter (Count I) and carrying a concealed firearm (Count II). On appeal, the State confessed error, conceding that there was insufficient evidence as a matter of law to support Garcia's conviction for carrying a concealed firearm. Accordingly, Florida's Third District Court of Appeal reversed Garcia's conviction as to that charge, and remanded the matter for entry of a judgment of acquittal for Count II.

State of Florida v. Palmer, Case No. F09-26658(A), *rev'd in part*, 124 So.3d 1043 (Fla. 3d DCA 2013). Following a three-day jury trial, Palmer was convicted of armed burglary with an assault or battery, three counts of armed robbery with a firearm, and possession of a firearm while engaged in a criminal offense. I subsequently sentenced the defendant to more than 20 years' state prison. On

appeal, Florida's Third District Court of Appeal affirmed Palmer's convictions for armed robbery, but reversed his convictions for burglary with an assault or battery and possession of a firearm while engaged in a criminal offense. While noting that the issue was not preserved by Palmer for review, the appellate court concluded that the burglary offense could not stand as a matter of law because the offense occurred at a barber shop which was then open for business. The appellate court also reversed Palmer's conviction for possession of a firearm while engaged in a criminal offense because it amounted to double jeopardy based on Palmer's convictions for armed robbery with a firearm.

State of Florida v. Leonard, Case No. 10-2671, *rev'd*, 103 So.3d 998 (Fla. 3d DCA 2012). Leonard was arrested after discarding a small amount of cocaine during a foot chase by officers. I granted Leonard's motion to suppress after finding that the officers lacked reasonable suspicion to initially detain Leonard. Florida's Third District Court of Appeal, however, concluded that the arrest was lawful because Leonard discarded the drugs before he was "seized" within the meaning of the Fourth Amendment.

Padron v. State of Florida, Case No. 08-12259, *rev'd*, 96 So.3d 1041 (Fla. 3d DCA 2012). After reviewing the court record, I summarily denied Padron's *pro se* motion seeking additional jail time credit and attached to the order the plea transcript and relevant parts of the record. Florida's Third District Court of Appeal reversed and remanded the matter to provide a clearer basis for my denial. I subsequently issued another order denying Padron's motion.

United Automobile Insurance Co. v. Millennium Diagnostic Imaging Center, Inc., Case No. 03-3435-CC-24, *rev'd*, 12 So.3d 242 (Fla. 3d DCA 2012). In granting the claimant's motion for summary judgment, I struck an insurance company's peer review report and prohibited any expert testimony based on that peer review in opposition of the motion for summary judgment. Relying on decisions from Florida's Third District Court of Appeal and Florida's 11th Judicial Circuit, I found that the peer review, prepared by a physician hired by the insurer one year after treatment was rendered and litigation commenced, was untimely submitted and could not be used to defeat the insured's claim. Subsequent to my order, a panel of the 11th Judicial Circuit issued an appellate opinion that reached a different conclusion regarding the timeliness of such peer reviews. I denied a subsequent motion for reconsideration, but certified to the Third District Court of Appeal two questions of great public importance regarding the conflict of law. The appellate court recognized the conflict, resolved the legal issues, and reversed the matter, finding that such peer reviews were valid and could be used to deny treatment.

Sanchez v. State Farm Mutual Automobile Insur. Co., 14 Fla. L. Weekly Supp. 395b (Fla. 11th Cir. Ct. January 26, 2007), *rev'd*, 15 Fla. L. Weekly Supp. 1153a (Fla. 11th Cir. October 23, 2008). Following a hearing, I granted State Farm's motion for final summary judgment, finding that the insured lacked standing to

file an action against his insurer for nonpayment of benefits because the insured failed to comply with the statutory requirement to furnish a pre-suit demand letter. An appellate panel of the 11th Judicial Circuit reversed my order, concluding that the demand letters previously submitted by the medical providers, prior to terminating the insured's assignment of benefits, were sufficient.

United Automobile Insurance Company v. Future Medical Center, Inc., Case No. 03-3028-CC-24, *rev'd*, 15 Fla. L. Weekly Supp. 563 (Fla. 11th Cir. April 3, 2008). In calculating the appropriate billing suspension date in an insurance case, I determined that where an insurer has chosen to schedule a second independent medical examination after the insured missed the first unilaterally scheduled independent medical examination, the first date cannot be used as the billing suspension date because the insurance company elected to provide the insured with a second date. On appeal, an appellate panel of the 11th Judicial Circuit reversed my decision, relying on a new opinion of Florida's Third District Court of Appeal, for which I did not have the benefit of considering.

United Automobile Insurance Company v. Open MRI of Miami Dade, LTD., Case No. 05-2705-SP-24, *rev'd*, 15 Fla. L. Weekly Supp. 433b (Fla. 11th Cir. March 17, 2008). I granted the appellee's motion for summary judgment based on my finding that the insurer's peer review was time barred and because the insurer refused to pay for treatment incurred before it notified the insured of its termination of benefits. An appellate panel of the 11th Judicial Circuit reversed, concluding that the peer review should have been deemed timely.

- 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.

Nearly all of my orders and judgments are unpublished, except for orders and judgments submitted by attorneys for publication. To the best of my knowledge, 17 (less than 1%) of my orders and judgments have been published in Florida Law Weekly. To the best of my knowledge, nearly 100% of the written opinions issued by the Circuit Court appellate panels on which I have sat were published in Florida Law Weekly. All unpublished orders, judgments, and opinions are on file with the Clerk of Court.

- 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.

I have not issued a significant opinion on a federal or state constitutional issue. However, as a judge, I regularly made findings and issued orders related to search and seizure, due process, and right to counsel issues based on the Fourth, Fifth, Sixth, and Fourteenth Amendments of the United States Constitution and the Florida Constitution.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself *sua sponte*. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself *sua sponte*;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

The Florida Code of Judicial Conduct governs the judicial duties and responsibilities of judges in Florida. Pursuant to Canon 3E(1) of the Code, a judge is required to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where the judge knows that he or she has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis interest that could be substantially affected by the proceeding. I have complied with the requirements of this Canon. I make determinations on a case-by-case basis.

On one occasion in 2013, an attorney requested that I recuse myself in a civil matter because the opposing counsel and I were Facebook "friends." After verifying that the attorney and I were Facebook "friends," I granted the motion. I also "defriended" the attorney as I had previously endeavored to do with all attorneys who would likely appear before me. I do not recall the style of that case or the case number. Otherwise, I have recused myself, *sua sponte*, in only a few cases where I knew a litigant or witness. I did not retain copies of those orders, and I do not recall the case styles or case numbers.

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 held no public office other than judicial office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for non-judicial appointed office.

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

I have never held office in or rendered services to any political party or election committee. I have not had a contested judicial election, and I have not otherwise held a position or played a role in a political campaign.

16. Legal Career: Answer each part separately.

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

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

I have not served as a clerk to a judge.

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

I have not practiced alone.

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

1993 – 1997
Miami-Dade State Attorney's Office
1350 N.W. 12th Avenue
Miami, Florida 33136
Assistant State Attorney

1997 – 1999
United States Department of Justice
Immigration and Naturalization Service
155 South Miami Avenue
Miami, Florida 33130
Assistant District Counsel

1999 – 2004
United States Attorney's Office, Southern District of Florida
99 N.E. Fourth Street
Miami, Florida 33132
Assistant United States Attorney

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

I have 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.

As an Assistant State Attorney, I was assigned to the County Court, Juvenile and Felony Divisions. While assigned to the County Court Division, I specialized in the prosecution of cases involving domestic violence and competency issues. I also represented the State of Florida in hundreds of civil involuntary commitment hearings pertaining to mental health under the Baker Act and substance abuse under the Marchman Act. While assigned to the Juvenile Division, I prosecuted felony and misdemeanor criminal cases involving juvenile defendants. In the Felony Division, I represented the State of Florida in 40 felony jury trials before several Circuit Judges of the Eleventh Judicial Circuit Court of Florida. As an Assistant District Counsel with the Immigration and Naturalization Service (INS), I represented the United States in hundreds of political asylum, removal/deportation and adjustment of status hearings before United States Immigration Judges. I also provided legal advice and litigation support to INS operational units (administrative divisions).

During my service as an Assistant United States Attorney for the Southern District of Florida, I was assigned to the Appellate, Major Crimes and Narcotics Sections. In the Appellate Section, I conducted legal research and wrote legal briefs on behalf of the United States for appeals in the

United States Court of Appeals for the Eleventh Circuit. While in the Major Crimes and Narcotics Sections, I represented the United States in felony jury trials before United States District Judges. I also represented the United States in various pre-trial and post-trial hearings before United States District and Magistrate Judges.

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

As an Assistant State Attorney, my client was the State of Florida. For my first two years at the Miami-Dade State Attorney's Office, I specialized in handling mental health, substance abuse, and domestic violence cases. I later specialized in prosecuting juvenile cases and other significant criminal matters.

As an Assistant District Counsel for the Immigration and Naturalization Service and as an Assistant United States Attorney, my client was the United States of America. As an Assistant District Counsel, I specialized in immigration law as it pertained to deportation and adjustment of status. As an Assistant United States Attorney, I specialized in the prosecution of complex economic and narcotics crimes.

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

As an attorney, 100% of my practice was in litigation, for which I appeared in court almost daily. As an attorney, the majority of my practice was in trial court, with a small percentage of my practice devoted to handling appeals in the United States Court of Appeals for the Eleventh Circuit.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 40% |
| 2. state courts of record: | 40% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 20% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 20% |
| 2. criminal proceedings: | 80% |

- 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 247 criminal and civil cases to verdict or judgment, including 47 felony jury trials in the United States District Court for the Southern District of Florida and the Eleventh Judicial Circuit of Florida. I was the sole or lead counsel in approximately 90% of those cases.

As an Assistant United States Attorney, I tried to verdict 18 felony jury trials before United States District Judges. For those trials, I was sole counsel in six cases, lead counsel in six cases, and associate counsel in six cases.

As an Assistant District Counsel with the Immigration and Naturalization Service, I tried to judgment hundreds of deportation/removal hearings before United States Immigration Judges. I was the sole counsel in each of those cases.

As an Assistant State Attorney, I tried to verdict 29 felony jury trials in the Felony Division. For those trials, I was sole counsel in 20 cases, lead counsel in four cases, and associate counsel in five cases. While assigned to the Juvenile Division, I tried to verdict approximately 30 non-jury felony and misdemeanor trials for which I was sole counsel. While assigned to the County Court Division, I also tried to verdict approximately 20 jury and non-jury misdemeanor cases for which I was sole counsel. I was also sole counsel in hundreds of civil involuntary commitment hearings.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 19% |
| 2. non-jury: | 81% |

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

I have not 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:

- the date of representation;
- 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. Bernard, et al.*, Case No. 03-20551-Cr-Ungaro-Benages(s), *aff'd in part*, 144 Fed.Appx. 855 (11th Cir. 2005), *aff'd*, 205 Fed.Appx. 790 (11th Cir. 2006), *cert. denied*, 549 U.S. 1244 (2007).

I was lead counsel for the United States in this jury trial. The defendants had been arrested during a controlled-delivery of cocaine, which was seized pursuant to a large, international DEA investigation titled "Operation Intercontinental." The defendants were subsequently indicted for conspiracy to possess with intent to distribute five kilograms or more of cocaine, attempted possession with intent to distribute five kilograms or more of cocaine, possession of a firearm during a drug trafficking crime, and possession of a firearm by a convicted felon. After an eight-day trial, the jury acquitted defendant Ribeiro but convicted defendant Bernard of possession of a firearm by a convicted felon. The jury was unable to reach a verdict on the drug counts against Bernard. Bernard was sentenced on the firearm count along with his subsequent convictions on the drug counts in his retrial.

Trial dates: January 27, 2004, through February 5, 2004
Judge/Court: The Honorable Ursula Ungaro
United States District Judge

Co-counsel: Kim Selmore, Assistant U.S. Attorney
99 N.E. Fourth Street
Miami, Florida 33132
(305) 961-9189

Defense Counsel: Robert C.L. Vaughan, Esq.
(Defendant Bernard) Ward Kim Vaughan & Lerner, LLP
One Financial Plaza, Suite 2001
Fort Lauderdale, Florida 33394
(954) 527-1115

Rebekah Poston, Esq.
Squire, Sanders & Dempsey, LLP
200 South Biscayne Boulevard, Suite 4000
Miami, Florida 33131
(305) 577-4715

Defense Counsel: Larry Handfield, Esq.
(Defendant Ribeiro) 4770 Biscayne Boulevard, Suite 1200
Miami, Florida 33137
(305) 576-1011

2. *United States v. Bernard, et al.*, Case No. 03-20551-Cr-Ungaro-Benages/Huck(s), *aff'd in part*, 144 Fed.Appx. 855 (11th Cir. 2005), *aff'd*, 205 Fed.Appx. 790 (11th Cir. 2006), *cert. denied*, 549 U.S. 1244 (2007).

I was lead counsel for the United States in this re-trial of *United States v. Bernard, et al.*, Case No. 03-20551-Cr-Ungaro-Benages. Defendant Bernard, had been arrested during a controlled-delivery of cocaine which was seized pursuant to a large, international U.S. Drug Enforcement Administration (DEA) investigation titled "Operation Intercontinental." The defendant was subsequently indicted for drug trafficking and firearm offenses. At his first trial, the defendant was convicted of possession of a firearm by a convicted felon, but the jury could not reach a verdict on the drug counts. The re-trial was before a different United States District Court Judge, with a new co-counsel, a new defense counsel, and with new legal arguments and strategies. After a four-day jury trial, the defendant was convicted of conspiracy to possess with intent to distribute five kilograms or more of cocaine. Although I did not participate in the appeal as I had left the office to join the bench, I understand that the United States Court of Appeals for the Eleventh Circuit affirmed the defendant's convictions, but remanded the case for resentencing in light of the U.S. Supreme Court's then-recent decision in *United States v. Booker*, 543 U.S. 220 (2005). The defendant's subsequent sentence was affirmed on appeal and the United States Supreme Court denied his petition for writ of certiorari.

Trial dates: April 19, 2004, through April 22, 2004
Judge/Court: The Honorable Paul C. Huck
Senior United States District Judge

Co-counsel: Markenzy Lapointe, Esq. (Former Assistant U.S. Attorney)
Boies, Schiller & Flexner, LLP
100 S.E. Second Street, Suite 2800
Miami, Florida 33131
(305) 357-8419

Defense Counsel: Robert C.L. Vaughan, Esq.
Ward Kim Vaughan & Lerner, LLP
One Financial Plaza, Suite 2001
Fort Lauderdale, Florida 33394
(954) 527-1115

Mia Burroughs-Fraser, Esq.
Fraser Law Group, PA
2980 McFarlane Road, Suite 202
Coconut Grove, Florida 33133
(305) 282-6487

3. *United States v. Villada*, Case No. 02-20726-Cr-Martinez, *aff'd*, 87 Fed.Appx. 713 (Table) (11th Cir. 2003).

I was the sole counsel representing the United States in this jury trial. The defendant was arrested during a controlled delivery of 151 kilograms of cocaine. The case raised issues about the sufficiency of the evidence in light of the large quantity of drugs involved. After the four-day trial, the jury convicted the defendant of conspiracy to possess with intent to distribute cocaine based on circumstantial evidence. The court granted a defense motion for judgment of acquittal after the jury's verdict based on the court's finding that there was insufficient evidence to convict the defendant. The Eleventh Circuit affirmed. I did not participate in the appeal.

Trial dates: November 4, 2002, through November 7, 2002
Judge/Court: The Honorable Jose E. Martinez
United States District Judge

Defense Counsel: Celeste Higgins, Assistant Federal Public Defender
150 West Flagler Street, Suite 1700
Miami, Florida 33130
(305) 530-7000

Mark D. Seitles, Esq.
40 N.W. Third Street, Suite PH 1
Miami, Florida 33128
(305) 403-8070

4. *United States v. Aldao, et al.*, Case No. 01-812-Cr-Seitz(s), *aff'd*, 405 F.3d 1260 (11th Cir. 2005).

A federal grand jury returned an indictment against the seven defendants, charging them with several counts of drug manufacturing and trafficking related to their growing and distributing large amounts of marijuana in a large and sophisticated drug manufacturing and distribution network. After a 17-day jury trial, all defendants were convicted of conspiracy to manufacture and possess with intent to distribute marijuana, manufacturing marijuana, and opening and maintaining a residence to manufacture marijuana. As co-counsel, I substantially participated in this trial by presenting the testimony of several witnesses, including expert witnesses, and by researching and arguing several legal issues related to expert testimony. The United States Court of Appeals for the Eleventh Circuit affirmed the defendants' convictions, but remanded for re-sentencing two of the seven defendants. I did not participate in the re-sentencing because I was then a sitting judge.

Trial dates: September 23, 2002, through October 15, 2002
Judge/Court: The Honorable Patricia A. Seitz
Senior United States District Judge

Lead Counsel: William H. Bryan, III, Assistant U.S. Attorney
40 North Central Avenue, Suite 1200

Phoenix, Arizona 85004
(602) 514-7580

Defense Counsel:
(Defendant A. Artires)

Juan Mourin, III, Esq.
1370 N.W. 16th Street
Miami, Florida 33125
(305) 325-8119

Defense Counsel:
(Defendant J. Artires)

Albert Levin, Esq.
2937 S.W. 27th Avenue, Suite 101
Miami, Florida 33133
(305) 379-7101

Defense Counsel:
(Defendant Suarez)

Ramona Tolley, Esq.
400 S.E. Ninth Street
Fort Lauderdale, Florida 33316
(954) 763-3453

Defense Counsel:
(Defendant Garcia)

Gennaro Cariglio, Jr., Esq.
10800 Biscayne Boulevard, Suite 900
Miami, Florida 33161
(305) 899-0438

Defense Counsel:
(Defendant Menendez)

Ernesto Medina, Esq.
782 N.W. 42nd Avenue, Suite 641
Miami, Florida 33126
(305) 260-0541

Defense Counsel:
(Defendant Mercado)

George Vila, Esq.
201 Alhambra Circle, Suite 702
Coral Gables, Florida 33134
(305) 445-2540

Defense Counsel:
(Defendant Enriquez)

Roderick Vereen, Esq.
14630 South River Drive
Miami, Florida 33167
(786) 391-1751

5. *United States v. D'Sa*, Case No. 01-783-Cr-King, *aff'd*, 54 Fed.Appx. 490 (11th Cir. 2002), *cert. denied*, 537 U.S. 1245 (2003).

Following an undercover U.S. Secret Service investigation of child Internet predators, the defendant in this case was indicted for the crime of using a facility of interstate commerce to induce a minor to engage in sexual activity. The charge was based on the defendant's use of an Internet chat room to induce someone who he believed to be a 13-year-old girl to have sexual intercourse with him and his subsequent attempt to meet her.

In his jury trial, the defendant raised an entrapment defense, claiming that the government induced him into committing a crime that he was not otherwise predisposed to commit. The defendant was convicted after a two-day jury trial. This was one of the early prosecutions for this type of Internet crime. The conviction was affirmed, per curiam, by the Eleventh Circuit Court of Appeals. The United States Supreme Court denied certiorari. I did not participate in the appeal.

Trial dates: October 24, 2001, through October 25, 2001
Judge/Court: The Honorable James Lawrence King
Senior U.S. District Judge

Co-Counsel: Ben Greenberg, Chief Assistant U.S. Attorney
99 N.E. Fourth Street
Miami, Florida 33132
(305) 961-9100

Defense Counsel: Hector Flores, Esq. (Former Assistant Federal Defender)
40 N.W. Third Street, Penthouse One
Miami, Florida 33128
(305) 374-3998

6. *United States v. Martin*, Case No. 00-955-Cr-Huck.

I was the sole counsel representing the United States in this jury trial. This case was the culmination of a large federal grand jury investigation that I led concerning organized credit card fraud committed by approximately 50 individuals in South Florida. Using a credit card processing device, the co-conspirators fraudulently received financial credit to their credit card accounts for purported returned items which were, in fact, never purchased from several merchants. Most of the co-defendants entered guilty pleas prior to trial, but I tried the case against the remaining defendant. After a two-day jury trial, the defendant was convicted of conspiracy to commit access device (credit card) fraud and access device (credit card) fraud.

Trial dates: May 30, 2001, through May 31, 2001
Judge/Court: The Honorable Paul C. Huck
Senior United States District Judge

Defense Counsel: Abe A. Bailey, Esq.
18441 N.W. Second Avenue, Suite 217
Miami, Florida 33169
(786) 657-2915

7. *United States v. Rodriguez-Mosquera*, Case No. 01-0094-Cr-Graham.

I was the sole counsel representing the United States in this jury trial. The defendant had attempted to smuggle more than \$5 million worth of heroin and cocaine into the United

States in the bay of a cargo ship. The prosecution of this case was particularly difficult because the defendant's confession had been suppressed prior to trial, and the remaining evidence was primarily circumstantial. Although there were no eye witnesses to the defendant's possession of the narcotics, I presented the testimony of witnesses who identified the defendant as a stowaway on the ship and a fingerprint expert who tied the defendant to the area of the ship where the narcotics were hidden. After a two-day jury trial, the defendant was convicted of nine drug trafficking counts.

Trial dates: April 16, 2001, through April 17, 2001
Judge/Court: The Honorable Donald L. Graham
Senior United States District Judge

Defense Counsel: Richard Lautenbach, Esq.
3510 Scotts Lane, Suite C30
Philadelphia, Pennsylvania 19129
(484) 343-4423

8. *State of Florida v. Ramirez*, Case No. F83-29429, *rev'd*, 810 So.2d 836 (Fla.2001).

The defendant was charged with first degree murder, armed robbery, and armed burglary based on a brutal murder and theft. Law enforcement officers identified the defendant as the assailant, in great part, by a partial fingerprint left by the defendant at the crime scene and through a positive "tool mark" comparison between the victim's bone cartilage and a knife found in the defendant's possession. As co-counsel, I substantially participated in this trial by presenting the testimony of several witnesses for the State of Florida. The jury found the defendant guilty of the charged offenses and later recommended life imprisonment during the penalty phase of the trial. The judge sentenced the defendant to death. The defendant's conviction and sentence were reversed on appeal by the Florida Supreme Court, which held that the tool mark identification was scientifically unreliable and that the trial judge erroneously overrode the jury's recommendation of life imprisonment. Ramirez was subsequently convicted of first degree murder in a re-trial. I did not participate in the retrial because I was then working as an Assistant District Counsel for the Immigration and Naturalization Service.

Trial dates: September 16, 1997, through October 22, 1997
Judge/Court: The Honorable Ronald Dresnick,
Circuit Judge, Eleventh Judicial Circuit of Florida

Lead Counsel: Flora Seff, Esq. (Former Assistant State Attorney)
9300 N.W. 41st Street
Doral, Florida 33178
(786) 331-5103

Defense Counsel: Eugene Zenobi, Esq.
Regional Counsel, Third Region of Florida

401 N.W. Second Avenue, Suite S310
Miami, Florida 33128
(305) 679-6550

Kenneth H. White, Esq.
2937 S.W. 27th Avenue, Suite 101
Miami, Florida 33133
(305) 442-4277

9. *State of Florida v. Brunache*, Case No. 97-2254.

I was the sole counsel representing the State of Florida in this jury trial. The defendant, who had an extensive criminal history, was arrested and charged with committing several violent felonies based on the armed robbery of a car dealership in Miami, Florida. After a two-day jury trial, the defendant was convicted of aggravated assault with a firearm, attempted armed robbery, armed burglary with an assault, and possession of a short barreled firearm.

Trial dates: November 4, 1997, through November 5, 1997
Judge/Court: The Honorable Leon Firtel
Circuit Judge, Eleventh Judicial Circuit of Florida

Defense Counsel: Alberto "Kiko" Sarasua, Esq.
442 Hampton Lane
Key Biscayne, Florida 33149
(305) 361-7480

10. *State of Florida v. Page*, Case No. 95-35128.

I was the lead attorney representing the State of Florida in this re-trial. The defendant, designated as an armed career criminal under Florida law, robbed the owner of a small gas station with what appeared to the victim to be a firearm. The robbery victim thereafter chased the defendant and shot the defendant in the back, leaving him paralyzed. The police later determined that the defendant used a toy gun to rob the victim. The defendant subsequently filed a civil lawsuit against the victim of the robbery, which was pending at the time the criminal trial commenced. This case was initially tried by me in November 1996, but the jury could not reach a unanimous verdict. The defendant was subsequently convicted of robbery with a weapon in the re-trial.

Trial dates: January 13, 1997, through January 14, 1997.
Judge/Court: The Honorable Barbara Levenson (Retired)
Circuit Judge, Eleventh Judicial Circuit of Florida.

Co-Counsel: Teresa Alvarez, Esq.
6780 Coral Way

Miami, Florida 33155
(305) 667-3040

Defense Counsel: Kenneth Hassett, Esq.
6099 Stirling Road, Suite 217
Davie, Florida 33314
(954) 791-3939

Defense Counsel: Elizabeth Katsen, Esq.
7700 North Kendall Drive, Suite 610
Miami, Florida 33156
(305) 596-2000

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 an Assistant U.S. Attorney, I led several large-scale international investigations for the DEA and other federal agencies, including *Operation Busted Manatee*, *Operation Intercontinental*, and *Operation Joker's Wild*. I led the federal grand jury investigation for *Operation Busted Manatee*, and assisted the DEA in obtaining court-approved wire surveillance and search warrants. I subsequently obtained federal grand jury indictments for dozens of people in the United States, Colombia, Jamaica, and the Bahamas who were responsible for smuggling tons of cocaine into the United States, including one of the U.S. government's most-wanted cocaine suppliers. This investigation, along with another criminal investigation, *Operation Double Talk*, cut the flow of cocaine into the United States by approximately ten percent by closing key smuggling routes through the Caribbean. The investigations ultimately resulted in more than 330 arrests and the seizure of 26,000 kilograms of cocaine and \$85 million in laundered money.

As an Assistant U.S. Attorney assigned to the Appellate Section of the U.S. Attorney's Office, I also successfully handled several appeals for the United States in the Eleventh Circuit Court of Appeals. The briefs I wrote on behalf of the United States include the following appellate cases: *United States v. Daniel Chaguala-Carrillo*, 234 F.3d 710 (11th Cir. 2000), *cert. denied*, 531 U.S. 1202 (2001); *Steven Jackson, Jr., v. Arthur Cullen, et al.*, 229 F.3d 1168 (11th Cir. 2000); *United States v. Intheay Martin*, 209 F.3d 724 (11th Cir. 2000); *United States v. Joseph Shames*, 207 F.3d 662 (11th Cir. 2000); and *United States v. Juan Carlos Arana*, 220 F.3d 592 (11th Cir. 2000).

As a judge, I have tried to be a leader in South Florida's legal community on issues concerning professionalism and civility. For several years, I have been a member of the Board of Directors of the Spellman-Hoeveler American Inn of Court, which hosts

monthly programs related to the law and ethics. I am also the co-chairman of the 11th Judicial Circuit of Florida's Professionalism Committee, having been appointed to that position by our circuit's former Chief Judge. The Professionalism Committee is comprised of several County and Circuit Judges, a judge of Florida's Third District Court of Appeal, the Miami-Dade State Attorney, the Miami-Dade County Public Defender, and several other prominent South Florida attorneys. Under my leadership, the Professionalism Committee hosted South Florida's first Professionalism and Civility Action Summit, which included representatives of most of South Florida's voluntary bar associations and several judges. This year, the Professionalism Committee also created and hosted our circuit's first New Attorney Breakfast, designed to provide new lawyers with guidance on ethics and practical advice on the practice of law.

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.

I have no plans, commitments, or agreements to pursue outside employment.

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

See attached Financial Disclosure 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.

I am not aware of any likely conflicts-of-interest. If confirmed, I will adhere to the Code of Conduct for United States Judges and all other applicable authority.

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

If I am confirmed, I will resolve potential conflicts of interest and otherwise act pursuant to the Code of Conduct for United States District Judges and all other applicable authority.

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 member of the Florida Bar, I have been prohibited from performing most forms of pro bono legal work due to my positions as Circuit and County Judge, Assistant U.S. Attorney, Assistant District Counsel, and Assistant State Attorney. However, I accepted a permissible Guardian Ad Litem appointment through the Dade County Bar Association's "Put Something Back" Program in 2003.

I am also an active volunteer with several local and national community service organizations, including 100 Black Men of South Florida, the 5000 Role Models of Excellence Project, and Big Brothers/Big Sisters of Greater Miami. I have mentored several law students from the South Florida law schools, and received the 2007 Mentor of the Year Award from the St. Thomas University Black Law Students Association. I was the designated Justice Teaching volunteer at Lillie C. Evans Elementary School in Miami, Florida, and the 5000 Role Models of Excellence Project mentor coordinator for Miami Beach High School. I have participated in numerous career fairs and other programs at area elementary, middle and high schools, for which I provide educational and career advice. I also donate substantial time to my church, Greater Bethel A.M.E. Church, and its community programs.

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 August 15, 2013, I submitted my application to the Florida Federal Judicial Nominating Commission, convened by Senators Bill Nelson and Marco Rubio, for the two vacancies on the United States District Court for the Southern District of Florida. On September 17, 2013, I was interviewed by the Nominating Commission in Miami, Florida. In the evening following my interview, I received an email from the Chairman of the Nominating Commission's Southern District Conference that I was being recommended to Senators Nelson and Rubio. On November 7, 2013, I was interviewed by Senators Nelson and Rubio in Senator Nelson's office in Washington, D.C. On November 20, 2013, Senator Nelson's General Counsel notified me that my name was being forwarded to the White House. I have been in contact with officials from the Office of Legal Policy at the Department of Justice since that same day. On January 17, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 6, 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.

AFFIDAVIT

I, Darrin P. Gayles,
do swear that the information provided in this statement is, to
the best of my knowledge, true and accurate.

February 6, 2014
(DATE)

D. P. Gayles
(NAME)

Elizabeth Gariazzo
NOTARY



ELIZABETH GARIAZZO
MY COMMISSION # FF 033980
EXPIRES: November 8, 2017
Bonded Thru Budget Notary Services