

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Mark A. Kearney

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

United States District Court for the Eastern District of Pennsylvania

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.

Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive, Suite 300
Blue Bell, Pennsylvania 19422

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

1962; Philadelphia, Pennsylvania

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.

September 1998 – May 1999, Temple University Adult Education for Horticultural Studies, no degree

1984 – 1987, Villanova University School of Law; J.D., 1987

1985 – 1986, Drexel University School of Business, no degree

1980 – 1984, Villanova University College of Arts and Sciences, B.A., 1984

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.

1990 – present
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive, Suite 300
Blue Bell, Pennsylvania 19422
(formerly in Philadelphia, Pennsylvania)
Associate (1990 – 1995)
Shareholder (1995 – present)
Co-Hiring Shareholder (1995 – present)
Corporate Secretary (2000 – present)
Director (2000 – present)
Managing Shareholder of Delaware office (2011 – present)

1986 – 1990
Elliott Mannino & Flaherty, P.C.
1800 One Meridian Plaza
Philadelphia Pennsylvania 19103
Summer associate and part time clerk (1986 – 1987)
Associate (1988 – 1990)

1987 – 1988
Court of Chancery of the State of Delaware
38 The Green
Dover, Delaware 19901
Judicial law clerk to Court of Chancery

January – April 1986
Connolly & McAndrews, P.C. (no longer in business)
65 West Street Road
Warminster, Pennsylvania 18974
Part-time law clerk

Summer 1985
Eastburn & Gray
60 East Court Street
Doylestown, Pennsylvania 18901
Summer law clerk

Summer 1985
United States Court of Appeals for the Third Circuit
U.S. Courthouse, Fourth & Cooper Streets
Camden, New Jersey 08101
Summer law intern for Hon. James Hunter III

Summer 1983, Summer 1984
Industrial Valley Frozen Foods, Inc.
Seven East Wynnewood Road, Suite 200

Wynnewood, Pennsylvania 19096
Summer sales representative

1984 – 1986
Genuardi's Markets (now defunct)
Norristown, Pennsylvania
Part time and overnight grocery clerk

Other affiliations (uncompensated unless otherwise indicated)

2010 – present
Legal Aid of Southeastern Pennsylvania
625 Swede Street
Norristown, Pennsylvania 19403
Director

2012 – present
Villanova Law School
299 North Spring Mill Road
Villanova, Pennsylvania 19085
Board of Consultors

2007 – present
Pennsylvania Bar Institute
5080 Ritter Road
Mechanicsburg, Pennsylvania 17055
President (May 2014 – present)
Vice-President (2013 – May 2014)
Secretary (2012 – 2013)
Treasurer (2011 – 2012)
Director (2007 – present)

2006 – present
Montgomery Bar Foundation
100 West Airy Street
P.O. Box 268
Norristown, Pennsylvania 19404
Vice President (2012 – present)
President (2010 – 2011)
Chairperson (2010)
Director (2006 – present)

2003 – present
Historical Society for the United States District Court for the Eastern District of
Pennsylvania
601 Market Street, Room 2609

Philadelphia, Pennsylvania 19106
Director (2003 – present)
Executive Committee (2005 – present)

2009 – 2012
Montgomery Child Advocacy Project
409 Cherry Street
Norristown, Pennsylvania 19401
Director

2005 – 2009
Montgomery Bar Association
100 West Airy Street
P.O. Box 268
Norristown, Pennsylvania 19404
President (2009)
President-Elect (2008)
Vice-President (2007)
Secretary (2006)
Treasurer (2005)

2002 – 2013
Welcoming Center for New Pennsylvanians
One Penn Center, Suite 555
1617 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103
Chairperson (2002 – 2010)
Director (2002 – 2013)

2002 – 2004
Internet Cable Corporation (no longer in business)
Charleston, South Carolina
Director (2002 – 2004) (reimbursed travel expense)
Audit Committee Chair (2003 – 2004)

2000 – 2002
Philadelphia Area Immigration Resource Center (now defunct)
Philadelphia, Pennsylvania
Board of Directors

1998 – 1999
U.S.A. Bancshares (no longer in business)
Philadelphia, Pennsylvania
Director (1998 – 1999) (reimbursed expenses)

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

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

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

Martindale Hubbell AV rated since 1995 (first year of eligibility)

Top 100 lawyer in Pennsylvania (2012, 2013, 2014) and Philadelphia (2011, 2012, 2013 and 2014) and Pennsylvania *Super Lawyer* by Thomson Reuters (2003 – 2014)

Benchmark Litigation, Pennsylvania Local Litigation Star (2013, 2014)

The American Cancer Society's *Care Never Quits* Award and Whitpain Recreation Association's 2012 Volunteer Recognition Award for creating and succeeding with a four-day youth baseball tournament in 2011 and 2012 with all proceeds benefiting the American Cancer Society and Montgomery Child Advocacy Project (2012)

Pennsylvania Bar Association's Exemplary Pro Bono Award (2012)

Pennsylvania Bar Association's Chief Justice John P. Flaherty Award "in Recognition of an Outstanding Effort to Promote the Objects and Purposes to Improve the Legal Profession, The Justice System or the Community" (2012)

Norristown Area School District's Special Recognition Award for Commitment to the Civics Education of Students in the School District (2011)

Montgomery Bar Association's Henry Stuckert Miller Public Service Award for Devotion and Service to the Community of Montgomery County (2011)

Suburban Life Readers Choice Recognition for Region's Top Lawyers, Business Law (2011)

National Thomson Reuters Luminary Award for Communications Excellence from the National Association of Bar Executives (2008, 2010)

Montgomery Bar Association's Annual President's Award for "Leadership and Dedicated Service to the Bar and Devotion to the Rule of Law" (2003)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the

titles and dates of any offices which you have held in such groups.

American Bar Association (1988 – 1992, 1996 – present)

Conference of County Bar Leaders (2005 – 2009)

Delaware State Bar Association (1988 – present)

Historical Society for the United States District Court for the Eastern District of Pennsylvania (1990 – present)

Director (2003 – present)

Co-Chair Portrait Committee (2005 – present)

Member, Executive Committee (2005 – present)

Co-Chair Annual Meeting and Dinner (May 2007)

Planning Committee, Tribute to Judge A. Leon Higginbotham (October 2000)

Lawyers Advisory Committee of the Judicial Council of the United States Court of Appeals for the Third Circuit: Representative of the United States District Court for the Eastern District of Pennsylvania for a three-year term appointed by the District Court (2012 – 2015)

Legal Aid of Southeastern Pennsylvania (2010 – present)

Director (2010 – present)

Montgomery Bar Association (1993 – present)

President (2009)

President-elect (2008)

Vice President (2007)

Treasurer (2006)

Secretary (2005)

Director (2002 – 2005)

CLE Director (2007)

Legislative Liaison (2007 – present)

Chair/Co-Chair, Federal Practice Committee (1999 – 2009, 2013 – present)

Chair, Managing Partners Committee (2008 – 2009)

Chair, Government Relations Committee (2010 – 2014)

Montgomery Bar Foundation (1993 – present)

Director (2005 – present)

Chairperson (2010)

President (2010 – 2011)

Vice President (2012 – present)

Montgomery Child Advocacy Project (2007 – present)

Advocate (2007 – present)

Director (2009 – 2012)

National Conference of Bar Presidents (2008 – 2010)

Pennsylvania Bar Association (1988 – present)

Federal Practice Committee, Steering Committee (2012 – present)

House of Delegates (2004 – present)

Pennsylvania Bar Institute (2008 – present)

President (May 2014 – present)

Vice President (2013 – May 2014)

Secretary (2012 – 2013)

Treasurer (2011 – 2012)

Director (2008 – 2013)

Philadelphia Bar Association (1989 – present)

United States District Court Merit Selection Panels for the Retention of U.S. Magistrate Judges (2002, 2004)

United States District Court Merit Selection Panel for the Recommendation of U.S. Magistrate Judge (2005 – 2006)

Villanova Law School (2012 – present)

Board of Consultors

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.

Delaware, 1988

Pennsylvania, 1988

There have been no lapses in membership.

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

Delaware Supreme Court, 1988

Pennsylvania Supreme Court, 1988

United States District Court for Delaware, 1988

United States Court of Appeals for the Third Circuit, 1989

United States District Court for the Eastern District of Pennsylvania, 1989

United States Court of Appeals for the Eleventh Circuit, 1994

United States District Court for the Middle District of Pennsylvania, 1998
Supreme Court of the United States, 2000

There have been no lapses in membership.

11. **Memberships:**

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

Welcoming Center for New Pennsylvanians
Board of Directors (2002 – 2013)
Chair (2002 – 2012)

Brehon Law Society (2002 – present)

Malvern Retreat League (1984 – present)

Pennsylvania Society (1996 – present)

Philadelphia Area Immigration Resource Center
Board of Directors (2000 – 2002)

Philadelphia Aviation Country Club (2007 – present)

Philadelphia Vesper Club (2001 – 2009)

Whitpain Recreation Association (2005 – present)
Tournament Chair (2011 – 2012)

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

To the best of my knowledge, none of the organizations listed in response to question 11a above currently 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.

“Federal Courts Committee Hosts Three Federal Judges Providing Significant Legal Education on Supreme Court Term,” *Montgomery Bar Association Sidebar* (Summer 2013). Copy supplied.

“2012 Whitpain Baseball Summer Smash” Letter to the Editor of *MCAP Happenings* (Winter 2012 – 2013). Copy supplied.

Book Review: “Mortals with Tremendous Responsibilities, a History of the United States District Court for the Eastern District of Pennsylvania,” *Montgomery Bar Association Sidebar* (Fall 2012). Copy supplied.

“A No-Lose Gift: Memorial and Gift Donations to the Foundation,” *Montgomery Bar Association Sidebar* (Fall 2011.) Copy supplied.

Solicitation of Sponsors Letter, Whitpain Summer Smash Charity Baseball Tournament (June 10, 2011). Copy supplied.

“Bar Foundation’s Grant Process Works,” *Montgomery Bar Association Sidebar* (Spring 2011). Copy supplied.

“Consider the Foundation’s 25th Anniversary for a Memorial Gift,” *Montgomery Bar Association Sidebar* (Winter 2010 – 2011). Copy supplied.

“Establish your Legacy through the Bar Foundation,” *Montgomery Bar Association Sidebar* (Fall 2010). Copy supplied.

“Outgoing President’s Message: Beyond MBA 125,” *Montgomery Bar Association Sidebar* (Winter 2009). Copy supplied.

2009 Summary of Activities Report for the Executive Committee of the Montgomery Bar Association, as part of a compendium of Reports from each Bar Committee (December 2009). Copy supplied.

“President’s Message: Setting the Stage for the Next Quarter Century,” *Montgomery Bar Association Sidebar* (Fall 2009). Copy supplied.

“Judicial Election,” *The Times Herald* (November 4, 2009). Copy supplied.

“Portrait of the Montgomery Bar Association 1980-2009: Meeting the Challenges of a Dynamic Era,” *Modern Graphics* (June 9, 2009). Copy supplied.

“President’s Message: A Time to Reflect,” *Montgomery Bar Association Sidebar* (Summer 2009). Copy supplied.

“2009 Legal Aid Golf Classic is a Success, Including a Presidential Hole in One and Massage Table,” *Montgomery Bar Association Sidebar* (Summer 2009). Copy supplied.

“MBA’s Managing Partners Forum Issues Survey on Practice in Montgomery County,” *Montgomery Bar Association Sidebar* (Summer 2009). Copy supplied.

“Montgomery Bar Visits Supreme Court,” *Montgomery Bar Association Sidebar* (Summer 2009). Copy supplied.

“President’s Message,” *Montgomery Bar Association Sidebar* (Spring 2009). Copy supplied.

“Incoming President’s Message,” *Montgomery Bar Association Sidebar* (Winter 2008). Copy supplied.

“Superior Court Presents CLE and Hears Oral Arguments in Montgomery County Courthouse,” *Montgomery Bar Association Sidebar* (Summer 2008). Copy supplied.

Press Release from Elliott Greenleaf & Siedzikowski, P.C. announcing the addition of an immigration practice to the law firm. (December 12, 2007) Copy supplied.

“Federal Judges Return to Norristown,” *Montgomery Bar Association Sidebar* (Summer 2007). Copy supplied.

“MBA Sponsors Admissions to the United States District Court for the Eastern District of Pennsylvania,” *Montgomery Bar Association Sidebar* (Summer 2006). Copy supplied.

“MBA Advocates Legislation to Protect its Members,” *Montgomery Bar Association Sidebar* (Spring 2006). Copy supplied.

“The Federal Courts Committee Meets with Justice O’Connor Following Supreme Court Admissions Ceremonies,” *Montgomery Bar Association Sidebar* (Summer 2005). Copy supplied.

“Federal Court Admission in Harrisburg,” *Montgomery Bar Association Sidebar* (Fall 2004). Copy supplied.

“The Honorable Arlen Specter Visits Montgomery Bar Association,” *Montgomery Bar Association Sidebar* (Summer 2003). Copy supplied.

“Thirty-three Bar Members Admitted to Supreme Court,” *Montgomery Bar Association Sidebar* (Winter 2002 – 2003). Copy supplied.

“Federal Courts Committee Witnesses Supreme Court Oral Arguments,” *Montgomery Bar Association Sidebar* (Winter 2001 – 2002). Copy supplied.

“Reception for New Federal Judges is a Success,” *Montgomery Bar Association Sidebar* (Summer 2001). Copy supplied.

“Four MBA Members Admitted to Supreme Court,” *Montgomery Bar Association Sidebar* (Summer 2000). Copy supplied.

“The Annuity Class Action: Securities Fraud or *Prudential?*: The Distribution Issues,” Market Conduct Conference 2000 (April 27 – 28, 2000). Copy supplied.

“Attorneys’ Fees in Pennsylvania and in Federal Class Actions,” Continuing Legal Education (July 2000). Copy supplied.

Co-Author, “A Primer on the Rights and Duties of Directors - (Part II),” 42 *Villanova Law Review*, No. 4 (1997). Copy supplied.

“Cede III: Towards a Clear Standard for Corporate Fiduciaries,” *Butterworths Journal of International Banking and Financial Law* (November 1995). Copy supplied.

Co-Author, “A Primer on the Rights and Duties of Directors (Part I),” 40 *Villanova Law Review*, No. 5 (1995). Copy supplied.

“Director and Officer Liability Insurance,” Pennsylvania Bar Institute – Business Lawyers’ Institute (July 1995). Copy supplied.

“The Evolving Standard of Scrutiny Applied to Directors’ Decisions,” *Butterworths Journal of International Banking and Financial Law* (January 1995). Copy supplied.

“Outside Professional Advisors Gain New Immunity from Racketeering Statutes,” *Butterworths Journal of International Banking and Financial Law* (May 1993). Copy supplied.

“ADA Puts Banks on Guard against Lawsuits by Handicapped,” *Butterworths Journal of International Banking and Financial Law* (July 1992). I have been unable to locate a copy.

“Foreign Sovereign Investment in the United States,” *Butterworths Journal of International Banking and Financial Law* (Nov. 1991). Copy supplied.

“*Paramount v. Time*: New Options for Directors with Long Term Plans,” *Butterworths Journal of International Banking and Financial Law* (May 1990). Copy supplied.

“Update on Target Auction and Poison Pills,” *Bowne’s Digest for Corporate and Securities Lawyers*, Vol. 4, No. 2 (1990). Copy supplied.

“The Poison Pill as Shield and Gavel,” *Directors & Boards*, Vol. 13, No. 4 (1989). Copy supplied.

“The Redemption of Poison Pills: The New Battleground,” *Butterworths Journal of International Banking and Financial Law* (Dec. 1989). Copy supplied.

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

During my tenure as an officer of the Montgomery Bar Association, I am aware of certain resolutions passed by its Board of Directors. Although I did not vote on these resolutions, I signed the Resolutions as an Officer for the Association’s records:

December 2, 2009, Resolution opposing the limited constituency for the Pennsylvania Bar Association’s Constitutional Commission selected solely by three officers. Copy supplied.

March 23, 2006, Resolution in support of legal efforts by the State Judiciary to overturn legislative action reducing judicial compensation. Copy supplied.

October 27, 2005, Resolution opposing the passage of proposed Pennsylvania House Bill 1920 imposing a sales tax on professional legal services. Copy supplied.

October 27, 2005, Resolution opposing the Pennsylvania Senate Bill 656 as currently written concerning residential construction defects between

contractors and homeowners or members of associations. Copy supplied.

October 19, 2005 and April 12, 2005, Resolutions in support of proposed Pennsylvania Senate Bill 392 requiring the official publishing of the formation of Limited Liability Companies and Limited Liability Partnerships in the legal newspaper of the County in which the business entity is to be located. Copy supplied.

April 28, 2005, Resolution approving the expenditure of \$25,000 for a county-wide public relations campaign to educate the community about lawyers' charitable efforts. Copy supplied.

The Philadelphia Area Immigration Resource Center issued a statement concerning an award being presented to Daniel Berrigan and Martin Sheen in April 2001. In my capacity as a board member, I participated in preparing the statement. Although I have been unable to obtain a copy of the statement, I have supplied press coverage quoting from it.

- 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.

I have not testified or made any official statement or communication relating, in whole or in part, to matters of public policy or legal interpretation.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

February 28, 2014, Panelist, "Preserving the History of Your Bar Association" sponsored by the Pennsylvania Conference of County Bar Leaders at Pennsylvania State University in State College, Pennsylvania. I briefly spoke on successes and challenges in preserving and archiving materials to educate the members of the Bar and public concerning lawyers' roles in the community. I have no notes, transcript or recording. The address for the Conference of County Bar Leaders is 100 South Street, Harrisburg, Pennsylvania 17108.

October 10, 2013, Moderator, "Transactions and Investments in Eastern Europe," Continuing Legal Education sponsored by the Montgomery Bar Association in

Prague, Czech Republic. I directed the discussions among the attendees and guest speaker concerning the practice of transactional law in Eastern Europe. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404

May 29, 2013, Moderator, "The Impact of the 2011-2012 Term of the United States Supreme Court on Federal Court Practice," Continuing Legal Education, co-sponsored by the Pennsylvania Bar Institute, the Pennsylvania Bar Association, and the Montgomery Bar Association. I directed the analysis among several federal judges. I have no notes, transcript or recording. The address for the Pennsylvania Bar Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

March 6, 2013, Speaker in tribute to past Board Members, Dennis Clark Solas Award Dinner, sponsored by Welcoming Center for New Pennsylvanians. I offered remembrance remarks in honor of two recently deceased Board Members. I have no notes, transcript or recording. The address for Welcoming Center for New Pennsylvanians is One Penn Center, Suite 555, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

February 24, 2012, Honoree and Speaker, Pennsylvania Conference of County Bar Leaders Luncheon upon receipt of the Chief Justice John P. Flaherty Award, Lancaster, Pennsylvania. I spoke on the importance of attorney involvement in the community and support of the organized Bar. I have no notes, transcript or recording. The address for the Conference of County Bar Leaders is 100 South Street, P.O. Box 186, Harrisburg, Pennsylvania 17108.

January 13, 2012, Speaker, Montgomery Bar Association's Annual Business Luncheon in Blue Bell, Pennsylvania. I presented remarks of gratitude and distributed Foundation Awards to charities in Montgomery County. I have no notes, transcript or recording. The address for the Montgomery Bar Foundation is 100 West Airy Street, Norristown, Pennsylvania 19404.

December 7, 2011, Speaker and Chair for the Dennis Clark Solas Award Dinner, sponsored by Welcoming Center for New Pennsylvanians. I spoke about the important work of the organization and introduced speakers. I have no notes, transcript or recording. The address for Welcoming Center for New Pennsylvanians is One Penn Center, Suite 555, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

April 29, 2011, Honoree and Speaker, Montgomery County Law Day, upon receipt of the Henry Stuckert Miller Public Service Award, Courthouse, Norristown, Pennsylvania. I spoke on the importance of attorneys giving back to their communities and using their gifts to support a societal cause outside of personal financial wealth. I have no notes, transcript or recording. The address

for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

January 7, 2011, Speaker, Montgomery Bar Association's Annual Business Luncheon in Blue Bell, Pennsylvania. I presented remarks of gratitude and distributed Foundation Awards to charities in Montgomery County. I have no notes, transcript or recording. The address for the Montgomery Bar Foundation is 100 West Airy Street, Norristown, Pennsylvania 19404.

Since 2010, I have taught a one hour civics class curriculum to sixth grade students in the Norristown School District six times a year in a collaborative project with the Pennsylvania and Montgomery Bar Associations. Although I do not recall the exact dates and topics of each class, I do recall teaching a class titled, "Introduction to Civics and the Law" in September 2010 and a class titled, "Courts, Where Rights are Protected" in December. I have no notes, transcript or recording. The address for the Montgomery Bar Foundation is 100 West Airy Street, Norristown, Pennsylvania 19404.

June 2, 2010, Speaker, Continuing Legal Education, "An Afternoon with our Federal Bench" sponsored by the Pennsylvania Bar Association Federal Practice Committee, Norristown, Pennsylvania. I spoke concerning lawyer conduct before the federal courts. I have no notes, transcript or recording. The address for the Pennsylvania Bar Association is 100 South Street, Harrisburg, Pennsylvania 17108.

April 23, 2010, Honoree and Speaker, Montgomery Bar Association's Annual Dinner Dance, at Meadowlands Country Club, Blue Bell, Pennsylvania. I spoke in gratitude to the many persons who worked with me during my year as Bar President. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

January 8, 2010, Chair and Lead Speaker, Montgomery Bar Annual Business Luncheon, Address from Departing President, Blue Bell, Pennsylvania. Notes supplied.

December 16, 2009, Speaker, Naturalization Ceremony for American Citizenship, Harriton High School, Villanova, Pennsylvania, sponsored by the Montgomery Bar Association, Villanova, Pennsylvania. I congratulated the new citizens and spoke of the opportunities for advancement in Eastern Pennsylvania. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

December 1, 2009, Presenter of Gifts from Montgomery Bar Association to the families of troops under the Bar's "Holidays for Heroes" campaign in Willow Grove, Pennsylvania. I expressed the interest of the Bench and Bar in assisting

the families of our servicemen and women, particularly during the holiday season. I have no notes, transcript or recording, but press release supplied. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

December 1, 2009, Speaker, Montgomery Bar Association Awards Ceremony for Winners of the "There Ought to Be a Law" You Tube Competition, Norristown, Pennsylvania. I congratulated the winners in this competition in my role as Bar President, including the donation of funds to charitable organizations such as the Beginning Over Foundation. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

November 5, 2009, Host and Speaker, Annual Member Dinner of Montgomery Bar Association, Philadelphia Cricket Club in Philadelphia, Pennsylvania. I spoke of the honored guests and fifty-year members of the Bar Association. Outline supplied.

October 22, 2009, Speaker, Tenth Anniversary Celebration of the Montgomery County Paralegal Association in Lansdale, Pennsylvania. I spoke of the importance of qualified paralegals to lawyers and courts. I have no notes, transcript or recording. The address for the Montgomery County Paralegal Association is P.O. 1765, Blue Bell, Pennsylvania 19422.

September 11, 2009, I hosted the Montgomery Bar Association's Judicial Candidate Media Project, a public service interview with each of the fourteen candidates for the Court of Common Pleas of Montgomery County, Pennsylvania that was shown on local cable access channels. I provided no commentary but asked each candidate the same question: Why do you want to be a judge of the Court of Common Pleas? Video supplied.

May 19, 2009, Moderator and Speaker, Continuing Legal Education, "An Introduction and Comparison of Irish and Pennsylvania Legal Systems," sponsored by the Montgomery Bar Association, Galway City, Ireland. I spoke on the Pennsylvania Rules of Civil Procedure. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

May 1, 2009, Dinner host and speaker, Montgomery Bar Association Annual Dinner Dance, Phoenixville, Pennsylvania. I welcomed guests and congratulated the immediate past president of the Montgomery Bar Association. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

April 30, 2009, Speaker, Montgomery County Law Day, Courthouse, Norristown, Pennsylvania. Outline supplied.

March 27, 2009, Speaker, Annual Memorial Service for Deceased Members of the Montgomery Bar Association, Norristown, Pennsylvania. Outline supplied.

February 6, 2009, Speaker, Continuing Legal Education, "The Evolving Summary Judgment Standard in Federal Court," sponsored by Montgomery Bar Association at the Courthouse, Norristown, Pennsylvania. I spoke to the changes in Rule 56 of the Federal Rules of Civil Procedure. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

January 9, 2009, Speaker, Annual Business Luncheon of Montgomery Bar Association, Welcoming Address from New President, Blue Bell, Pennsylvania. Outline and remarks supplied.

November 12, 2008, Speaker, Continuing Legal Education, "Effective Written and Oral Advocacy; Procedural Developments," sponsored by the Montgomery Bar Association in Norristown, Pennsylvania. I spoke of credibility in written and oral advocacy to ensure meaningful results. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

November 19, 2007, Speaker and Chair for the Dennis Clark Solas Award Dinner, sponsored by Welcoming Center for New Pennsylvanians in Philadelphia, Pennsylvania. I welcomed the attendees and introduced speakers. I have no notes, transcript or recording. The address for Welcoming Center for New Pennsylvanians is One Penn Center, Suite 555, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

September 29, 2007, Moderator, Continuing Legal Education Panel, "Lawyers and Media," sponsored by Montgomery Bar Association, Galloway, New Jersey. I moderated a panel with legal reporters, criminal lawyers and judges on the concerns raised at the intersection of media and trials. I have no notes, transcript or recording. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

May 24, 2007, Dinner Co-Chair of the Annual Meeting of the Historical Society of the United States District Court for the Eastern District of Pennsylvania in Philadelphia, Pennsylvania. Outline supplied.

September 28, 2006, Moderator, Symposium "Immigration: The Real Issues Behind the Headlines," sponsored by the Montgomery Bar Association Community Outreach Committee and Welcoming Center for New Pennsylvanians, Gwynedd, Pennsylvania. I moderated and introduced national speakers addressing the legal issues facing legal immigrants in Eastern Pennsylvania. I have no notes, transcript or recording, but press coverage is

supplied. The address for the Montgomery Bar Association is 100 West Airy Street, Norristown, Pennsylvania 19404.

March 22, 2006, Speaker and Chair for the Dennis Clark Solas Award Dinner, sponsored by Welcoming Center for New Pennsylvanians in Philadelphia, Pennsylvania I introduced the honorees and addressed the work of the Welcoming Center. I have no notes, transcript or recording. The address for Welcoming Center for New Pennsylvanians is One Penn Center, Suite 555, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

November 6, 2004, Speaker and Chair for the Dennis Clark Solas Award Luncheon, sponsored by Welcoming Center for New Pennsylvanians in Philadelphia, Pennsylvania. I welcomed the large gathering and congratulated the Welcoming Center on their continued growth. I have no notes, transcript or recording. The address for Welcoming Center for New Pennsylvanians is One Penn Center, Suite 555, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

June 11, 2004, Panelist, Continuing Legal Education, "Is Technology All It's Cracked up to Be?," at the Federal Bench-Bar Conference sponsored by the Federal Courts Committee of the Philadelphia Bar Association in Cheltenham, Pennsylvania. I addressed the role of financial forensic technology for use in commercial litigation and in settlement conferences. I have no notes, transcript or recording. The address for the Philadelphia Bar Association is 1101 Market Street, Eleventh Floor, Philadelphia, Pennsylvania 19107.

November 16, 2003, Speaker and Chair for the Dennis Clark Solas Award Dinner, sponsored by Welcoming Center for New Pennsylvanians in Philadelphia, Pennsylvania. I introduced the speakers and honorees and congratulated the hosts. I have no notes, transcript or recording. The address for Welcoming Center for New Pennsylvanians is One Penn Center, Suite 555, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

May 16, 2001, Speaker and Chair for the First Annual Dennis Clark Solas Award Dinner, sponsored by the Philadelphia Area Immigration Resource Center in Philadelphia, Pennsylvania. I introduced the honorees and expressed the Center's gratitude for the significant efforts by many volunteers. I have no notes, transcript or recording, and the Center, formerly located in Upper Darby, Pennsylvania, closed in 2002.

July 5, 2000, Speaker, Continuing Legal Education, "Attorney's Fees in Pennsylvania and in Federal Class Actions," sponsored by the Montgomery Bar Association in Norristown, Pennsylvania. Materials supplied.

October 21, 1999, Speaker, Continuing Legal and Professional Education, "Issues in Federal and Pennsylvania Courts," sponsored by the Pennsylvania Institute of Certified Public Accountants in Philadelphia, Pennsylvania. Outline supplied.

June 22, 1995, Speaker, "Directors and Officers Liability Insurance Update," Continuing Legal Education, sponsored by the Pennsylvania Bar Institute at its First Annual Business Lawyers Institute in Philadelphia, Pennsylvania. Materials supplied.

1995 – 1999: Speaker, Career Days, Archbishop Wood High School in Warminster, Pennsylvania. For one hour each spring, I returned to Career Day at my former high school to speak to students regarding a legal career. I have no notes, transcript or recording, but press coverage is supplied. The address for Archbishop Wood High School is 655 York Road, Warminster, Pennsylvania 18974.

- 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.

Elliott Greenleaf Press Release, "Elliott Greenleaf Names Five New Shareholders," *Constant Contact* (November 28, 2012)(reprinted in various forms)

Gina Passarella, "Stevens & Lee Rebuts Elliott Greenleaf's Dropbox Lawsuit," *The Legal Intelligencer* (April 5, 2012). Copy supplied.

Gina Passarella, "Pa. Firm Claims Ex-Partner Used Portable Drives to Steal Client Files," *The Legal Intelligencer* (March 22, 2012).

Gina Passarella, "Elliott Greenleaf Adds Allegations Ex-Partner Misused Escrow Funds," *The Legal Intelligencer* (March 13, 2012). Copy supplied.

Lisa Stephens, "Corporate Sabotage Brings Partnership to an End," *Technorati.com* (February 21, 2012). Copy supplied.

Gina Passarella, "Elliott Greenleaf Sues Ex-Partner, Stevens & Lee Over Client Files," *The Legal Intelligencer* (February 10, 2012). Copy supplied.

Amaris Elliott-Engel, "Judge Orders \$2.2 Mil. Payout in Labor Class Action," *The Legal Intelligencer* (May 11, 2011). Copy supplied.

"Montgomery Bar Foundation Announces Grant Recipients," *The Times Herald* (May 6, 2011). Copy supplied.

Carl Rotenberg, "Fazio Asks For Reduction In Scope, Cost Of Remediation Work on 770 Sandy Street," *The Times Herald* (December 30, 2010). Copy supplied.

Carl Rotenberg, "Judge's Order Concerning Sandy Street Complex Appealed," *The Times Herald* (September 29, 2010). Copy supplied.

John P. Martin, "Norristown Ordered to Make Repairs at Unsafe Condo Building," *The Philadelphia Inquirer* (September 2, 2010). Copy supplied.

Carl Rotenberg, "Judge Hears Sandy Street Condo Arguments," *The Times Herald* (September 1, 2010). Copy supplied.

Carl Rotenberg, "Builder Fazio Reportedly Owes Millions," *The Times Herald* (June 13, 2010). Copy supplied.

Terrie Morgan-Besecker, "Class-Action Set in Time-Share Suit", *The Times Leader* (June 5, 2010). Copy supplied.

Carl Rotenberg, "Sandy Street Building's Woes Building," *The Times Herald* (May 15, 2010). Copy supplied.

Keith Phucas, "Lawyers Help Local Military Families," *The Times Herald* (January 11, 2010). Copy supplied.

"Pet Center Needs Cat, Dog Food Nonprofit's Video Wins Competition," *Eastern Express Times (Pennsylvania)* (December 17, 2009). Copy supplied.

Christopher Markopulos, "The Judicial Media Project," *The Montgazette* (October 13, 2009). Copy supplied.

Margaret Gibbons, "Videos Let You See and Hear Candidates," *Intelligencer* (October 12, 2009). Copy supplied.

Interview with Hank Cisco on the Hank Cisco closed circuit television show in Norristown, Pennsylvania on the events surrounding the Montgomery Bar Association's 125 year anniversary (March 2009). I have no notes, transcript or copy of this televised interview.

Keith Phucas, "Organization Recalls 125 Years of Service," *The Times Herald* (February 18, 2009). Copy supplied.

Montgomery Bar Association Press Release, "MBA Launches Major Diversity Initiative" (January 2009). Copy supplied.

Amaris Elliott-Engel, "Montco Bar Leader Stresses Vision in Face of Uncertainty," *The Legal Intelligencer* (January 14, 2009). Copy supplied.

Amaris Elliott-Engel, "Montgomery Bar Diversity Event Packs a Full House," *The Legal Intelligencer* (November 12, 2008). Copy supplied.

Amaris Elliott-Engel, "Montco Selects First Non-Judge as Settlement Master," *The Legal Intelligencer* (October 13, 2008). Copy supplied.

Elizabeth Bennett, "Elliott Greenleaf Office Has a Busy Beginning in Wilmington," *Delaware Law Weekly* (March 2008). Copy of reprint supplied.

Wire Report, "B. J. Marchese: PA Judge Oks \$2.45 Mil Identity Theft Settlement," *Class Action Reporter* (November 20, 2007). Copy supplied.

CN8 Newsmakers Interview with Mark A. Kearney regarding the Montgomery Bar Association's Symposium on Immigration (September 2006). I have no notes, transcript or copy of this televised interview.

Marion Callahan, "Getting the Facts on Immigration: The Montgomery Bar Association will Discuss the Issue that is Dividing the Country," *The Intelligencer*" (September 28, 2006). Copy previously supplied in response to 12d.

Shannon P. Duffy, "Delaware Nation Fails to Revive Suit to Reclaim Land," *The Legal Intelligencer* (May 5, 2006). Copy supplied.

Pennsylvania Bar Association Press Release, "Montgomery County Lawyer to Receive Statewide Award for Leadership" (March 2, 2005). Copy supplied.

Wire Report, "News in Brief," *Associated Press* (January 27, 2005). Copy supplied.

Carl Hessler, Jr., "Deal Pending in Marchese Suit," *The Times Herald* (May 17, 2004). Copy supplied (reprinted in multiple outlets).

Carl Hessler, Jr., "Auto Dealer Must Write Lenders Letters," *The Times Herald* (March 29, 2004). Copy supplied.

Thomas Ginsberg, "New Resource Aims to Make the Region 'Immigrant-Friendly'," *The Philadelphia Inquirer* (June 11, 2003). Copy supplied.

Beth E. Yanofsky, "County Bar Hosts Federal Judges," *Lansdale Reporter* (April 11, 2001). Copy supplied.

Bronwyn Reice, "Local Lawyers Admitted Into U.S. District Court," *The Times Herald* (June 11, 2000). Copy supplied.

Wire Report, "Life USA Seeks to Bypass Lower Court I Class-Action Suit," *BestWire* (February 14, 2000). Copy supplied.

Trevor Thomas, "Life USA Will Fight Annuity Suit," *National Underwriter, Life & Health/Financial Services Edition* (February 7, 2000). Copy supplied.

Press Release, "Internet Cable Corp. Holds Annual Shareholders Meeting; New Board of Directors Elected," *PR Newswire* (January 31, 2000). Copy supplied.

Wire Report, "In Brief," *National Underwriter, Life & Health/Financial Services Edition* (January 24, 2000). Copy supplied. (reprinted in multiple outlets).

Trevor Thomas, "Trial Ordered In Life US Annuity Suit," *National Underwriter, Life & Health/Financial Services Edition* (October 11, 1999). Copy supplied.

N.J. Oldwick, "Ethics Award-Winning Insurer Faces Conduct Lawsuit," *BestWire* (February 17, 1998). Copy supplied.

Carole Ann King, "Life USA Sued Over 'Misleading' Annuity Sales," *National Underwriter, Life & Health/Financial Services Edition* (February 9, 1998). Copy supplied.

Michelle Conlin, "King Lear," *Forbes Magazine* (September 23, 1996). Copy supplied.

Andrew Cassell, "Bank's Dispute is in Court the Ousted CEO of First Commercial Got an Order. The Proxy Battle Has Been Delayed," *The Philadelphia Inquirer* (April 28, 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.

I have not held judicial office, but I have served in a fact-finding role by appointment as listed below.

In 2011 and 2012, I was appointed in two cases as a compensated Complex Discovery Master in substantial trade secret and fiduciary duty/employment dispute matters in the Court of Common Pleas of Montgomery County with the jurisdiction to resolve significant discovery, attorney-client and substantive issues following briefing and oral argument.

From 2000 to 2006, I served the Pennsylvania Supreme Court as an unpaid Member of a Hearing Committee of the Disciplinary Board of the Pennsylvania Supreme Court with the responsibility for presiding over trials concerning alleged violations of the Rules of Professional Conduct and appropriate sanctions to recommend to the Disciplinary Board, and eventually the Pennsylvania Supreme Court.

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

Although I have not presided over any cases in the traditional sense, I have presided over a number of trials before the Disciplinary Board of the Pennsylvania Supreme Court.

i. Of these, approximately what percent were:

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

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

I have not issued any written opinions.

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

1. *Missett v. Hub International Pennsylvania, Inc.* No. 08-22584 (C.C.P. Montg.)

Judge Del Ricci appointed me to resolve the attorney-client and discovery issues arising on remand. The parties were disputing the scope and enforceability of a non-compete agreement and the consideration for the non-compete following remand from the Pennsylvania Superior Court. I issued one or two page discovery orders, but no opinions.

Counsel were:

Lawrence H. Pockers
Duane Morris, LLP
30 South 17th Street
Philadelphia, PA 19103
215-979-1153

Jed L. Marcus
Bressler, Amery & Ross
325 Columbia Turnpike
Florham Park, NJ 07932
973-514-1200

2. *Globus Medical Inc. v. L5 Surgical LLC et al.*, No. 09-42959 (C.C.P. Montg.)

Judge Del Ricci appointed me to rule upon the discovery and privilege issues. The parties were disputing provisions in an asset purchase and sale agreement and trade secret protections. I issued one or two page discovery orders, but no opinions.

Counsel were:

Matthew A. Taylor
James L. Beausoleil
Lawrence H. Pockers
Christina E. Norland Audigier
Duane Morris, LLP
30 South 17th Street
Philadelphia, PA 19103
215-979-1153

Gary Green
Robert A. Davitch
Larry M. Keller
Sidkoff, Pincus & Green
1101 Market Street
2700 Aramark Tower
Philadelphia, PA 19107
215-574-0600

In addition, from 2000 to 2006, while serving the Pennsylvania Supreme Court as an unpaid Member of a Hearing Committee of the Disciplinary Board, I recall sitting in less than ten proceedings. I served as Chair in three proceedings. I cannot provide additional details because these matters are strictly confidential.

- 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.

I have not written any opinions.

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

None.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If

any of the opinions listed were not officially reported, provide copies of the opinions.

None.

- 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.

None.

- 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.

None.

- 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:

I neither recused myself sua sponte nor was I asked to recuse myself as a member of the Hearing Committee of the Disciplinary Board of the Pennsylvania Supreme Court or as a special master.

- 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.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

I have never held a position or played a role in a political campaign, other than serving as a host or co-host for fundraisers supporting the following candidates, listed in reverse chronological order: Robert P. Casey for United States Senator (2012, 2011, 2010, 2006); Stewart J. Greenleaf, Jr. for County Controller of Montgomery County, Pennsylvania (2011); Bruce L. Castor for County Commissioner of Montgomery County, Pennsylvania (2011, 2007); Stewart J. Greenleaf, Sr. for Pennsylvania State Senator (2010); Carolyn T. Carluccio for Judge on the Court of Common Pleas for Montgomery County, Pennsylvania (2009); and Adam Zucker and Joseph Palmer for Township Supervisors for Whitpain Township, Pennsylvania (2009).

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

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

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

From August 1987 to August 1988, I served as a Law Clerk to the Delaware Court of Chancery, Dover, Delaware, including the sole law clerk to Vice Chancellor Maurice A. Hartnett III.

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

I have never practiced alone.

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

of your affiliation with each.

1988 – 1990
Elliott Mannino & Flaherty, P.C.
1800 One Meridian Plaza
Philadelphia, Pennsylvania 19103
Associate attorney

1990 – present
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive, Suite 300
Blue Bell, Pennsylvania 19422
(formerly in Philadelphia, Pennsylvania)
Associate Attorney (1990 – 1995)
Shareholder (1995 – present)
Co-Hiring Shareholder (1995 – present)
Corporate Secretary (2000 – present)
Director (2000 – present)
Managing Shareholder of Delaware office (2011 – present)

- 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. I have served as an unpaid Chair of Arbitration Panels in the Court of Common Pleas of Montgomery County in civil matters involving less than \$50,000. I provided this service in approximately fifteen matters from 2000 to 2005 at the Montgomery County Courthouse, Norristown, Pennsylvania. None of these civil matters were appealed or resulted in any published orders.

b. Describe:

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

Following my judicial clerkship, I joined Elliott Mannino and Flaherty, P.C. as an associate from 1988 to 1990. My practice focused on matters involving the representation of special committees and those involving the fiduciary duties of directors and officers of Pennsylvania and Delaware corporations. My practice at that time was almost entirely litigation, with representations in commercial and shareholder matters.

As an associate at Elliott Greenleaf & Siedzikowski, P.C. from 1990 to 1995, my practice continued to develop in the representation of corporate directors and officers and also focused on financial matters and the

representations of lenders and banks, including actions brought under the Racketeer Influenced and Corrupt Organizations Act. I practiced in matters in the United States District Courts and the United States Bankruptcy Courts.

Since 1995, as a Shareholder at Elliott Greenleaf & Siedzikowski, P.C., my practice has continued to focus on commercial litigation. Over these past nineteen years, I have represented clients in class and derivative litigations, major personal injury, white collar and regulatory investigations. I also have provided fiduciary counseling to boards of public, private, and non-profit entities.

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

Throughout my career, my clients have included individuals, business entities, non-profits, entrepreneurs, developers, investors and unions. I have not specialized in any specific area.

- 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.

Throughout my career, I have appeared frequently in trial and appellate courts on a variety of matters. Over 90% of my practice is in litigation in trial and appellate courtrooms throughout the United States, with a particular focus on the United States District Court for the Eastern District of Pennsylvania and the United States Court of Appeals. The remaining 10% of my practice has involved corporate, employment and fiduciary counseling to directors, managers and officers of privately held companies. Over the last 26 years, my practice has been focused primarily on civil proceedings, but there have been years where over 10% of my practice was in federal criminal matters. I have provided estimates based on my overall career below.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 75% |
| 2. state courts of record: | 25% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 85% |
| 2. criminal proceedings: | 15% |

- 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.

Based on my review of records available, I have tried 30 cases in courts of record to final decision. I have been lead counsel in 21 of these cases, co-lead counsel in three of these cases, and associate counsel in six of these cases. Ten of these cases were tried to jury, and 20 were bench trials.

- i. What percentage of these trials were:
 - 1. jury: 34 %
 - 2. non-jury: 66 %

- 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 been a member of the Bar of the United States Supreme Court for over 12 years. I do not recall any involvement in a matter before the United States Supreme Court.

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

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

- 1. *Ciccarone v. Marchese, Inc. et al.*, C.A. No. 03-1660, United States District Court for the Eastern District of Pennsylvania before Senior Judge Norma L. Shapiro; 2002 – 2004.

This case involved one of the first and widely publicized certified class actions in the United States District Court for the Eastern District of Pennsylvania under the Fair Credit Reporting Act. I was appointed as co-lead counsel for a class of persons whose identity had been stolen by a car dealership in connection with test drives of automobiles. Thereafter, the car dealership used the social security numbers to place loans in the persons' names, which largely destroyed the credit of hundreds of people. There also was a corresponding criminal trial in state court against the car dealership employees. The car dealership denied coverage

or liability based upon rogue employees. Following extensive discovery, class certification hearings, dispositive motions, and extensive *Daubert* hearings on the novel issue of credit law and restoration remedies, we settled the case on the eve of trial for millions of dollars in damages and the restoration of credit reports for hundreds of persons, as well as equitable relief in the restoration and preservation of the credit ratings.

Co-Lead Counsel:
Cary L. Flitter, Esq.
Flitter Lorenz
450 North Narberth Avenue
Narberth, PA 19072
610-266-7863

Opposing Counsel:
Joseph F. Van Horn, Esq.
(formerly with Bodell Bove Van Horn, Philadelphia, PA)
Fallon Van Horn, LLC
30 S. 15th Street, Suite 600
Philadelphia, PA 19102
215-864-6400

2. *Whitehead v. Vacation Charters et al.*, No. 3764, Court of Common Pleas for Philadelphia County; Judge Gary S. Glazer; 2008 – 2011.

This case involved a challenge under the Pennsylvania Wage Payment and Collection Law for hundreds of individuals who were being misclassified as independent contractors when, under every indicia, they were employees entitled to the benefits of being an employee. I was appointed as lead class plaintiffs' counsel. Following discovery, substantial summary judgment motions, motions in limine, and expert examination, we tried the case to a multi-million dollar verdict and received declaratory and equitable relief following a bench trial. We also obtained federal tax benefits and state insurance premiums typically paid by employers. This case marked the first fully tried class action under the Pennsylvania Wage Payment and Collection Law to be resolved.

Opposing Counsel:
Steven G. Leventhal, Esq.
Reger Rizzo & Darnell LLP
2929 Arch Street, 13th Floor
Philadelphia, PA 19104
215-495-6501

3. *Benevento v. LifeUSA Holding/In re: LifeUSA Holding*, C.A. No. 97-7827, United States District Court for the Eastern District of Pennsylvania before Judge J. Curtis Joyner; 1997 – 2001.

This case involved allegations that Life USA Holding was selling annuities without disclosure of their full terms and concealing the method in which the interest rates were being calculated. I was appointed as lead plaintiff's class counsel for a certified class of hundreds of thousands of senior citizen annuitants in a Multi-District Litigation. I had the opportunity to argue this matter before the Multi-District Panel, as well as be the lead author on the Rule 23(f) Opposition Brief in the United States Court of Appeals for the Third Circuit. Based on our discovery and briefing, the trial court found the defendant's materials to be misleading, ambiguous and confusing. Following discovery, MDL litigation, class certification and appeals, the matter settled with recovery for all the represented parties.

Co-Lead Counsel:

Timothy T. Myers, Esq.
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive, Suite 300
Blue Bell, PA 19422
215-977-1062

Opposing Counsel:

James Jordan, Esq. & Paul A. Fischer, Esq.
Carlton Fields Jorden Burt (formerly Jorden Burt LLP)
1025 Thomas Jefferson Street, NW, Suite 400 East
Washington, D.C. 20007
202-965-8100

4. *Schneider v. First Commercial Bank of Philadelphia*, No. 95-08318, Court of Common of Montgomery County, Pennsylvania before the Honorable Paul Tressler (ret.)

This case involved my efforts to secure immediate injunctive relief in the context of a corporate control dispute in a Philadelphia bank. I served as co-lead counsel for the shareholders and the former bank chairwoman seeking to enjoin an annual shareholders meeting scheduled by the new management to limit the number of allied shareholders who would be of record to vote on the originally scheduled date for the shareholders meeting. This matter involved then-novel issues of Pennsylvania law on fiduciary duties in the scheduling of shareholder action. We initially obtained an injunction from the trial court prohibiting a meeting on the scheduled date of the shareholders meeting, and the Pennsylvania Superior Court upheld that Order on an emergency appeal. Accordingly, the shareholders and former chairwoman succeeded in rescheduling the shareholders vote on a date, which would include a broader range of shareholders of record.

Co-Lead Counsel:

John M. Elliott, Esq.
Elliott Greenleaf & Siedzikowski, P.C.

925 Harvest Drive, Suite 300
Blue Bell, PA 19422
215-977-1004

Opposing Counsel:
James J. Rodgers, Esq.
Dilworth Paxson LLP
1500 Market Street,
Philadelphia, PA 19102
215-575-7143

5. *Constitution Bank v. Paine Webber Inc., et al.*, No. 91-5175. United States District Court for the Eastern District of Pennsylvania before Judge William H. Yohn; 1991 – 1993.

This case involved the investigation and prosecution of claims against a major brokerage house and its principals concerning their involvement in the development of the Mt. Ascutney Ski Resort in Vermont. I served as co-lead counsel for Constitution Bank, a small bank in Pennsylvania, which lent millions of dollars for the furtherance of this development based on the representations and guarantees of persons involved in the securities and harness racing businesses. Eventually, we brought a case under the Racketeer Influenced and Corrupt Organizations Act against the securities house and its senior executives, and third parties involved arising from the misrepresentations and non-disclosures for the syndication of these properties. Notably, the borrowers on this debt had already filed bankruptcy, leaving this small bank without remedy unless it pursued those who sponsored this conduct. Following extensive counterclaims and third party claims, extensive discovery throughout the northeastern United States, and multiple hearings, the plaintiff bank recovered millions of dollars from the securities professionals and third parties.

Co-Lead Counsel:
John M. Elliott, Esq.
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive; Suite 300
Blue Bell, PA 19422
215-977-1004

Lead Opposing Counsel:
A. Hugh Scott, Esq.
Choate Hall & Stewart
Exchange Place, 53 State Street
Boston, MA 02109
617-248-5250

6. *Bonfield VII, Ltd. v. Musser et al.*, No. 05-8020, Court of Common Pleas of Delaware County, Pennsylvania before Judge James F. Proud; 2005 – 2006.

This test case involved the scope of Pennsylvania's Fraudulent Conveyance Act as applied to a transfer of assets between spouses. I represented the ex-wife in the proceedings. In this case, a former billionaire, Mr. Musser, transferred assets to his then wife. Thereafter, they divorced and creditors sought to obtain the assets obtained by his ex-wife under their interpretation of the Fraudulent Conveyance Act. I served as co-lead trial counsel, and principal author of all submissions, in this case that went to an equity bench trial concerning the scope of Pennsylvania's Fraudulent Conveyance Act. The case settled for millions of dollars in retained assets for my client in mid-trial.

Co-Lead Trial Counsel:

John M. Elliott, Esq.
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive; Suite 300
Blue Bell, PA 19422
215-977-1004

Opposing Counsel:

Richard A. Sprague, Esq. and Joseph Podraza, Esq.
Sprague & Sprague
Suite 400, The Wellington Building
135 South 19th Street
Philadelphia, PA 19103
215-561-7681

Thomas E. Zemaitis, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Philadelphia, PA 19103
215-981-4000

7. *Boudwin v. Seitz et al.* No. 99-13191, Court of Common Pleas of Delaware County before Judge George A. Pagano, 1999 – 2001

This case involved the investigation and trial regarding the theft of software source code that eventually became a prototype for Microsoft Outlook. I was lead jury trial counsel for the software developer seeking damages for the conversion of source code that he prepared and that was used in one of the first developed enterprised software programs. After extensive discovery in Eastern Pennsylvania and in California, several summary judgment motions and expert testimony regarding the copying of source code, the case settled at the end of plaintiff's case before the jury for a substantial confidential recovery to the software developer.

Opposing Counsel:

Matthew A. Taylor, Esq. and James H. Steigerwald, Esq.
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103
215-979-1140

Phillip Katauskas, Esq.

(formerly with Pepper Hamilton, LLP, Philadelphia, PA)
United States Department of Justice
Criminal Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
202-514-2000

8. *In re One Meridian Plaza Fire Litigation*., Nos. 91-2171; 2172; 2226; 2227; 2374; 2545; 2546; and 2547, United States District Court for the Eastern District of Pennsylvania before Judge Ronald L. Buckwalter; C.A.; 1991 – 1996.

This case involved the effort to recover damages for the thousands of persons harmed and displaced by the largest office high rise fire in Philadelphia history. I was appointed as class counsel, along with three more senior members of my law firm, for the class of persons and businesses injured in this fire. This case involved issues concerning the jurisdictional scope of the Foreign Sovereign Immunities Act because one of the owners of the high rise building was a Dutch Government Pension Fund. The case also involved over fifty third party claims, discovery from over one hundred witnesses and extensive pretrial motions to dismiss and for summary judgment. Following discovery, we secured a confidential substantial recovery for the plaintiffs.

Co-Counsel:

John M. Elliott, Esq.
Henry F. Siedzikowski, Esq.
Timothy T. Myers, Esq.
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive; Suite 300
Blue Bell, PA 19422
215-977-1000

Opposing Counsel:

Stephen A. Cozen, Esq.
Robert W. Hayes, Esq.
Cozen O'Connor
1900 Market Street
Philadelphia, PA 19103
215-665-2000

9. *Delaware Nation v. Pennsylvania*, C.A. No. 04-0166, United States District Court for the Eastern District of Pennsylvania before Senior Judge James McGirr Kelly; 2004 – 2006.

This case involved the rights of the Delaware Nation to recover thousands of acres of land in Northampton County, Pennsylvania based upon, among other things, several mid-19th Century treaties. The case also involved an examination of Penn's Walking Purchase and the principles underlying the sovereignty of Native American nations. I served as lead counsel for residents of Forks Township, Pennsylvania. The judge granted summary judgment in favor of the residents of Forks Township. I also argued before the United States Court of Appeals for the Third Circuit, which affirmed the district court's decision. Thereafter, in issues unrelated to Forks Township, the United States Supreme Court denied the Delaware Nation's petition for certiorari. As a result of our efforts, the residents of Forks Township, Pennsylvania, retained their property.

Opposing Counsel:

Thomas B. Fiddler, Esq.
(formerly with Cozen O'Connor, Philadelphia, PA)
White & Williams
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103
215-864-7081

10. *Warrington Market, Inc. v. Fleming Companies, Inc. et al.*, C.A. No. 02-0719, United States District Court for the Eastern District of Pennsylvania before Judge Timothy J. Savage; 2002 – 2003.

This case involved the application of common law theories of promissory estoppel and equitable relief under the Equal Credit Opportunity Act (ECOA). Specifically, I represented supermarket owners and their spouses against two multinational companies/lenders who had, after several agreements, decided to close down selling supplies to the supermarket. Further, as a result of various agreements, the husbands and wives were also liable for hundreds of thousands of dollars in guarantees on various debts related to this purchase of supplies. The lead defendant filed bankruptcy weeks before trial, resulting in successful motions to lift the automatic stay. Following discovery in the Eastern District of Pennsylvania and in Oklahoma, I served as lead jury trial counsel. The jury returned a verdict for over \$800,000 under a promissory estoppel theory. The District Court also granted equitable relief under ECOA, raising issues concerning ECOA trials and damages after relief from the Bankruptcy Court's automatic stay.

Lead Opposing Counsel:

Michael J. McCaney, Esq.
(formerly with Flamm, Bacine & Boroff, Blue Bell, PA)
1515 Market Street

Philadelphia, PA 19102
215-496-0177

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

In addition to my litigation experience, I have defended and advised executives facing civil and criminal investigations in over fourteen different securities, banking and regulatory matters. The object of these representations is to resolve the concerns in an effective manner and allow the client to continue in business. These representations involve the analysis and effective presentation of extensive materials, interviews and negotiation, including terms of *Wells* submissions with federal officials in Philadelphia, Florida and Washington. I have negotiated with federal and state banking authorities on varied aspects of management, financial viability and obligations to depositors. I also prepared and presented substantial bank and wire fraud matters on behalf of clients to enforcement authorities, including in a matter recently resulting in the conviction of entities and individuals defrauding financial institutions of over \$40 million in real estate financings.

The Computer Fraud and Abuse Act, 18 U.S.C. §1030, has been interpreted by courts in a manner that allows it to be used as a commercial tort with attorney's fees and e-discovery protocols. I have been lead or co-lead counsel in a series of cases in the United States District Court for the Eastern District of Pennsylvania and in the Court of Appeals which have defined parameters and set e-discovery protocols, including most significantly: *Grant Manufacturing v. McIlvain*, No. 10-1029-Sanchez, J. (jurisdictional damages and "authorized" access); *GWR v. Baez*, No. 07-1103 – Rufe, J. (CD-Rom as a "computer device"); *Feinberg v. Eckelmeyer*, No. 09-1536 – Yohn, S.J. ("authorized" access v. "exceeded" access); *American Homecare Supply v. McGoldrick*, No. 07-630-Diamond, J. (damage without removed or impaired data); and, *Elliott Greenleaf v. Balaban*, No. 12-0674-Savage, J. (cloud interactive storage as a "computer device").

I have never been a lobbyist.

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

None.

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

I am neither aware of, nor eligible for, receipts from any deferred income arrangements, stock, options, uncompleted contracts or other future benefits which I expect to derive from existing or previous relationships.

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 any outside employment if confirmed. As to volunteer Board service on non-profit entities, I would carefully review the obligations imposed upon federal judges and in consultation with the Chief Judge and the Court, would resign from any volunteer Board position inconsistent with my obligations to the Court.

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.

If confirmed, I would recuse from any case in which I, or my present law firm, had previously worked and any case in which I had an interest raising an appearance of bias or which presented a ground on which my impartiality could reasonably be questioned. I am not aware of any family member that has, or would have, a matter in the courts. If a potential conflict arose, I would apply the

standards of 28 U.S.C. § 455 and the Code of Conduct for United States Judges, as well as any other pertinent principles of judicial ethics, to determine the appropriateness of recusal. Further, I would disclose to all parties if there was any potential issue in a matter arising before me.

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

To avoid any potential conflict of interest if I were confirmed, I would consult the applicable law, including 28 U.S.C. § 455 and the Code of Conduct for United States Judges, as well as any other pertinent principles of judicial ethics, and prepare a detailed catalog of matters, clients and other persons to the Clerk of the Court so that I could timely review and address any potential conflicts of interest and avoid any delay in resolving the parties' dispute. As matters developed, I would request, and consider, any factors raised by counsel or parties.

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.

My pro bono service began in 1988 with the Philadelphia VIP program, resulting in two non-jury landlord tenant trials in the Philadelphia Municipal Court involving indigent persons losing their tenancy. Upon moving my principal office in 1991, I became involved in Legal Aid of Southeastern Pennsylvania, including serving as an advisor to the Board and eventual Board Member assisting management in negotiating for additional funding. In 2012, the Pennsylvania Bar Association honored me with its Exemplary Pro Bono Award. My pro bono service also includes several long term representations as a child advocate for the Montgomery Child Advocacy Project, where I have represented children before the Court of Common Pleas and Magisterial District Justices in criminal, dependency and civil matters. Further, the focus of my multi-year leadership of both the Welcoming Center for New Pennsylvanians and the Montgomery Bar Foundation was on involving the corporate and commercial lawyers in the representation of indigent persons.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department

regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In January 2013, I submitted my application to the bipartisan Federal Judicial Nomination Advisory Panel for the United States District Court for the Eastern District of Pennsylvania, convened by Senators Casey and Toomey. On April 4, 2013, I interviewed with the Advisory Panel in Philadelphia, Pennsylvania. On August 6, 2013, a member of Senator Casey's staff advised me by telephone that I was being considered for nomination. Since that day, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 18, 2013, I met with Senator Toomey and his staff counsel in Washington, D.C. On January 21, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 16, 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, Mark A. Kearney, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

July 16, 2014

(DATE)

[Signature]

(NAME)

[Signature]
(NOTARY)

