

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Edward Sunyol Kiel
Sun Yol Kiel

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

United States District Judge for the District of New Jersey

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

United States District Court, District of New Jersey
Frank R. Lautenberg United States Post Office & Courthouse Building
2 Federal Plaza
Newark, New Jersey 07102

Residence: Franklin Lakes, New Jersey

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

1965; Daegu, South Korea

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.

1988 – 1991, Notre Dame Law School; J.D., 1991

1983 – 1988, Rutgers University; B.S.E.E. and B.A., 1988

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.

2019 – present

United States District Court, District of New Jersey
50 Walnut Street
Newark, New Jersey 07102
United States Magistrate Judge

1998 – 2019
Cole Schotz P.C.
25 Main Street
Hackensack, New Jersey 07601
Partner (2001 – 2019)
Associate (1998 – 2001)

1994 – 1998
Beattie Padovano
200 Market Street, Suite 401
Montvale, New Jersey 07645
Associate

1992 – 1994
Jamieson Moore Peskin & Spicer
300 Alexander Park
Princeton, New Jersey 08540
Associate

1991 – 1992
Superior Court of New Jersey, Somerset County
20 North Bridge Street
Somerville, New Jersey 08876
Law Clerk to the Honorable Michael R. Imbriani

Summer 1990
O'Brien & Ryan, LLP
2250 Hickory Road
Plymouth Meeting, Pennsylvania 19462
Summer Associate

Summer 1989
Somerset County Prosecutor's Office
20 Grove Street
Somerville, New Jersey 08876
Summer Intern

Other Affiliations (uncompensated)

2017 – 2019
Presbyterian Camps and Conferences, Inc.

Johnsonburg Camp and Retreat Center
822 Route 518
Johnsonburg, New Jersey 07825
Member, Board of Trustees

2006 – 2012 and 2014 – 2019
Bethany United Presbyterian Church of Bloomfield
293 West Passaic Avenue
Bloomfield, New Jersey 07003
Elder

2012 – 2018
North Jersey Country Club
594 Hamburg Turnpike
Wayne, New Jersey 07470
Member, Board of Governors
Chair, House Committee (2012 – 2014)
Chair, Comportment Committee (2015 – 2018)

2007 – 2010
Volunteer Center of Bergen County
64 Passaic Street
Hackensack, New Jersey 07601
Board Member

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 did not serve 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.

Asian Pacific American Lawyers Association of New Jersey – Professional Achievement Award (2019)

Professional Lawyer of the Year Award – New Jersey Commission on Professionalism in the Law (2013)

Passaic County Board of Chosen Freeholders Proclamation during Asian Pacific American History Month, for service and contribution to the Asian community (2014)

National Asian Pacific American Lawyers Association – Trail Blazer Award (2011)

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.

Asian Pacific American Lawyers Association of New Jersey, Member (2005 – present)

Bergen County Bar Association, Trustee (2011– 2019)

New Jersey Commission on Professionalism in the Law, Board Member (2019 – present)

New Jersey Office of Attorney Ethics, Fee Arbitration Committee, District IIB, Member (2005 – 2011)

New Jersey State Bar Association, Member (1992 – present)

New Jersey Supreme Court, Committee on Character, Member (2007 – 2019)

U.S. District Court, District of New Jersey, Rules Committee, Member (2019 – present)

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.

New Jersey, 1991
Pennsylvania, 1991

There has been no lapse in membership for the New Jersey bar. In 1996, I transferred to inactive status for the Pennsylvania bar because I established my practice in northern New Jersey, never appeared before a Pennsylvania court, and did not intend to practice before the Pennsylvania courts.

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

United States Supreme Court, 2019
United States Court of Appeals for the Third Circuit, 2002
United States District Court for the District of New Jersey, 1991

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.

North Jersey Country Club, Member (2004 – present)

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

To the best of my knowledge, the organization listed above does not currently discriminate nor did it formerly discriminate 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.

With Peter E. Lembesis, *Exculpatory Clauses in Title Abstracts: Small Type that Could Lead to a Big Problem*, NEW JERSEY LAW JOURNAL (June 23, 2009). Copy supplied.

The Absence of Privity on Construction Projects Poses Difficulties, NEW JERSEY LAW JOURNAL (Mar. 21, 2008). Copy supplied.

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

None.

- 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.

None.

- 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.

July 19, 2023: Panelist, United States District Court, District of New Jersey, Presentation to summer interns: Re-New and POP Courts, Virtual Presentation. Remarks supplied.

December 13, 2021: Panelist, John C. Lifland American Inn of Court, Rule 16 and Preparation of the Rule 26(f) Joint Discovery Plan/Perspectives from Each Vicinage, Virtual Presentation. The panel was on practice tips for preparation for an initial scheduling conference. I have no notes, transcript, or recording. The John C. Lifland American Inn of Court does not appear to have a mailing address.

September 21, 2021: Panelist, Asian Pacific American Lawyers Association of New Jersey, Pathways to the Federal Bench, Virtual Presentation. The panel was on the appointment process for United States district and magistrate judges. I have no notes, transcript, or recording. The address for the Asian Pacific American Lawyers Association of New Jersey is 494 Broad Street, Suite 201, Newark, New Jersey 07102.

June 24, 2021: Speaker, Bergen County Bar Association, "Diversity in the Profession Annual Dinner," Paramus, New Jersey. Remarks supplied.

October 23, 2020: Panelist, Association of the Federal Bar of New Jersey. Third Annual Federal Pro Bono Institute, "The Essentials of Handling a Pro Bono Matter and the Benefits of the Re-Entry Program in the District of New Jersey," Virtual Presentation. The panel I was on concerned the District of New Jersey's Re-Entry and Pretrial Opportunity Program. I have no notes, transcript, or recording. The address for the Association of the Federal Bar of New Jersey is 979 Broad Street, Newark, New Jersey 07102.

October 15, 2019: Panelist, New Jersey State Bar Association, "Federal Practice

Insights for the Federal Practitioner,” New Brunswick, New Jersey. I spoke very briefly to introduce myself to the association as a new magistrate judge. I have no notes, transcript, or recording. The address for the New Jersey State Bar Association is 1 Constitution Square, New Brunswick, New Jersey 08901.

October 10, 2019: Panelist, Rutgers Law School, “Journey to Judgeship,” Virtual Presentation. The panel was on each panelist’s background and their pathway to judicial appointment. I have no notes, transcript, or recording. The address for the Rutgers Law School is 123 Washington Street, Newark, New Jersey 07102.

September 10, 2019: Speaker, United States District Court, District of New Jersey, Investiture Ceremony, Newark, New Jersey. Remarks supplied.

June 13, 2019: Speaker, Asian Pacific American Lawyers Association of New Jersey, Professional Achievement Award, West Orange, New Jersey. I gave a brief acceptance speech for the organization’s Professional Achievement Award. I have no notes, transcript, or recording. The address for the Asian Pacific American Lawyers Association of New Jersey is 494 Broad Street, Suite 201, Newark, New Jersey 07102.

March 22, 2017: Panelist, Connecticut Maritime Association, “The Hanjin Riddle: Legal Issues Arising from the Hanjin Bankruptcy,” Stamford, Connecticut. The panel was on issues in the Hanjin Shipping bankruptcy case. I have no notes, transcript, or recording. The address for the Connecticut Maritime Association is 100 First Stamford Place, Stamford, Connecticut 06902.

May 13, 2014: Speaker, Passaic County Board of Chosen Freeholders. I gave a brief acceptance speech for the Freeholder’s Proclamation during Asian Pacific American History Month for my service and contributions to the Asian community. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Board of County Commissioners (f/k/a Board of Chosen Freeholders) is Passaic County Administration Building, 401 Grand Street, Paterson, New Jersey 07505.

March 10, 2012: Panelist, The Association of the Federal Bar of New Jersey, “Chapter 15 and the Hanjin Case,” 19th Annual William H. Gindin Bankruptcy Bench Bar Conference, East Brunswick, New Jersey. The discussion concerned the legal issues surrounding the Hanjin Shipping bankruptcy. I have no notes, transcript, or recording. The address for the Association of the Federal Bar of New Jersey is 979 Broad Street, Newark, New Jersey 07102.

November 20, 2010: Speaker, National Asian Pacific American Bar Association National Conference, Trailblazer Award, Los Angeles, California. I gave a brief acceptance speech as an awardee for the organization’s “Trailblazer Award.” I have no notes, transcript, or recording. The address for the National Asian Pacific

American Bar Association is 1612 K Street, Northwest, Suite 510, Washington, DC 20006.

- 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.

Hugh R. Morley, *Hanjin Accused of Deception in Avoiding US Ship Seizure*, Journal of Commerce (Oct. 19, 2016). Copy supplied.

Rebecca O'Brien, *Failed Project Now a Tangle of Lawsuits*, THE RECORD (Hackensack, NJ) (June 17, 2014). Copy supplied.

Press release, Cole, Schotz, Meisel, Forman & Leonard, P.A. (Oct. 25, 2013). Copy supplied.

Monsy Alvarado, *Court Dismisses Former Pastor's Defamation Suit*, THE RECORD (Sept. 27, 2013). Copy supplied.

American Civil Liberties Union New Jersey, *ACLU-NJ Files Lawsuit Challenging Wanaque Borough's Juvenile Curfew Ordinance*, ACLU-NJ Press Release (Mar. 7, 2013). Copy supplied.

Monsy Alvarado, *North Jersey Koreans Welcome State Supreme Court Nominee*, THE RECORD (Jan. 23, 2012). 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 was appointed as a United States Magistrate Judge for the District of New Jersey on July 16, 2019. For civil matters, I manage cases through discovery, resolve non-dispositive motions, and conduct settlement conferences. I also handle dispositive issues where all parties consent to the magistrate judge's authority to resolve all matters relating to the case. For criminal matters, I conduct initial appearances and bail hearings, review and swear out search warrant applications and criminal complaints, and enter pleas and impose sentences in non-felony cases. Also, I preside over the district's Pretrial Opportunity Program with District Judge Ester Salas.

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

I have not presided over any cases that have gone to verdict or judgment.

- i. Of these cases, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

ii. Of these cases, approximately what percent were:

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

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

See attached list of citations.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Pearson Education, Inc. v. Chegg, Inc.*, 21-16866, 2022 WL 16818486 (D.N.J. Nov. 7, 2022) and 2023 WL 1779523 (D.N.J. Feb. 6, 2023)

This case stems from the claims of plaintiff, who is a publisher of textbooks, that defendant's sale of answers to questions that appear at the end of the chapters in plaintiff's textbooks infringes on plaintiff's copyrights. I resolved disputes relating to the sealing of certain documents filed on the docket and plaintiff's motion for leave to file an amended complaint. I denied plaintiff's motion to amend the complaint, which sought to add another plaintiff to the case, because permitting the amendment would likely result in separate motion practices based on issues of personal jurisdiction and venue, separate discovery demands and separate discovery disputes, individualized damages assessments and the entry of separate judgments, and separate appeals from the separate judgments. This case remains pending and the parties are proceeding with discovery.

Counsel for plaintiff:

Scott A. Zebrak
Matt Oppenheim
Nick Hailey
Oppenheim and Zebrak, LLP
4530 Wisconsin Avenue, Northwest, 5th Floor
Washington, DC 20001
(202) 480-2999

Counsel for defendant:

John Paul Oleksiuk
Stephanie Schuyler
Evan Marc Lazerowitz
Cooley LLP
55 Hudson Yards
New York, NY 10001
(212) 479-6000

2. *Morgan v. Quest Diagnostic, Inc.*, No. 20-00430, 2020 WL 2401315 (D.N.J. May 11, 2020), 2020 WL 7183503 (D.N.J. June 8, 2020)

This case stems from the termination of plaintiff's employment as a dermatopathologist with defendant, which is medical testing facility. Plaintiff alleges that he is owed post-termination compensation under the terms of an employment agreement and that defendant continued to wrongfully use his name and likeness following his termination of employment. Plaintiff filed an amended complaint in response to defendant's motion to dismiss the complaint. Defendant moved to dismiss the amended complaint and sought a stay of discovery pending resolution of the motion to dismiss the amended complaint. I denied the request to stay discovery under the factors set forth in *Akiskev v. Kapustin*, 23 F. Supp. 3d 440 (D.N.J. 2014). After resolution of the motion to dismiss the amended complaint, in which the district judge dismissed the amended complaint but granted plaintiff leave to file a further amended complaint, plaintiff filed a second amended complaint. Defendant then moved to dismiss the second amended complaint and sought to stay discovery pending the resolution of its second motion to dismiss. I granted defendant's request to stay discovery, finding that the *Akiskev* factors, following the dismissal of the amended complaint, favored the imposition of a stay of discovery. I entered a discovery schedule following the resolution of the second motion to dismiss, which was granted in part and denied in part. The breach of contract claims survived the motion to dismiss, while the unjust enrichment claim was dismissed. This case remains pending.

Counsel for plaintiff:

Jorge Marquez
Christopher D. Warren
Warren Law Group
112 West 34th Street, 17th Floor
New York, NY 10120
(212) 580-9600

Counsel for defendants:

Lauren E. Fenton-Valdivia
Carlton Fields, P.A.

4221 West Boy Scout Boulevard, Suite 1000
Tampa, FL 33607
(813) 223-7000

Michael T. Hensley
Jorkeel Echeverria
Carlton Fields, P.A.
180 Park Avenue
Florham Park, NJ 07932
(973) 828-2600

3. *Dejewski v. National Beverage Corp.*, 19-14532, 2021 WL 118929 (D.N.J. Jan. 12, 2021)

This case stems from the termination of plaintiff's employment with the corporate defendant. Plaintiff alleges that his employment was terminated in retaliation for his reporting to defendants of what he believed to be violations of state and federal law relating to alleged Bisphenol A in the lining of beverage cans produced by the company. I resolved numerous discovery disputes, including whether certain communications were subject to the attorney-client privilege, whether defendant's counsel was required to produce a retainer-agreement between counsel and a non-party witness, and whether a questionnaire filled out by plaintiff and provided to his expert was protected by the attorney work product privilege. Copies of the unreported decisions are supplied. Defendant has filed a motion for summary judgment, which remains pending before the district judge.

Counsel for plaintiff:

Thomas C. Jardim
Scott Salmon
Jardim Meisner & Susser, P.C.
30B Vreeland Road, Suite 210
Florham Park, NJ 07932
(973) 845-7640

Counsel for defendants:

Rosemary Alito
Scott G. Kobil
K&L Gates LLP
One Newark Center, 10th Floor
Newark, NJ 07102
(973) 848-4000

Kathleen Barnett Einhorn
Genova Burns LLC

494 Broad Street
Newark, NJ 07102
(973) 533-0777

4. *Yang v. Lin*, 19-08534, 2021 WL 423805 (D.N.J. Feb. 7, 2021), 2022 WL 2389300 (D.N.J. July 1, 2022).

This case stemmed from allegedly defamatory statements posted by defendant about plaintiff on “shaming websites.” Although the parties did not know each other, they were part of the Taiwanese community and defendant had allegedly heard rumors about plaintiff from other members of the community. I resolved numerous discovery disputes, including whether plaintiff was required to identify her sexual partners since the age of 18, produce her medical records, and produce all websites, blogs, online forums, and social networking websites where she posted information or had an account. I denied defendant’s request to compel plaintiff to identify her sexual partners. I also limited the information required to be produced by plaintiff relating to her social media posts to those that were publicly accessible, and to those social media posts whose access was restricted but contained statements about plaintiff. Thereafter, the parties presented numerous additional discovery disputes relating to plaintiff’s demand for information concerning mobile phones and internet service providers used by members of defendant’s family, defendant’s motivation for posting the statements, defendant’s responses to contention interrogatories, and defendant’s responses to request for admissions. I granted plaintiff’s request for discovery relating to defendant’s motivation for posting the defamatory statements and for production of defendant’s social media posts. I conducted two settlement conferences along with a final pretrial conference. I also granted plaintiff leave to file an amended complaint. District Judge Ester Salas affirmed my granting of the motion for leave to file an amended complaint and, in the same order, denied defendant’s motion to dismiss. The parties thereafter settled the case.

Counsel for plaintiff:

Jeffrey M. Rosenfeld
Kronenberger Rosenfeld, LLP
150 Post Street, Suite 520
San Francisco, CA 94108
(415) 955-1155

James Thomas Prusinowski
Trimboli & Prusinowski
268 South Street
Morristown, NJ 07960
(973) 349-1307

Counsel for defendant:

Joel G. MacMull
Arla D. Cahill
Brian Matthew Block
Mandelbaum Barrett P.C.
3 Becker Farm Road, Suite 105
Roseland, NJ 07068
(973) 736-4600

5. *Ultra Logistics, Inc. v. Cody Keys Trucking, LLC*, 19-19315, 2021 WL 631927 (D.N.J. Feb. 17, 2021)

This case stemmed from damages to plaintiff's cargo while being transported by defendant. Soon after this case was removed from state court and I conducted an initial scheduling conference, plaintiff moved for summary judgment, arguing that the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 14706, applied and imposed liability on defendant. Following completion of briefing on the motion, the parties consented to my authority to conduct all proceedings in this matter. I conducted a lengthy but unsuccessful settlement conference. Thereafter, I denied plaintiff's motion for summary judgment, finding that, although the Carmack Act applied, plaintiff had not established a *prima facie* case under the Carmack Act and that there was a genuine factual dispute over whether plaintiff's cargo was damaged in transit. The parties settled the case soon after my denial of the motion for summary judgment.

Counsel for plaintiff:

Michael Thomas Caufield
Schepisi & McLaughlin, P.A.
473 Sylvan Avenue
Englewood Cliffs, NJ 07632
(201) 569-9898

Counsel for defendant:

Michael A. Mourtzanakis
Law Office of James H. Rohfling
445 South Street
Morristown, NJ 07962
(973) 631-7312

6. *Mirabal v. Caribbean Car Wash, Inc.*, No. 19-16608, 2020 WL 5939780 (D.N.J. Oct. 7, 2020)

This class and collective action case stemmed from a claim by employees of a car wash who alleged that they were paid below the minimum wage and were denied

overtime compensation in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201–219, and the New Jersey Wage and Hour Law, N.J.S.A. § 34:11-56a4, *et seq.* The parties consented to my authority to resolve plaintiffs’ motion for conditional certification, which I granted. The parties thereafter settled the matter and plaintiff filed a motion for preliminary approval of settlement and conditional certification of the class and collective. The parties consented to my authority to resolve the motion, which I granted. After notice to the class and collective, plaintiffs filed a motion for final approval of the class and collective settlement. The parties thereafter consented to my authority to conduct all proceedings in this matter. I granted the motion for final approval.

Counsel for plaintiffs:

Avi Mermelstein
Arenson Dittmar & Karban
200 Park Avenue, Floor 17
New York, NY 10166
(212) 490-3600

Counsel for defendants:

Victor A. Deutch
Deutch & Associates, LLC
843 Rahway Avenue, Suite 202
Woodbridge, NJ 07095
(72) 636-4200

7. *Odeh v. Immunomedics, Inc.*, 18-17645, 2021 WL 556482 (D.N.J. Nov. 24, 2021)

This class action case stemmed from defendants’ alleged violation of federal securities laws. The violations concerned the defendants’ allegedly misleading statements and omissions regarding a data breach at the company’s manufacturing facility. The action was brought on behalf of a potential class of 43,000 members who had purchased or otherwise acquired the common stock of the corporate defendant. While case managing the litigation, I resolved numerous discovery issues including a motion to compel the production of information from a third-party pursuant to a subpoena, disputes over the form of the discovery confidentiality and electronic discovery orders, and a dispute concerning the assertion of the attorney-client privilege by the corporate defendant’s counsel. After the completion of discovery and a potential resolution of the matter, the parties consented to my authority to conduct all proceedings in this matter. Thereafter, the parties reached a settlement agreement, the plaintiff filed a motion for preliminary approval of the settlement and notice to the class. Following notification to the class, I conducted a fairness hearing and approved the settlement.

Counsel for Lead Plaintiffs:

James E. Cecchi
Lindsey H. Taylor
Carella Byrne Cecchi Brody & Agnello, P.C.
5 Becker Farm Road
Roseland, NJ 07068
(973) 994-1700

Katrina Carrol
Lynch Carpenter LLP
111 West Washington, Suite 1240
Chicago, IL 60602
(312) 750-1265

Susanna Cruz Hodge
Lite DePalma Greenberg & Afanador, LLC
570 Broad Street, Suite 1201
Newark, NJ 07102
(973) 623-3000

Counsel for defendants:

Marshal R. King
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
(212) 351-4000

Rodney Villazor
Brian Burns
Clark Smith Villazor LLP
250 West 55th Street, 30th Floor
New York, NY 10019
(212) 582-4400

8. *Rodriquez v. Perth Amboy Police Department*, Case No. 17-03349 (D.N.J.).

This case stems from the May 2016 arrest of plaintiff Rodriguez, during which he alleged, inter alia, that members of the police department used excessive force. The plaintiff also alleged two subsequent incidents where members of the police department beat him and harassed him. The complaint named several specific officers as defendants, in addition to the police department. I resolved a discovery dispute relating to the use of a video of an unrelated incident involving one of the police officers. The parties consented to my authority to conduct all

proceedings in this matter. I conducted a lengthy settlement conference, followed by the entry of a final pretrial order. The matter was scheduled for trial. I resolved issues relating to proposed voir dire questions and jury instructions. The matter settled two days before the trial was to commence.

Counsel for plaintiff:

Jarred S. Freeman
Law Offices of Jarred S. Freeman, LLC
3840 Park Avenue, Suite 202-A
Edison, NJ 08820
(732) 494-7904

Counsel for defendants:

Joseph B. O'Toole, Jr.
Jack Piro O'Day Merklinger Wallace & McKenna
30 Columbia Turnpike
P.O. Box 941
Florham Park, NJ 07932
(973) 301-6500

9. *NY Machinery Inc. v. Korean Cleaners Monthly*, 17-12269, 2023 WL 3508330 (D.N.J. May 17, 2023), 2020 WL 6689758 (D.N.J. Nov. 13, 2020).

This case stems from allegedly defamatory statements published by defendants in their publication, which is marketed to the dry-cleaning industry. The parties consented to my authority to conduct all proceedings in this matter. I resolved numerous discovery disputes between the parties and held a plenary hearing on whether sanctions should be imposed on defendants for their discovery violations. After completion of discovery, I denied plaintiff's motion for summary judgment. The matter is scheduled for trial on October 24, 2023..

Counsel for plaintiffs:

Gene Y. Kang
Nancy Ann Del Pizzo
Rivkin Radler LLP
25 Main Street, Suite 501
Hackensack, NJ 07601
(201) 287-2460

Counsel for defendants:

Roy H. Mossi
Song Law Firm

400 Kelby Street, Suite 19
Fort Lee, NJ 07024
(201) 461-0031

10. *Hugo Neu Corporation v. Freeman*, No. 17-00373, 2020 WL 4218410 (D.N.J. July 23, 2020).

This case stemmed from a dispute over the parties' rights under an operating agreement for a limited liability company. The agreement set forth the parties' rights to combine parcels of land, to develop the combined parcels, and to retain a real estate developer to redevelop the combined parcels. The operating agreement also provided for a call right, which granted plaintiff the right to purchase defendant's interest in the company if certain contingencies were not met by a certain date. I conducted a settlement conference over two days, scheduled the matter for a final pretrial conference, and set a briefing schedule for dispositive motions. The parties, thereafter, consented my authority to conduct all proceedings in this matter. Plaintiff filed a motion for summary judgment arguing that it had expressly and unconditionally waived its call rights thereby rendering the case moot, which resulted in the court's lack of subject matter jurisdiction. Defendant argued that disputes remained as to its counterclaim and that plaintiff could seek to assert the call right in the future. I granted the plaintiff's motion for summary judgment and dismissed the case because plaintiff's unconditional waiver extinguished the claims between the parties and the court therefore lacked subject matter jurisdiction.

Counsel for plaintiff:

Adam K. Derman
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105 Eisenhower Parkway
Roseland, NJ 07068
(973) 325-1500

Counsel for defendant:

Jonathan W. Wolfe
Skoloff & Wolfe, P.C.
293 Eisenhower Parkway
Livingston, NJ 07039
(973) 992-0900

- 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. *NY Machinery Inc. v. Korean Cleaners Monthly*, 17-12269, 2023 WL 3508330 (D.N.J. May 17, 2023).

Counsel for plaintiffs:

Gene Y. Kang
Nancy Ann Del Pizzo
Rivkin Radler LLP
25 Main Street, Suite 501
Hackensack, NJ 07601
(201) 287-2460

Counsel for defendants:

Roy H. Mossi
Song Law Firm
400 Kelby Street, Suite 19
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(201) 461-0031

2. *Azurity Pharms., Inc. v. Novitium Pharma, Inc.*, 22-05860, 2023 WL 358538 (D.N.J. Jan. 20, 2023).

Counsel for plaintiff:

Katherine Ann Escanlar
Arnold B. Calman
Saiber LLC
18 Columbia Turnpike, Suite 200
Florham Park, NJ 07932
(973) 622-3333

Counsel for defendant:

Kathleen Marguerite Lieb
Sills Cummis & Gross P.C.
101 Park Avenue
New York, NJ 10178
(212) 643-7000

Counsel for intervenor:

Kathleen N. Fennelly
Thomas R. Curtin
McElroy Deutsch Mulvaney & Carpenter, LLP
1300 Mount Kemble Avenue
Morristown, NJ 07962

(973) 993-8100

3. *Chesler v. City of Jersey City*, 15-01825, 2019 WL 6318301 (D.N.J. Nov. 26, 2019)

Counsel for plaintiffs:

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4. *Ramirez v. Harper*, 22-04986, 2023 WL 4492384 (D.N.J. June 26, 2023)

Plaintiff is *pro se*

Counsel for defendants:

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5. *Pearson Education, Inc. v. Chegg, Inc.*, 21-16866, 2022 WL 16818486 (Nov. 7, 2022)

Counsel for plaintiff:

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6. *Ultra Logistics, Inc. v. Cody Keys Trucking, LLC*, 19-19315, 2021 WL 631927 (Feb. 17, 2021).

Counsel for plaintiff:

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7. *Malek v. Chef's Roll, Inc.*, 18-03205, 2021 WL 822787 (Mar. 4, 2021)

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Counsel for defendant:

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8. *Matter of Estate of Lagano*, 20-10793, 2020 WL 9172828 (D.N.J. Nov. 25, 2020)

Counsel for plaintiff:

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Counsel for defendant:

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9. *ADD Ventures Constr. Servs LLC v. Stetson Place Condo. Ass'n, Inc.*, 19-18155, 2020 WL 13580613 (Aug. 20, 2020)

Counsel for plaintiff:

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Counsel for defendant:

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10. *Hugo Neu Corporation v. Freeman*, No. 17-00373, 2020 WL 4218410 (July 23, 2020)

Counsel for plaintiff:

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

To the best of my knowledge, based on a review of my records and legal databases, certiorari has not been requested or granted in any of my cases.

- 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.

Wilkins v. Navy Federal Credit Union, No. 22-2916, 2022 WL 17730932 (D.N.J. Sept. 14, 2022), *R. & R. rejected*, 2023 WL 239976 (D.N.J. Jan. 18, 2023). Plaintiff brought this action individually and on behalf of a putative class against defendant for having failed to reimburse account holders for fraudulent

transactions made on the Zelle platform. While defendant had removed this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), plaintiff moved for remand, arguing that defendant had not satisfied by the preponderance of the evidence the \$5 million amount-in-controversy threshold required to confer federal jurisdiction. I agreed with plaintiff and recommended to the district judge that this case be remanded to the state court. Defendant objected and the district judge decided not to adopt my recommendation. The district judge concluded that defendant did not have the burden to establish the amount-in-controversy by a preponderance of the evidence. The district judge also found that because no jurisdictional facts were contested and the amount-in-controversy was to be determined by applicable law, plaintiff, as the challenging party, rather than defendant, as the removing party, had the burden to demonstrate under a legal certainty test why the amount-in-controversy threshold could not be exceeded. Although I concluded that the legal certainty test had been disavowed in a number of decisions in our district, the district judge determined otherwise. The district judge determined that plaintiff failed to satisfy her burden by a legal certainty that the amount in controversy could not be exceeded. The district judge also considered further evidence submitted by defendant in support of its objection to my report and recommendation to determine that had the preponderance of the evidence test applied and that remand was not warranted.

Ionfrida v. Babick, 20-15585, 20-15585, 2021 WL 7857601 (D.N.J. Mar. 16, 2022), *R. & R. rejected*, 541 F. Supp. 3d 516 (D.N.J. 2021). This matter involved plaintiff's claim for personal injuries sustained while a passenger on a private passenger boat. The boat owner removed the matter to federal court asserting the court's admiralty jurisdiction. Plaintiff thereafter moved to remand, arguing that the removal was contrary to the savings-for-suitors clause of 28 U.S.C. § 1333(1). The boat owner also filed a Complaint for Exoneration from or Limitation of Liability (Limitation Petition) under the Limitation of Liability Act, 46 U.S.C. §§ 30501, *et seq.*, and Rule F of the Supplemental Rules for Admiralty of the Federal Rules of Civil Procedure. On the motion to remand, I filed a report and recommendation that: (1) the personal injury action be remanded to the state court; and (2) that the Limitation Petition be stayed pending the disposition of the personal injury action in state court. I came to this conclusion because I applied the "single-claimant exception" to the exclusive admiralty jurisdiction of the federal courts. The district judge determined that, while my approach to the issues in the case "makes eminent practical sense," there was still "some potential for an additional claimant" that may seek damages for personal injuries from defendant. Accordingly, the district judge determined that the single-claimant exception did not apply and did not adopt my recommendation.

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

I have issued more than 1,000 orders, reports and recommendations, opinions, and

memorandum orders. Most of these are routine but a significant number of these involve decisions on non-routine issues. I issue both written and oral decisions. Of the non-routine rulings that are resolved with a written decision, the great majority are available on Lexis and/or Westlaw, and the remaining decisions are stored in the electronic case management system maintained by the United States District Court of New Jersey.

- 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 written any significant opinions on federal or state constitutional issues.

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

I have not sat by designation on any federal court of appeals.

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

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

I make recusal decisions in accordance with the Code of Conduct for United States Judges and 28 U.S.C. § 455. Additionally, I provide the Clerk's office with a list of people and companies for which I should be automatically recused.

I was asked to recuse myself from the following matters, all of which were before the District of New Jersey:

Onishi v. House, No. 20-11581. A *pro se* plaintiff sought my recusal based on alleged personal bias and prejudice against him. While the request was pending, the plaintiff filed the same request as a petition for mandamus with the Third Circuit, which the Third Circuit denied. Thereafter, I denied the request for recusal. Plaintiff appealed my ruling to the district judge. The district judge affirmed my ruling. The plaintiff's further request for mandamus relief with the Third Circuit was denied.

Onishi v. Chapleau, No. 20-13001. The *pro se* plaintiff from *Onishi v. House*, 20-cv-11581, filed a duplicative request for my recusal, which I denied based upon the ruling of the Third Circuit in the related case. The district judge assigned to this case affirmed my ruling. No further appeal to the Third Circuit was taken in this case.

Nicholson v. The Atlantic Group, Inc., No. 21-14666. A *pro se* plaintiff sought the recusal of the district judge and me. The request was denied by the district judge.

Brightwell v. New Jersey Department of Children and Families and Office of Licensing, No. 2:22-cv-03016. A *pro se* plaintiff sought my recusal because of alleged personal bias and prejudice against her. I denied the request.

I recused sua sponte in the below cases because a close friend or my former law firm entered an appearance in the matter:

GEICO v. Yoo, No. 19-16996
Cicekci v. Topkapi II, 19-20786
Italian American One Voice Coalition v. Township of West Orange, 20-12650
Goski v. Shaan Enterprises, 17-03262
Corporate Development Associates v. Make, LLC, 21-cv-02785
GEICO v. Allied Neurology, 2:19-17614
Garcia v. MP Plastic Plus Inc., 21-18256
Kim v. Lowell Cleaners, 22-00766
Licon v. Tunnel, 22-00946
Silver Arch Capital Partners, LLC v. Romspen US Mortgage LP, 22-02756
Nationstar Mortgage v. DuBois, 22-cv-04606
Lappas v. Costco Wholesale Corp., 2:22-cv-05696
JBS Hair, Inc. v. Hair Zone, 22-01577
JBS Hair, Inc. v. Beauty Essence, Inc., 22-01769
Rollins v. Costco Wholesale Corporation, 23-01276
In re Hajjar Business Holdings, LLC v. WFCM 2016 C-34, 23-01761
Nduagubu v. Essex County, 23-00961

I recused sua sponte in the below cases because a party was a former client:

ADP, LLC v. Pittman, No. 19-16237
KJY Investment v. 42nd and 10th Associates, 20-02834
Weiss v. Experian, 20-16286
JBS Hair, Inc. v. SLI IW Corporation, 22-cv-01576

I recused sua sponte in the below cases because I had a financial interest in a party:

Hernandez v. Amazon.com, Inc., 21-cv-17876
Merck v. Aurobindo, 20-02576
Pena v. Walmart, Inc., 19-17896
Sergeant v. Walmart, Inc., 20-07381
Riker v. Walmart, Inc., 21-18360
Soto Cedeno v. Walmart, Inc., 22-00636
Marte v. Walmart Supercenter, 22-00860
Forbes v. Walmart, 22-02006
Salem v. Sam's West Inc., 21-01350
Kenawy v. Wal-mart Stores, Inc., 21-14406
Carswell v. Wal-mart Stores, Inc., 21-11896
Teixeria v. Wal-mart Stores, Inc., 18-13103
Zuluaga Aguirre v. Wal-mart Stores East, LP, 19-20375
Harris v. Wal-mart Stores, Inc., 20-07418
Quiles v. Wal-mart Stores, Inc., 16-09479
Ward v. Sam's East Inc., 17-01786
Romany v. Target Corporation of Minnesota, 21-cv-15786

I recused sua sponte in the below cases because an attorney, who was named as a co-defendant with me in a separate civil matter, entered an appearance for a party:

Hrdlovic v. Wolf, 20-18712
Cafiso v. United States of America, 22-05616
Ogorkowski v. United States of America, 23-00760
Bynagari v. United States Citizenship and Immigration Services, 23-02966

I recused sua sponte in the below cases for the specific reasons provided:

Browne v. Wells Fargo, 19-15813. I recused sua sponte because I received a notice from defendant that an account had been opened in my name without my knowledge. (I did not pursue any claim relating to the unauthorized account.)

Echols v. United States of America, 22-00206. I recused sua sponte because plaintiff was a defendant in a criminal matter for which I conducted an initial appearance and set conditions of bail.

Glaesener v. Port Authority of New York and New Jersey, 20-02294. I recused sua sponte because my son began an internship with defendant.

Petrizio v. Port Authority of New York and New Jersey, 22-02161. I recused sua sponte because my son began an internship with defendant.

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.

None.

- 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 had a formal role in any campaign, but while in private practice I helped organize fundraising events as part of events committees for Jun Choi for Mayor in 2010 and Roy Cho for Congress in 2014

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 was a law clerk to Judge Michael R. Imbriani of the Superior Court of New Jersey, Somerset County, from 1991 to 1992.

- 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;

1992 – 1994
Jamieson Moore Peskin & Spicer
300 Alexander Park
Princeton, New Jersey 08540
Associate

1994 – 1998
Beattie Padovano
200 Market Street, Suite 401

Montvale, New Jersey 07645
Associate

1998 – 2019
Cole Schotz P.C.
25 Main Street
Hackensack, New Jersey 07601
Partner (2001 – 2019)
Associate (1988 – 2001)

- 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 served as a mediator in several matters. I have limited records relating to those matters. However, from those records and my recollection, I acted as a mediator for: (1) a matter pending before the Supreme Court of New York, New York County, concerning a dispute over property rights between factions of a Buddhist temple; (2) a personal injury matter against the Trump Taj Mahal Hotel pending before the Superior Court of New Jersey; and (3) a commercial dispute concerning the ownership of a beauty salon pending before the Superior Court of New Jersey. I have acted as a mediator in other matters but I have neither any specific recollection of those matters nor any records concerning same.

b. Describe:

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

After graduation from law school, I became a law clerk to the Judge Michael R. Imbriani, who was the presiding criminal judge in the Superior Court of New Jersey for Somerset County. Following the clerkship, in 1992, I became an associate with Jamieson, Moore, Peskin & Spicer, a law firm in Princeton, New Jersey, working primarily in its insurance regulatory and commercial litigation practices.

In 1994, I became a litigation associate with Beattie Padovano, a law firm in Montvale, New Jersey. I handled commercial litigation and insurance defense cases. I appeared regularly in court and tried a number of civil cases.

In 1998, I became a litigation associate with Cole, Schotz, Meisel, Forman & Leonard (now, Cole Schotz P.C.), a law firm in Hackensack, New Jersey. I actively litigated matters before the federal and state courts of New Jersey, as well as numerous other jurisdictions where I was admitted

pro hac vice. While at Beattie Padovano and Cole Schotz, I developed a substantial base of clients that required legal services beyond litigation. Therefore, although my practice was in commercial litigation, my clients used every aspect of the firm's practices, including real estate, corporate, trusts and estates, bankruptcy, and environmental departments. As a result, my practice touched these areas of the law, as well. In 2001, I was elected a partner in Cole Schotz, and I remained at the firm until I became a magistrate judge in 2019.

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

While at Jamieson Moore, I worked primarily on insurance regulatory and commercial litigation matters.

At Beattie Padovano, I handled insurance defense and commercial litigations matters. I worked on commercial matters for a wide variety of clients that ranged from individuals to large corporations.

At Cole Schotz, I handled commercial litigation matters. I had a substantial client base and my clients used every aspect of the law firm's practices, including real estate, corporate, trusts and estates, bankruptcy, and environmental departments. As a result, my practice touched these areas of the law, as well. I had a wide variety of clients while at Cole Schotz that ranged from individuals to large multi-national corporations.

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

My practice as a lawyer was entirely in litigation. I appeared frequently in court throughout my private practice career.

- i. Indicate the percentage of your practice in:

1. federal courts:	40%
2. state courts of record:	60%
3. other courts:	0%
4. administrative agencies:	0%

- ii. Indicate the percentage of your practice in:

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

- 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.

To the best of my recollection and after review of available records, I believe I tried at least 23 cases to verdict, judgment, or final decision before courts and in arbitration. I served as the sole counsel in 12 of these proceedings, as chief counsel in five, and co-counsel in six.

- i. What percentage of these trials were:
 1. jury: 35%
 2. non-jury: 65%

- 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 did not practice 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. *In Re Hanjin Shipping: Hanjin Shipping*, No. 16-27041 (United States Bankruptcy Court, New Jersey) (Sherwood, J.).

From 2016 to 2017, I represented Hanjin Shipping, a global shipping company, in a Chapter 15 bankruptcy proceeding before the United States Bankruptcy Court in New Jersey. Hanjin had filed for bankruptcy protection in South Korea in August 2016. I was retained to file a Chapter 15 proceeding in the United States to recognize the bankruptcy proceeding in Korea.

I worked with a team of attorneys at Cole Schotz to obtain a stay of all actions against Hanjin assets in the United States, including 14 large container ships that were scheduled to dock in United States ports. Hundreds of creditors made appearances in the Chapter 15 proceeding, many of whom objected to the request for a stay. The stay was ultimately

granted, with a subsequent appeal to the district court and appeal to the Third Circuit. Both courts affirmed the bankruptcy court's decision.

Additionally, the sale of Hanjin's interest in the Port of Los Angeles was heavily litigated, resulting in a multi-day trial, wherein I was one of trial attorneys for Hanjin. The Bankruptcy Court approved the sale, with the net sales proceeds being remitted to the South Korean bankruptcy proceeding.

The United States Bankruptcy Court recognized the South Korean bankruptcy proceeding. Thereafter, a trustee was appointed by the Korean Court to oversee the liquidation of Hanjin's assets. At that time, the trustee retained new counsel in the Chapter 15 matter.

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Darren Azman
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Counsel for Textainer and SeaCube

2. *LBDS, Inc. v. ISOL Technology, Inc.*, 11-00428 (E.D. Tx.) (Davis, J.).

From 2011 to 2015, I represented defendants in a claim by plaintiff for alleged misappropriation of trade secrets relating to MRI technology. The case was tried over two weeks and, after two days of deliberation, the jury returned a verdict of \$26 million in favor the plaintiff. Following the jury verdict and while post-trial motions were pending, it was discovered that plaintiff's corporate officers had forged critical documents that were admitted into evidence during the trial. A motion to vacate the jury verdict and impose sanctions against the plaintiff and its principals was granted.

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3. *Hyundai-Wia Machine America Corp. v. Kearney Machinery & Supply, Inc.*, 09-05865 (D.N.J.) (Martini, J.)

I represented the plaintiff, a manufacturer of machine tools, from 2009 to 2011 in a matter to collect a debt from the plaintiff's distributor. The defendant filed a counterclaim alleging damages for breach of contract and violations of numerous statutes protecting dealers. Although pending before the United States District Court for the District of New Jersey, the statutory claims were under Mississippi, Alabama, and Tennessee law. The case was extensively litigated and, ultimately, settled between the parties following the filing of dispositive motions.

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Opposing Counsel:

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700 East Gate Drive, Suite 101
Mount Laurel, NJ 08054

4. *Town of Kearny v. Discount City of Old Bridge, Inc.*, HUD-L-2349-08 (N.J. Supr. Ct.) (Gallipoli, J.); *Town of Kearny v. Discount City of Old Bridge, Inc.*, 2009 WL

3430161 (N.J. App. Div. Oct. 23, 2009); *Town of Kearny v. Discount City of Old Bridge, Inc.*, 205 N.J. 386 (2011); *Town of Kearny v. Discount City of Old Bridge, Inc.*, 2010 WL 11400716 (N.J. Supr. Ct. Feb. 11, 2010).

From 2008 to 2010, I represented James Wholesale Warehouse, a tenant in a building that the town sought to condemn as part of a redevelopment plan. James Wholesale operated a small grocery in the rented space. Under the redevelopment plan, the town sought to condemn only the leasehold interests to the property. In this way, once the tenancies were terminated, the owner, who was also the designated redeveloper, would be given back the property, free and clear of any leases, and to redevelop the property according to the redevelopment plan.

James Wholesale opposed the condemnation, which sought to condemn all leasehold interests without compensation to the tenants. The town, through the designated redeveloper, asserted that only the fee-interest holder to the property were entitled to just compensation. The trial court agreed with the town and entered judgment permitting it to move forward with the condemnation. The Appellate Division affirmed.

The Supreme Court of New Jersey granted certification and held that James Wholesale was entitled to just compensation for the condemnation of its leases. The trial court, Appellate Division, and Supreme Court also awarded attorney's fees and costs to James Wholesale.

5. *Bergenfield Senior Housing, LLC v. SM Global Group, Inc.*, BER-L-002962-08 (Supr. Ct. of N.J.) (Langan, J.); *Shin v. SM Global Group, LLC*, BER-C-275-08 (Supr. Ct. of N.J.) (Contillo, J); *SM Global Group, LLC v. Bergenfield Senior Housing, LLC*, A-1501-11T4 (N.J. App. Div.) (Judges Ashrafi., Hayden, and Lisa); *Shin v. SM Global Group, LLC*, A-1563-09T3 (N.J. App. Div.) (Judges Axelrad and Espinosa); *SM Global Group, LLC v. Rotonda*, No. 14-01384 (Bankr. D.N.J.) (Kaplan, J.)

From 2008 to 2015, I represented SM Global Group, Inc. in a series of cases stemming from a failed real estate contract, wherein SM Global was to purchase a 90-unit condominium building. Conflicts arose between the parties resulting in the termination of the contract. When I was retained to represent SM Global, a judgment had been entered against SM Global for the forfeiture of the deposit for the purchase and a hearing had been scheduled to determine additional damages.

I was successful in vacating the judgment against SM Global and the matter proceeded through extensive litigation. The case settled right before trial, with an agreement to proceed with the purchase and sale of the building, and that further disputes would be resolved through binding arbitration. Further disputes arose resulting in two arbitration proceedings. After the second trial in arbitration, SM Global was awarded the return of the deposit.

On the opposing-party's appeal of the award, the Superior Court of New Jersey vacated

the arbitration award, holding that the arbitrator had exceeded the scope of his authority. I filed an appeal and the trial court's decision was vacated by the Superior Court of New Jersey, Appellate Division. On remand, the trial court entered a judgment based on the arbitrator's award.

Upon my attempt to collect on the judgment, the opposing party filed for bankruptcy protection with the United States Bankruptcy Court, District of New Jersey. Following further extensive litigation before the Bankruptcy Court, the matter was settled with a payment to SM Global from the sale of the property.

Additionally, the tenants of the condominium building filed a lawsuit in the Chancery Division of the Superior Court of New Jersey against the property owner and SM Global seeking reimbursement of security deposits for rental of the condominium units. After a four-day trial, the court entered a judgment in favor of the tenants. The tenants appealed to the Appellate Division seeking additional damages. The trial court's decision was affirmed.

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6. *Fairway Market, Inc. v. Fairway of Paramus, LLC*, 07-03528 (D.N.J.) (Chesler, J.)

I represented Fairway Market, Inc., an operator of a supermarket, from 2007 to 2008 in a trademark matter, wherein Fairway Market, Inc. sought to enjoin Fairway of Paramus, LLC from opening a "Fairway Market" in Paramus, New Jersey and other locations in New Jersey. For many decades, the "New Jersey" Fairway Market stayed on the New Jersey side of the Hudson River and the "New York" Fairway Market stayed on the New York side. However, the New York Fairway Market was sold to a private equity group

that sought to expand its “Fairway Markets” to New Jersey and beyond. The case was settled with an agreement to permit the parties to use distinctive names and a payment to plaintiff.

Opposing counsel:

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7. *Kalogeras v. 239 Broad Avenue, LLC*, BER-C-318-05 (Supr. Ct. of N.J.) (Martinotti, J.); *Kalogeras v. 239 Broad Avenue, LLC*, 2009 WL 112767 (N.J. App. Div. 2009); *Kalogeras v. 239 Broad Avenue, LLC*, 202 N.J. 349 (2010).

I represented an individual from 2005 to 2010 who had the right of first refusal to purchase a commercial property and a business located on the property. When the owner attempted to sell the property and business to a third-party, I intervened in a pending case between the owner and potential purchaser to prevent the sale and compel the sale to my client. After extensive discovery and litigation, the case was tried for 17 days before the Chancery Division of the Superior Court of New Jersey. I handled motions practice and served as lead counsel, handling opening arguments, direct examination of witnesses, cross examination, and closing arguments. The trial court found in favor of my client and ordered the sale of the assets to my client.

The Appellate Division overturned the trial court’s decision, holding that a sale to my client could not be compelled because one of the assets to be sold was a liquor license. The Appellate Division held that only the Alcoholic Beverage Commission can transfer a liquor license, thus an order compelling the sale of a liquor license was not permitted. The New Jersey Supreme Court granted my application for certification. The New Jersey Supreme Court overturned the Appellate Division’s decision, holding that a court could compel a seller to cooperate with the transfer of the liquor license, and reinstated the trial court’s decision.

Opposing counsel:

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8. *Hyundai-Wia Machine America Corp. v. Quality Machine Solutions, Inc.*, No. 05-05825 (D.N.J.) (Pisano, J.); *Hyundai-Wia Machine America Corp. v. Quality Machine Solutions, Inc.*, No. 10-02020 (D. Conn.) (Hall, J.); *Hyundai-Wia Machine America Corporation v. Rouette*, 13-02018 (Bankr. D. Conn.) (Nevins, J.).

From 2005 to 2019, I represented the plaintiff, a manufacturer of machine tools, in an action for collection on a debt from defendants. The underlying case in the District of New Jersey settled for a consent judgment against the corporate defendant. Post-judgment discovery revealed that the company's owners had pilfered millions of dollars from the company rendering it insolvent and unable to pay its debts.

I filed a complaint against the owners in the District of Connecticut to pierce the company's corporate veil to find the owners individually liable for payment of the judgment. After extensive discovery and the filing of dispositive motions, the owners filed for bankruptcy protection in the United States Bankruptcy Court, District of Connecticut.

I was admitted *pro hac vice* and brought an adversary proceeding against the owners to deny their discharge. The case was tried before the U.S. Bankruptcy Court in Connecticut. The Bankruptcy Court denied the plaintiff's request to pierce the corporate veil and granted the debtors their discharge in bankruptcy.

Co-counsel:

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9. *Choi v. Beautri Realty, Inc.*, 0602994/2004 (N.Y. Supreme) (Kornreich, J.); *Choi v. Beautri Realty, Inc.*, 650124/2014 (N.Y. Supreme) (Cohen, J.)

I represented plaintiff from 2004 to 2017 in his claim to compel the sale of a commercial property in New York City and for repayment of a loan. As to the repayment of the loan, the plaintiff sought to pierce the corporate veil of the defendant-corporation to hold its principal individually liable for the loan, the proceeds of which were misappropriated by a person claiming to be the owner of the property. The case was filed in the Supreme Court of New York, New York County.

My client believed he lent the money to the corporation, with the loan secured by the property in New York City. The loan agreement provided for the plaintiff's right to purchase the property and to convert the loan into a deposit for the purchase. The individual who claimed to be the owner was the owner's nephew. The nephew fled the country and his whereabouts were unknown.

The case before the New York Supreme Court settled with a partial payment to the plaintiff from the corporate-defendant and an agreement to litigate the matter before the Seoul District Court in the Republic of South Korea. I was not admitted *pro hac vice* in that case but was extensively involved in the litigation. The Seoul District Court dismissed the complaint. The Korean Appellate Court reversed the district court's decision and entered a judgment in favor of the plaintiff. Upon a further appeal, the Korean Supreme Court affirmed the Appellate Court's decision.

As a result, I moved to enter the South Korean judgment in the New York Supreme Court. The matter ultimately settled for payment from defendants to plaintiff of more than \$5 million.

Co-counsel:

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Opposing counsel:

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Edward Birnbaum (deceased)

10. *D.D.B. Interior Contracting, Inc. v. Trends Urban Renewal Association, Ltd.*, 176 N.J. 164 (2003)

I represented D.D.B. Interior Contractor, an interior design contractor, from 2000 to 2003. This matter involved my client's attempt to collect on the unpaid portion of interior construction work. The complaint was filed in Superior Court along with a construction lien. Although the construction lien statute requires a "duly authorized officer" to sign and acknowledge the construction lien, a prior attorney for DDB signed the construction lien, believing that a "power of attorney" given to him by the company was sufficient to make him a "duly authorized officer." The trial court disagreed and dismissed DDB's lawsuit. The Appellate Division affirmed.

The New Jersey Supreme Court granted certification. I argued that DDB had substantially complied with the construction lien statute and its rights should not be denied because of a technicality. In a unanimous decision, the Supreme Court agreed and remanded the case to the trial court to reinstate DDB's complaint and lien. Following the remand, the parties settled the matter.

Opposing counsel:

Spencer N. Miller (deceased)

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.)

While in private practice, I was actively involved with the New Jersey Supreme Court Committee on Character, the New Jersey Fee Arbitration Committee, and the Bergen County Bar Association.

Each member of the Committee on Character reviews dozens of applications a year for admission to the New Jersey Bar. Where potential issues arise relating to whether an applicant has the character to be admitted to the Bar, a hearing is held and a written decision issued. I have been a panel member on dozens of hearings over the 12 years I was on the Committee on Character.

I also served as a member of the New Jersey Fee Arbitration Committee, which is assigned the task of efficiently and economically resolving fee disputes between attorneys and clients. I served on the Fee Arbitration Committee for six years and determined, as part of a panel, numerous fee disputes.

I have never registered as a lobbyist or engaged in lobbying activity.

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.

None.

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).

When my nomination is formally submitted to the Senate, I will file my Financial

Disclosure Report and will supplement this Questionnaire with a copy of that 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 include my immediate family members, my immediate family members' employers, my most recent former law firm, attorneys who are my close friends, and clients for whom I performed substantial legal work for while in private practice on my automatic recusal list maintained with the Clerk of the Court. I plan to continue to maintain my automatic recusal list and to screen each matter before me for potential conflicts.

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

I will continue to make recusal decisions in accordance with the Code of Conduct for United States Judges and 28 U.S.C. § 455. Additionally, I provide the Clerk's office with a list of people and companies for which I should be automatically recused.

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.

I have an extensive record of pro bono work in private practice. I have represented numerous workers through the Asian American Legal Defense and Education Fund. The cases include: (i) parking attendants at an indoor mall who were not paid any salary and only received tips as compensation; (ii) kitchen workers at a Korean restaurant who were paid less than minimum wage and worked excessive hours without overtime wages; and (iii) kitchen workers at an Indian restaurant who were paid less than minimum wage, worked excessive hours without overtime wages, and worked in hazardous conditions.

I have also represented individuals through the District of New Jersey's pro bono attorney program. In *Smith v. Township of Warren*, 14-07178, plaintiff claimed that defendants failed to provide her father with equal access to emergency services during

and following Superstorm Sandy in violation of the Americans with Disabilities Act. Plaintiff claimed that her father died as a result of the lack of equal access to emergency services. The matter settled after extensive discovery and motion practice.

In *Boyd v. Hudson County Correctional Facility*, 00-00018, I represented, through the District of New Jersey's pro bono attorney program, plaintiff who claimed that guards at the Hudson County Correctional Facility encouraged other inmates to assault him and then did not provide him medical services after the assault. After the exchange of preliminary discovery, the matter settled.

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.

I was invited to apply to Senator Booker's Advisory Panel in 2020 and on October 19, 2020, I submitted an application. I interviewed with the Advisory Panel on November 19, 2020. In November 2022, I contacted Senator Cory Booker's office and expressed my interest in a district judge appointment. On November 8, 2022, I submitted application materials to Senator Booker's staff. On June 23, 2023, I interviewed with Senator Booker, which was attended by members of his staff. Thereafter, I met with Senator Robert Menendez and his staff on July 24, 2023. On July 27, 2023, I interviewed with attorneys from the White House Counsel's Office. Since that date, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On October 4, 2023, the President announced his intent to nominate me.

- 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.