

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Philip Raymond Aiello Lammens
Philip Raymond Lammens

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

United States District Judge for the Northern District of Florida

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

Golden-Collum Memorial Federal Building and Courthouse
207 Northwest Second Street
Ocala, Florida 34475

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

1977; Queens, New York

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.

1999 – 2002, University of Florida Levin College of Law; J.D., 2002
1997 – 1999, University of Florida; B.A., 1999
1995 – 1997, Hofstra University; no degree received

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

2012 – present
United States District Court for the Middle District of Florida
Golden-Collum Memorial Federal Building and Courthouse
207 Northwest Second Street

Ocala, Florida 34475
United States Magistrate Judge

2008 – 2012
United States Attorney's Office for the Middle District of Florida
35 Southeast First Avenue, Suite 300
Ocala, Florida 34471
Assistant United States Attorney

2006 – 2008
City of Jacksonville Office of General Counsel
City Hall
117 West Duval Street, Suite 480
Jacksonville, Florida 32202
Assistant General Counsel

2005 – 2006
United States Department of Justice, Civil Division, Torts Branch, Constitutional and
Specialized Tort Litigation Section
1425 New York Avenue NW, Suite 8114
Washington, District of Columbia 20005
Trial Attorney

2004 – 2005
Honorable Joel F. Dubina
United States Court of Appeals for the Eleventh Circuit
One Church Street
Montgomery, Alabama 36106
Law Clerk

2002 – 2004
Honorable Wm. Terrell Hodges
United States District Court for the Middle District of Florida
Golden-Collum Memorial Federal Building and Courthouse
207 Northwest Second Street
Ocala, Florida 34475
Law Clerk

2001 – 2002
City of Gainesville, City Attorney's Office
200 East University Avenue
Gainesville, Florida 32601
Intern

Summer 2001
Holland & Knight, LLP

One East Broward Boulevard
Ft. Lauderdale, Florida 33302
Summer Associate

Summer 2000
Florida Institutional Legal Services, Inc.
14260 West Newberry Road, Suite 412
Gainesville, Florida 32669
Florida Bar Foundation Fellow

Summer 1999
Alachua County, Florida Department of Growth Management
Ten Southwest Second Street
Gainesville, Florida 32601
Intern

Other Affiliations (uncompensated):

2013 – present
Frank Deluca YMCA
3200 Southeast 17th Street
Ocala, Florida 34471
Volunteer Youth Coach

2008 – 2009; 2012 – present
Federal Bar Association, North Central Florida Chapter
No physical address
Gainesville, Florida
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 have not served in the military. I registered for selective service.

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

United States Attorney's Award, Middle District of Florida, Outstanding Pretrial Work
(2010)

Federal Bureau of Prisons, Commendation for handling of Northern District of Florida
Case (2009)

United States Attorney General's Honors Program (2005)

University of Florida Levin College of Law:

J.D. with High Honors (2002)

Graduated Eighth in Class (2002)

Order of the Coif (2002)

Law Review Scholarship (2002)

Florida Law Review:

Senior Articles Editor (2002)

Assistant Articles Editor (2001)

City and Local Government Intern Award, Florida Bar, Local Government Section (2002)

Florida Bar Foundation Fellowship (2000)

University of Florida:

B.A. with High Honors (1999)

Senior Thesis (1999)

Hofstra University:

Academic Scholarship (1995 – 1997)

Athletic Scholarship, Division I Men's Cross-Country (1995 – 1997)

American East Academic Honor Roll (1996)

North Atlantic Conference Academic Honor Roll (1995)

Eagle Scout (1993)

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.

Chester Bedell American Inn of Court

D.R. Smith American Inn of Court

Federal Bar Association, Jacksonville Chapter

Federal Bar Association, North Central Florida Chapter

Board Member (2008 – 2009; 2012 – present)

Planning Committee Member for Leadership Roundtable (2015 – 2016)

Federal Magistrate Judges Association

Member of the Standing Committee on Rules (2014 – present)

Member of the Title Committee (2016 – present)

Jacksonville Bar Association
Co-editor for *The Bar Bulletin* (2007 – 2008)

Marion County Bar Association

United States District Court for the Middle District of Florida
Bench Bar Committee (2012 – 2016)
Space and Facilities Committee (2013 – present)
Jury Management Committee (2013 – present)
Case Management and Judicial Relations Committee (2014 – present)
Security Committee (2014 – present)
Congressional Relations Committee (2014 – 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.

Florida, 2002

There has been no lapse in membership.

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

United States Court of Appeals for the Ninth Circuit, 2005
United States Court of Appeals for the Eleventh Circuit, 2005
United States District Court for the Middle District of Florida, 2006
United States District Court for the Northern District of Florida, 2008

There have been no lapses in membership. When I became a magistrate judge I did not renew my membership in the Middle District of Florida because I was not practicing.

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.

Frank Deluca YMCA (2013 – present)

Volunteer Youth Coach

Haile Plantation Country Club (2008 – 2011)
Pool membership

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

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

12. Published Writings and Public Statements:

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

Section 404(a) of the Clean Water Act: The Army Corps of Engineers' Jurisdiction Over "All Other Waters," 54 FLA. L. REV. 147 (January 2002). 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.

The Rules Committee of the Federal Magistrate Judges Association, of which I am a member, prepared comments on the then-proposed amendments to the following Rules:

Federal Rules of Evidence, February 2016. Copy supplied.

Federal Rules of Civil Procedure, February 2015. Copy supplied.

Federal Rules of Criminal Procedure, February 2015. Copy supplied.

- 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.

In my capacity as a magistrate judge, I attended a webcast briefing in 2013 between members of the judiciary from the Middle District of Florida and staffers for Senators Rubio and Nelson concerning budget cuts affecting the judiciary. I have no notes, transcript, or recording, but press coverage is supplied.

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

I have not maintained a comprehensive list of the speeches or talks that I have delivered or appearances I have made. To discover the events below, I have searched my personal files, calendar, and the Internet. It is not my practice to present from notes or prepared material.

2012 – present: Judge, Bar Admissions Ceremonies, United States District Court for the Middle District of Florida, Ocala, Florida. I have presided over numerous admissions ceremonies for lawyers joining or re-joining the Middle District where I discuss my experience and role as a magistrate judge and the local bar associations available to practitioners. I have no notes, transcripts or recordings. The address of the United States District Court for the Middle District of Florida is Golden-Collum Memorial Federal Building and Courthouse, 207 Northwest Second Street, Ocala, Florida 34475.

2002 – present: Judge and Participant, Open Doors Trial for Elementary School Children, United States District Court for the Middle District of Florida, Ocala, Florida. On several occasions as a lawyer, and more recently as a judge, I have participated in mock trials for or with school children at the court in Ocala, Florida. I have no notes, transcripts or recordings. The address of the United States District Court for the Middle District of Florida is Golden-Collum Memorial Federal Building and Courthouse, 207 Northwest Second Street, Ocala, Florida 34475.

February 23, 2016: Panelist, Clerkship Panel, University of Florida Levin College of Law, Gainesville, Florida. I spoke to law students about the application process for clerkships and serving as a law clerk. I have no notes, transcript or recording. The address of the University of Florida Levin College of Law is 2500 Southwest Second Avenue, Gainesville, Florida 32611.

December 4, 2015: Panelist, Practical Evidence, CLE Basic Evidence 2015, Florida Bar Association, Tampa, Florida. Video supplied.

November 13, 2015: Guest Instructor, Negotiation, The Introduction to Lawyering Class with Professor Lyrrisa Lidsky, University of Florida Levin College of Law, Gainesville, Florida. I discussed negotiation skills with law students in this class. I have no notes, transcript or recording. The address of the University of Florida Levin College of Law is 2500 Southwest Second Avenue, Gainesville, Florida 32611.

October 28, 2015: Presenter, A View from the Bench, United States Attorney's Office for the Middle District of Florida, Tampa, Florida. I discussed federal practice, mediation, and the role of a magistrate judge. I have no notes, transcript or recording. The address of the United States Attorney's Office for the Middle District of Florida is 400 North Tampa Street, Suite 3200, Tampa, Florida 33602.

October 22, 2015: Presenter, Brown Bag Lunch, Federal Practice, Orlando Chapter of the Federal Bar Association, Orlando, Florida. I discussed federal practice and the role of a United States Magistrate Judge with local attorneys during a chambers lunch organized by the Orlando Chapter of the Federal Bar Association. I have no notes, transcript or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

October 13, 2015: Presenter, Role of a United States Magistrate Judge, Marion County Bar Association, Ocala, Florida. I spoke about the jurisdiction and responsibilities of a magistrate judge and my role in the Ocala Division. I have no notes, transcript or recording. The address of the Marion County Bar Association is c/o Gregory Carter Harrell, Marion County Clerk of Court's Office, P.O. Box 1030, Ocala, Florida 34478.

June 25, 2015: Presenter, Federal Judicial Roundtable, Annual Convention, Florida Bar Association, Boca Raton, Florida. I spoke at a table with lawyers and other judges about federal practice and technology. I have no notes, transcript or recording. The address of the Florida Bar Association is 651 East Jefferson Street, Tallahassee, Florida 32399.

June 2, 2015: Judge, Administered Oath of Office to Mary Ann Aiello as Dean of the Nassau Academy of Law, Nassau County Bar Association, Garden City, New York. I administered the oath and offered brief personal remarks about my mother as she became Dean of the Nassau Academy of Law. I have no notes, transcript or recording. The address of the Nassau County Bar Association is 15th East Street, Mineola, New York 11501.

April 23, 2015: Presenter, "How to Litigate Successfully in the Eleventh Circuit" and "Discovery Drama," Twelfth Annual Honorable Ralph W. "Buddy"

Nimmons, Jr. Federal Practice Seminar, Jacksonville Chapter of the Federal Bar Association, Jacksonville, Florida. I introduced Eleventh Circuit Judge Joel F. Dubina and made brief comments about my clerkship with him. I also participated in a panel discussion on discovery issues. I have no notes, transcript or recording. The address of the Jacksonville Chapter of the Federal Bar Association is P.O. Box 441, Jacksonville, Florida 32201.

April 10, 2015: Panelist, "A Cultural Revolution: Redefining Success in the Legal Profession," North Central Florida Chapter of the Federal Bar Association, Gainesville, Florida. Video is available at https://docs.google.com/file/d/0B0TDlmSp8Q7qQnVJNTJzTExIbm8/edit?usp=drive_web.

March 31 – April 2, 2015: Judge, Civil Trial Advocacy Seminar, United States Department of Justice, National Advocacy Center, Columbia, South Carolina. I served as a judge for two mock trials by Department of Justice civil trial attorneys. I have no notes, transcript or recording. The address of the National Advocacy Center is 1620 Pendleton Street, Columbia, South Carolina 29201.

March 31, 2015: Panelist, Civil Trial Advocacy Seminar: View from the Bench, United States Department of Justice, National Advocacy Center, Columbia, South Carolina. I spoke along with several other judges about federal practice. I have no notes, transcript or recording. The address of the National Advocacy Center is 1620 Pendleton Street, Columbia, South Carolina 29201.

March 21, 2015: Panelist, Employment Law Seminar: View from the Bench, Florida Chapter of the National Employment Lawyers Association, Palm Coast, Florida. I spoke with several other judges about federal practice and employment cases. I have no notes, transcript or recording. The address for the Florida Chapter of the National Employment Lawyers Association is 227 Seabreeze Boulevard, Daytona Beach, Florida 32118.

February 24, 2015: Panelist, Clerkship Panel, University of Florida Levin College of Law, Gainesville, Florida. I spoke to law students about the application process for clerkships and serving as a law clerk. I have no notes, transcript or recording. The address of the University of Florida Levin College of Law is 2500 Southwest Second Avenue, Gainesville, Florida 32611.

November 7, 2014: Panelist, Clerkship Panel, University of Florida Levin College of Law, Gainesville, Florida. I spoke to law students about the application process for clerkships and serving as a law clerk. I have no notes, transcript or recording. The address of the University of Florida Levin College of Law is 2500 Southwest Second Avenue, Gainesville, Florida 32611.

September 5, 2014: Judge, University of Florida Moot Court Competition, University of Florida Levin College of Law, Gainesville, Florida. Video is

available at

<http://mediasite.video.ufl.edu/Mediasite/Play/7ba3b95c3ee1476fbf93da118321a85b1d>.

April 11, 2014: Panelist, "Women, The Law, And Leaning Into Leadership", North Central Florida Chapter of the Federal Bar Association, Gainesville, Florida. I participated in a panel discussion with numerous lawyers and judges about women in the law. I have no notes, transcript or recording, but press coverage is supplied. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

March 21, 2014: Presenter, Federal Practice, Brown Bag Lunch, North Central Florida Chapter of the Federal Bar Association, Ocala, Florida. I discussed federal practice and the role of a United States Magistrate Judge with local attorneys during a chambers lunch organized by the Federal Bar Association, North Central Florida Chapter. I have no notes, transcript or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

February 11, 2014: Panelist, Clerkship Panel, University of Florida Levin College of Law, Gainesville, Florida. I spoke to law students about the application process for clerkships and serving as a law clerk. I have no notes, transcript or recording. The address of the University of Florida Levin College of Law is 2500 Southwest Second Avenue, Gainesville, Florida 32611.

September 16, 2013: Honoree, Annual Meeting and Reception Honoring the Newest Members of the Federal Judiciary, North Central Florida Chapter of the Federal Bar Association, Gainesville, Florida. This event introduced several new federal judges to the North Central Florida Chapter. I made remarks about my gratitude for my appointment and my appreciation for the opportunity to meet and speak with my colleagues. I have no notes, transcript or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

April 18, 2013: Presenter, Honorable Ralph W. "Buddy" Nimmons, Jr. Federal Practice Seminar, Jacksonville Chapter of the Federal Bar Association, United States District Court, Jacksonville, Florida. I discussed mediation and the role of a magistrate judge in mediating cases on a panel of judges and mediators. I have no notes, transcript or recording. The address of the Jacksonville Chapter of the Federal Bar Association is P.O. Box 441, Jacksonville, Florida 32201.

April 2013: Panelist, Clerkship Panel, University of Florida Levin College of Law, Gainesville, Florida. I spoke to law students about the application process for clerkships and serving as a law clerk. I have no notes, transcript or recording. The address of the University of Florida Levin College of Law is 2500 Southwest Second Avenue, Gainesville, Florida 32611.

March 2013: Instructor, New Magistrate Judge IT Orientation, Federal Judicial Center and Administrative Office of the United States Courts, San Antonio, Texas. I participated with a group of magistrate judges in presenting available chambers and courtroom technology to newly appointed magistrate judges. I have no notes, transcript or recording. The address of the Federal Judicial Center and Administrative Office of the United States Courts is One Columbus Circle Northeast, Washington, District of Columbia 20544.

November 2, 2012: Presenter, Reception Honoring District Judge Wm. Terrell Hodges, Federal Bar Association, North Central Florida Chapter, Gainesville, Florida. I made remarks about my clerkship with Judge Hodges and excitement to work with him as a magistrate judge. I have no notes, transcript or recording, but press coverage is supplied. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

September 21, 2012: Speaker, Investiture of the Honorable Philip R. Lammens as a United States Magistrate Judge, United States District Court for the Middle District of Florida, Ocala, Florida. Transcript supplied.

September 1, 2011: Presenter, Defending Tort Litigation, United States Attorney's Office for the Middle District of Florida, Tampa, Florida. The presentation was on defending tort litigation in personal injury cases. I have no notes, transcript or recording. The address of the United States Attorney's Office for the Middle District of Florida is 400 North Tampa Street, Suite 3200, Tampa, Florida 33602.

- 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.

Dustin Mauser-Claassen and Marla Spector, *The North Central Florida Chapter of the Federal Bar Association Honors North Central Florida's Newest Federal Judges*, 61 FED. LAW. 14 (January/February 2014). 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.

On July 2, 2012, I was appointed to be a United States Magistrate Judge in the Ocala Division of the United States District Court for the Middle District of Florida. The authority and jurisdiction of a United States Magistrate Judge derives primarily from the Federal Magistrates Act of 1968 (28 U.S.C. §§ 631-639) and is further delineated in the Federal Rules of Criminal and Civil Procedure, particularly Fed. R. Crim. P. 58 and 59 and Fed. R. Civ. P. 72 and 73. I preside over consent jury and bench trials in civil cases and class A misdemeanors; petty offense, class B misdemeanor bench trials; consent

Social Security appeals; and preliminary criminal matters, including initial appearances, arraignments, preliminary hearings, and detention hearings. I also review and issue search warrants, arrest warrants, and criminal complaints; conduct proceedings on felony guilty pleas; conduct evidentiary hearings on competency, motions to suppress, violations of supervised release, and petitions brought under 28 U.S.C. § 2255; rule on a broad range of non-dispositive civil motions, including discovery motions, preliminary pretrial matters, motions to withdraw, motions regarding amendments to pleadings, motions to strike, and requests to proceed in forma pauperis; and issue reports and recommendations on a full range of dispositive motions referred by the district judge, including motions to remand, motions to dismiss, motions for summary judgment, motions for class certification, and motions for attorney's fees. I also conduct settlement conferences in civil litigation, including prisoner litigation.

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

I have presided over 22 civil consent cases (excluding Social Security cases) that have gone to judgment by way of settlement or dispositive motion.

I have presided over five cases that have gone to verdict, which reflect the percentages below. I also presided over a two-day civil bench trial in May 2016, but have not entered judgment yet.

- i. Of these, approximately what percent were:

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

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

See attached list.

- 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. *Wolfe v. Fla. Dep't of Corr.*, 2012 U.S. Dist. LEXIS 131640 (M.D. Fla. Sept. 14, 2012).

Mr. Wolfe died in 2006 from an asthma attack while incarcerated at a Florida Department of Corrections facility. Mr. Wolfe's mother brought this action as the

personal representative for his estate and on behalf of herself as his survivor, under Florida's Wrongful Death Act, the Eighth Amendment to the United States Constitution, and the Americans with Disabilities Act. I handled the case by consent, and thus was directly responsible for deciding all substantive motions, discovery disputes, and pretrial matters.

Plaintiff claimed that the state was deliberately indifferent to her son's known medical needs and sought compensatory damages under the ADA insofar as the Department of Corrections failed to provide Mr. Wolfe with reasonable accommodations for his asthma – i.e., the means to promptly communicate with prison officials if he was having a life-threatening asthma attack, such as a different housing assignment or an emergency call button. On summary judgment the state challenged the severity of Mr. Wolfe's asthma, and thus the need for an accommodation, and argued, nevertheless, that a reasonable accommodation was made. As plaintiff presented material issues of fact as to the extent of her son's asthma, the Department of Correction's knowledge of it, and the nature of the accommodations provided, I denied summary judgment. The case ultimately settled on the eve of trial in January 2013, but not before other issues were also addressed in the case, including numerous motions in limine and plaintiff's motion to exclude several witnesses.

Counsel for Plaintiff:

Dante Trevisani
Florida Justice Institute, Inc.
3750 Miami Tower
100 SE Second Street
Miami, Florida 33131
305-358-2081

Counsel for Defendant:

Samuel R. Mandelbaum
Stephen A. Spaid
Mandelbaum, Fitzsimmons, Hewitt & Cain, PA
100 South Ashley Drive, Suite 1100
Tampa, Florida 33602
813-221-0200

2. *United States v. Harter*, No. 5:13-cr-26 (M.D. Fla.), 2013 U.S. Dist. LEXIS 111175 (M.D. Fla. Aug. 7, 2013).

In this class A misdemeanor, the United States charged Dr. Harter, a local dentist, with failing to file his income tax returns in six separate counts for a six-year period. In May 2013, Dr. Harter consented to my jurisdiction as a magistrate judge and the case proceeded before me. Dr. Harter, who proceeded with counsel through the trial, filed numerous pretrial motions and motions in limine where he claimed immunity to prosecution and challenged the government's evidence. After

deciding those motions, along with Dr. Harter's voir dire and jury instruction challenges, the case proceeded to a two-day jury trial. He was found guilty on all six counts.

Prior to sentencing, Dr. Harter moved to represent himself. After an appropriate hearing, that request was granted. Dr. Harter then filed numerous post-trial motions, where he challenged the court's authority, previous orders, and sought a new trial and acquittal. I presided over the sentencing, where Dr. Harter received imprisonment for a total term of 36 months. His appeal to Chief Judge Conway was denied.

Counsel for United States:
Samuel D. Armstrong
Solo Practitioner (formerly at United States Attorney's Office)
P.O. Box 5939
Ocala, Florida 34478
352-470-8318

Counsel for Defendant (trial only):
Mark Schleben
Law Office of Mark Schleben, PA
1423 South Ft. Harrison Avenue
Clearwater, Florida 33756
727-443-3600

3. *Ranize v. Town of Lady Lake, Florida*, No. 5:11-cv-646 (M.D. Fla.), 2015 U.S. Dist. LEXIS 29090 (M.D. Fla. Mar. 10, 2015).

Mr. and Mrs. Ranize filed two related claims in this civil rights action brought under 42 U.S.C. § 1983 against the Town of Lady Lake: Mr. Ranize claimed that the Town infringed his First Amendment rights insofar as it terminated his wife from her job as a police dispatcher, and Mrs. Ranize claimed that the Town unconstitutionally terminated her (in violation of her First Amendment rights to free association) based on her marital relationship with Mr. Ranize. The parties consented to my jurisdiction and the case was assigned to me in August 2014. Following a three-day trial in November 2014, the jury determined that the Town unconstitutionally terminated Mrs. Ranize and awarded her damages in the amount of \$52,000, and found in favor of Mr. Ranize as well, but awarded him no damages.

Prior to consent, I handled preliminary scheduling issues and, on referral from the district judge, I conducted a settlement conference. After the district judge denied summary judgment, the parties consented to my jurisdiction and I handled the pretrial matters, the trial (including voir dire and jury instructions), and the plaintiffs' post-trial motion for attorney's fees, which included parsing out an award in light of Mrs. Ranize's related, though separate, claim from Mr. Ranize's

claim where the jury awarded him no damages.

Counsel for Plaintiffs:
G. Ware Cornell, Jr.
Cornell & Associates, PA
2645 Executive Park Drive
Weston, Florida 33331
954-618-1041

Counsel for Defendant:
Mark E. Levitt
Allen, Norton & Blue, PA
1477 West Fairbanks Avenue, Suite 100
Winter Park, Florida 32789
407-571-2152

4. *Tarantino v. Citrus County & Canfield, Individually*, No. 5:12-cv-434 (M.D. Fla.). Reports and recommendations supplied.

In this civil rights case, Ms. Tarantino alleged that she was unnecessarily and degradingly strip-searched in public view on the side of a road by Officer Canfield. She sued the county and several police officers, including Officer Canfield, for Fourth Amendment violations. I issued a report for the district judge on the initial complaint, and recommended that it be dismissed because the plaintiff failed to adequately plead her individual capacity claim against the sheriff (whom she had initially named) and her municipal liability claim against the county. I later issued another report for the district judge on claims in the amended complaint, and recommended that only the individual capacity claims against the officers proceed. Subsequently, all but Officer Canfield's motions for summary judgment were granted by the district judge.

After summary judgment, the case proceeded to a jury trial against Officer Canfield, on consent to my jurisdiction in September 2014. I then handled the pretrial matters and the trial (including voir dire and jury instructions). Following a three-day jury trial in November 2014, the jury returned a verdict in favor of Officer Canfield.

Counsel for Plaintiff:
Matthew R. Kachergus
Sheppard, White & Kachergus, PA
215 North Washington Street
Jacksonville, Florida 32202
904-356-9661

Michael Dustin Sechrest
Fisher, Butts, Sechrest, Warner & Palmer, PA

5200 Southwest 91st Terrace, Suite 101
Gainesville, Florida 32608
352-373-5922

Counsel for Defendant:
Bruce R. Bogan
Hilyard, Bogan & Palmer, PA
105 East Robinson Street, Suite 201
Orlando, Florida 32801
407-425-4251

5. *Trivett v. Commissioner of Social Security*, No. 5:12-cv-534 (M.D. Fla.).
Memorandum decision and judgment supplied.

In this Social Security appeal, the plaintiff complained that the Commissioner erroneously denied her disability benefits and that after numerous administrative hearings, a remand by the appeals council, and two remands by this court she was entitled to reversal and an award of benefits. The parties consented to my jurisdiction in January 2013, and after reviewing the lengthy records in this case and years of hearings, I agreed with the plaintiff that the Commissioner erred and, given the facts of the case and lengthy delay (nine years), an award of benefits, as opposed to another remand, was due. While orders of remand are rare, a remand with an award of benefits is even less common. In this case, however, I found that the award of benefits was warranted, as the delay was unconscionable. No appeal was taken.

Counsel for Plaintiff:
Sarah Harriet Bohr
Bohr & Harrington, LLC
2337 Seminole Road
Atlantic Beach, Florida 32233
904-246-7603

Counsel for Defendant:
John F. Rudy, III
United States Attorney's Office for the Middle District of Florida
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
813-301-3064

6. *Hunt v. United States et al.*, No. 5:12-cv-370 (M.D. Fla.). Order granting summary judgment supplied.

This was a consent action assigned to me in October 2013. In this Federal Tort Claims Act case, plaintiff (a federal prisoner) argued that he was denied adequate dental care while incarcerated at a federal correctional complex in Coleman,

Florida. He claimed that he suffered the loss of numerous teeth and severe pain as a result of the care he received. He initially sued numerous individual defendants along with the United States, but the case only proceeded to summary judgment on his FTCA claim and one *Bivens* claim against an individual federal employee under the Eighth Amendment. Ultimately, I held that the plaintiff failed to establish negligence against the United States with respect to the dental care it provided and otherwise failed to show that the individual employee was deliberately indifferent to plaintiff's medical needs. The plaintiff's attorney withdrew as counsel after judgment was entered and the plaintiff proceeded *pro se*. He sought reconsideration of the court's order on summary judgment, which I denied.

Counsel for Plaintiff:
Gary Richard Proctor
Law Office of Gary R. Proctor
122 East Colonial Drive, Suite 100
Orlando, Florida 32801
321-445-1951

Counsel for Defendant:
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7. *FLGOLF, Inc. v. Volvik USA, Inc.*, No. 5:13-cv-59 (M.D. Fla.) (District Judge Wm. Terrell Hodges). Report and recommendation supplied.

This intellectual property case involved claims and counterclaims for trademark infringement arising from the use of the mark CRYSTAL for golf balls. Plaintiff, a Florida-based golf equipment distributor, initiated this action by filing a complaint against Volvik, a South Korean manufacturer of golf balls, and its United States distributor. Plaintiff alleged claims under the Lanham Act, including claims for Trademark Infringement, Federal Unfair Competition, False Description, and False Designation of Origin, as well as claims for common law trademark infringement and declaratory judgment. In turn, the Volvik defendants alleged counterclaims for false description of origin and false designation (pursuant to 15 U.S.C. § 1125(a)), common law trademark infringement, unfair competition, and cybersquatting (pursuant to 15 U.S.C. § 1125(d)). They also sought declaratory judgment, and sued plaintiff's current owner, as a third-party defendant to their counterclaims.

The case was before me for consideration of the defendants' motion for summary judgment on the issues of ownership of the mark and infringement. After thorough briefing, I entered a report recommending that the motion be denied as issues of

fact remained as to validity and ownership of the mark. The report and recommendation was adopted by the district judge.

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Counsel for Defendant:
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8. *Truesdell v. Thomas (a former Sheriff's Deputy) and Marion County Sheriff Blair in his individual and official capacities*, No. 5:13-cv-552 (M.D. Fla.) (District Judge Wm. Terrell Hodges). Report and recommendation supplied.

Plaintiff brought this putative class action against former Sheriff's Deputy Thomas, Sheriff Blair, and the Marion County Sheriff's Office under the Driver's Privacy Protection Act of 1994, 18 U.S.C. §§ 2721, et seq. (DPPA) and 42 U.S.C. § 1983, alleging violations of her federal privacy rights as created by the DPPA and state law. She alleged that Deputy Thomas accessed her personal information without any lawful purpose, that Sheriff Blair allegedly played some direct role in this violation, and that the Sheriff's Office allowed it to happen. Plaintiff also alleged that this conduct affected over 42,000 other individuals and sought to form a class. I recommended the denial of plaintiff's motion for class certification. The case also involved several discovery disputes that I handled. The district judge adopted my recommendation to deny the class, and the interlocutory appeal was subsequently dismissed. This case is still in litigation.

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Counsel for Defendant Deputy Thomas:
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9. *The American Humanist Association, Inc. v. City of Ocala*, No. 5:14-cv-651, 2015 U.S. Dist. LEXIS 115443 (M.D. Fla. July 2, 2015) (report and recommendation), *adopted in* _ F. Supp. 3d. _, 2015 WL 5123274 (M.D. Fla. Aug. 31, 2015) (District Judge Timothy J. Corrigan).

In this First Amendment case, the American Humanist Association and three individual plaintiffs sued the City of Ocala, its mayor, and its chief of police for their alleged involvement in a community prayer vigil. Upon referral from the district judge, I recommend that the defendants' motion to dismiss be denied as to the individual plaintiffs' claims for nominal damages against the city, as well as the mayor and police chief in their individual capacities, but granted in all other respects. The report and recommendation was adopted by the district judge and this case is in active litigation.

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Counsel for Defendants:

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10. *United States v. Dinkins*, No. 5:15-cr-33 (M.D. Fla.) (District Judge Wm. Terrell Hodges). Report and recommendation supplied.

In this multi-count felony indictment, defendant Mr. Dinkins, Jr. was charged with being a felon in possession of a firearm and ammunition, possessing a firearm with an obliterated serial number, possessing methamphetamine with the intent to distribute, and possessing a firearm in relation to a drug trafficking crime. He sought to suppress evidence seized in a warrantless search during a traffic stop and subsequent narcotics-dog sniff by arguing that the traffic stop was of unreasonable length, that the dog sniff prolonged the stop, and that probable cause did not exist to search the car's trunk. He also sought to suppress statements that he made to law enforcement by arguing that he made them before he was read his *Miranda* rights and that other statements he made, while in custody and after invoking his right to remain silent, were not voluntary.

Recently, I held an evidentiary hearing on this matter where the government presented the testimony of the three law enforcement officers involved in the defendant's arrest. I then entered a report and recommended that the motions to suppress be denied because the traffic stop was of reasonable duration; the dog sniff did not prolong the search; probable cause existed to search the car, its contents, and its trunk; and the statements at issue were either made before Dinkins was taken into custody or his statements were made voluntarily. The district judge adopted the report and recommendation, and defendant subsequently plead guilty before me to two of the charges against him. He awaits sentencing.

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *The American Humanist Association, Inc. v. City of Ocala*, No. 5:14-cv-651, 2015 U.S. Dist. LEXIS 115443 (M.D. Fla. July 2, 2015) (report and recommendation), *adopted in* __ F. Supp. 3d. __, 2015 WL 5123274 (M.D. Fla. Aug. 31, 2015) (District Judge Timothy J. Corrigan).

Counsel for Plaintiffs:

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Counsel for Defendants:

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2. *Truesdell v. Thomas (a former Sheriff's Deputy) and Marion County Sheriff Blair in his individual and official capacities*, No. 5:13-cv-552 (M.D. Fla.) (District Judge Wm. Terrell Hodges). Report and recommendation previously supplied in response to Question 13c.

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3. *Bradfield, et al. v. Mid-Continent Casualty Co.*, No. 5:13-cv-222 (M.D. Fla.).
Decision supplied.

Counsel for Plaintiff:

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4. *Tarantino v. Citrus County & Canfield, Individually*, No. 5:12-cv-434 (M.D. Fla.). Decisions previously supplied in response to Question 13c.

Counsel for Plaintiff:

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5. *Wolfe v. Fla. Dep't of Corr.*, 2012 U.S. Dist. LEXIS 131640 (M.D. Fla. Sept. 14, 2012).

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6. *Razi v. Razavi, et al.*, No. 5:12-cv-80, 2012 U.S. Dist. LEXIS 187072 (M.D. Fla. Dec. 13, 2012).

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Counsel for Defendant Nessler:
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7. *Turi v. Stacey, et al.*, No. 5:13-cv-248, 2014 U.S. Dist. LEXIS 181228 (M.D. Fla. Nov. 25, 2014) (report and recommendation), *adopted in* 2015 U.S. Dist. LEXIS 9730 (M.D. Fla. Jan. 27, 2015) (District Judge Anne C. Conway), *aff'd*, 2015 U.S. App. LEXIS 21839 (11th Cir. Dec. 16, 2015) (Circuit Judges Martin, Jill Pryor, and Anderson).

Both the plaintiff and defendants appeared *pro se*.

8. *Kilmer v. Howmedica Osteonics Corp.*, No. 5:14-cv-456 (M.D. Fla.) (unpublished report and recommendation supplied) & 2015 U.S. Dist. LEXIS 137656 (M.D. Fla. Sept. 2, 2015), *adopted in* 2015 U.S. Dist. LEXIS 137657 (M.D. Fla. Oct. 8, 2015) (District Judge Marcia Howard).

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9. *Sherman v. Blair, et al.*, No. 5:15-cv-36, 2015 U.S. Dist. LEXIS 174179 (M.D. Fla. Dec. 18, 2015), *adopted in* 2015 U.S. Dist. LEXIS 2423 (M.D. Fla. Jan. 8, 2016).

Plaintiff appeared *pro se*.

Counsel for Defendant Blair:
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10. *Am. Home Assur. Co. v. Weaver Aggregate Transp., Inc.*, 89 F. Supp. 3d 1294, (M.D. Fla. 2014) (report and recommendation), *adopted in* 89 F. Supp. 3d 1294, (M.D. Fla. 2015) (District Judge Wm. Terrell Hodges) & 2015 U.S. Dist. LEXIS 24081 (M.D. Fla. Jan. 14, 2015) (report and recommendation), *adopted in* No. 5:10-cv-329 (M.D. Fla.) (District Judge Wm. Terrell Hodges).

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

I know of no cases in which certiorari was granted.

Certiorari was requested and denied in the following cases.

Civil

McNeal v. Secretary Department of Corrections, et al., No. 5:09-cv-00284
Moseley v. Secretary, Department of Corrections, et al., No. 5:09-cv-00378
Bruce v. Jarvis, et al., No. 5:09-cv-00433
Aurich v. Secretary, Department of Corrections, et al., No. 5:10-cv-00004
Gillman v. Secretary, Department of Corrections, et al., No. 5:10-cv-00380
Keene v. Secretary, Department of Corrections, et al., No. 5:10-cv-00630
Wright v. Warden, No. 5:11-cv-00193
Brown v. Secretary, Department of Corrections, et al., No. 5:11-cv-00214
Montanez v. Secretary, Department of Corrections, et al., No. 5:11-cv-00527
Smock v. Secretary, Department of Corrections, et al., No. 5:11-cv-00658
Waterfield, Jr. v. Law, Jr., et al., No. 5:12-cv-00077
Starks v. Warden, No. 5:12-cv-00305
Jones v. Warden, No. 5:12-cv-00307
Cooper v. Warden, No. 5:12-cv-00321
Files v. Warden, No. 5:12-cv-00323
Crosby v. Secretary, Department of Corrections, et al., No. 5:12-cv-00337
Mazuji v. Commissioner of Social Security, No. 5:12-cv-00404
Calhoun v. Secretary, Department of Corrections, et al., No. 5:12-cv-00478
Burlison v. Williams, et al., No. 5:12-cv-00560
Toney v. United States, No. 5:12-cv-00574
Daniels v. Warden, No. 5:12-cv-00596
Reverse Mortgage Solutions, Inc. v. Gillespie as Co-Trustees, et al., No. 5:13-cv-00058
Martinez v. Warden, No. 5:13-cv-00356
Vernon v. Warden, No. 5:13-cv-00517
Molina v. Warden, No. 5:14-cv-00100
Darden v. Warden, No. 5:14-cv-00139
Peebles III v. United States Department of Justice, et al., No. 5:14-cv-00358
Hunter v. Kalmanson, et al., No. 5:14-cv-00410

Criminal

United States v. Smith, et al., No. 5:03-cr-00073
United States v. Toney, No. 5:06-cr-00003
United States v. Ragosta, No. 5:11-cr-00014
United States v. Contreras, No. 5:12-cr-00034

- 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.

United States v. Halberstadt, No. 5:14-cv-279 (M.D. Fla.). In this student loan

default case the government sought summary judgment on a debt allegedly owed by the defendant. The defendant argued, however, that the debt had been discharged. While the district judge agreed with my analysis of the law in my report and recommendation, including a discussion of the circumstances in which the debt could have been discharged, she found, contrary to my recommendation, that the defendant had created an issue of fact. Both orders are supplied.

Schwarz, et al. v. Villages Charter School, Inc. et al., No. 5:12-cv-177 (M.D. Fla.). This disability discrimination action was brought principally pursuant to Title II of the Americans with Disabilities Act and the Fair Housing Act. It involved 35 plaintiffs who claimed to be deaf residents of The Villages, a retirement community in Florida. Plaintiffs sued several entities providing services in The Villages and alleged that they failed to provide sign language interpreters or other reasonable accommodations so that deaf residents could fully enjoy and participate in recreation groups in The Villages. Defendants sought dismissal, which was referred to me. I recommended that the case be dismissed as to plaintiffs' FHA claim, but that the motion be denied in all other respects. At a hearing, the district judge declined to adopt my recommendation on the FHA claim, but otherwise adopted the report in all respects. The report and recommendation and district judge's hearing minutes are attached.

Mills, Protoczak & Company v. Landmark American Ins. Co., No. 5:14-cv-689 (M.D. Fla.). While addressing a discovery dispute that was referred to me, it became apparent that there was an inconsistency in the complaint as to who the named plaintiff or plaintiffs were or should be. I noted this issue in an order, as it was essential for assuring the court of its subject matter jurisdiction, and held a hearing and conducted additional briefing on the issue. Ultimately, I recommended dismissal of the case for the plaintiff's failure to establish jurisdiction. The district judge agreed that the complaint was deficient, but disagreed with my analysis of an assignment of rights that the plaintiff or plaintiffs and defendant were relying on. My order and report and recommendation and the district court's order are supplied.

- 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.

When parties consent to my jurisdiction as a magistrate judge I prepare all of the orders on motions adjudicated in the case.

In civil cases I prepare reports and recommendations on dispositive matters, including motions to dismiss and motions for summary judgment, that are referred to me by the presiding district judge. I have prepared approximately 250 civil reports and recommendations to date. I also prepare orders on non-dispositive matters, which range from extensions of time to discovery disputes. When parties consent to my jurisdiction as a magistrate judge I prepare all of the orders on

motions adjudicated in the case

In criminal cases I regularly issue orders on preliminary hearings, detention hearings, and felony change of plea hearings. I also conduct evidentiary hearings and issue orders on competency, motions to suppress, violations of supervised release, and petitions brought under 28 U.S.C. § 2255. I prepare reports and recommendations on guilty pleas and, from time to time, motions to suppress. I have prepared approximately 200 criminal reports and recommendations to date, the vast majority of which address guilty pleas.

In addition to my civil and criminal docket I am assigned a heavy federal prisoner docket. The docket consists of civil rights complaints and habeas petitions brought by federal prisoners under 28 U.S.C. § 2241 who are housed at the Federal Correctional Complex at Coleman, one of the largest federal prisons in the country. Ocala's prisoner docket also includes civil rights complaints and habeas petitions brought by state prisoners under 28 U.S.C. § 2254. As the magistrate judge I regularly handle, through the issuance of orders, the case management of these petitions and suits, as well as motions for summary judgment that are referred from the district judge.

Since 2012 I have prepared hundreds of written orders in criminal and civil cases, including in Social Security cases and prisoner petitions. All of the orders I have entered can be found on the court's Case Management Electronic Filing System (CM/ECF).

- 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.

Dingess v. Sheriff of Marion County, No. 5:10-cv-138 (M.D. Fla.). Copy supplied.

Dugan v. Middlebrooks, et al., No. 5:10-cv-367 (M.D. Fla.). Copies of both decisions are supplied.

Walker v. Middlebrooks, et al., No. 5:11-cv-334 (M.D. Fla.). Copy supplied.

Estrada v. Stewart, et al., No. 5:12-cv-149 (M.D. Fla.). Copy supplied.

Block v. Black, et al., No. 5:12-cv-153 (M.D. Fla.). Copy supplied.

W.S.C. v. Lake County School Board, No. 5:12-cv-331 (M.D. Fla.). Copy supplied.

Hunt v. United States, et al., No. 5:12-cv-370 (M.D. Fla.). Copy previously supplied in response to Question 13c.

Tarantino v. Citrus County, et al., No. 5:12-cv-434 (M.D. Fla.) Copy previously supplied in response to Question 13c.

United States v. Harter, No. 5:13-cr-26 (M.D. Fla.), 2013 U.S. Dist. LEXIS 111175 (M.D. Fla. Aug. 7, 2013).

Truesdell v. Thomas, et al., No. 5:13-cv-552 (M.D. Fla.). Copy previously supplied in response to Question 13c.

Webb v. Sawyer, et al., No. 5:13-cv-621 (M.D. Fla.). Copy supplied.

United States v. Robinson, No. 5:14-cr-42 (M.D. Fla.). Copy supplied.

United States v. Woodard, No. 5:14-cr-42 (M.D. Fla.). Copy supplied.

The American Humanist Association, Inc., et al. v. City of Ocala, Florida, et al., No. 5:14-cv-651, 2015 U.S. Dist. LEXIS 115443 (M.D. Fla. July 2, 2015) (Report and Recommendation), *adopted in* __ F. Supp. 3d. __, 2015 WL 5123274 (M.D. Fla. Aug. 31, 2015).

United States v. Dinkins, Jr., No. 5:15-cr-33 (M.D. Fla.). Copy previously supplied in response to Question 13c.

Sherman v. Blair, et al., No. 5:15-cv-36, 2015 U.S. Dist. LEXIS 174179 (M.D. Fla. Dec. 18, 2015), *adopted in* 2015 U.S. Dist. LEXIS 2423 (M.D. Fla. Jan. 8, 2016).

Williams v. Garjales, et al., No. 5:14-cv-10 (M.D. Fla.). Copy supplied.

United States v. Gibson, No. 5:15-cr-50 (M.D. Fla.). Copy supplied.

Blackmon v. Drake, No. 5:14-cv-444 (M.D. Fla.). Copy supplied.

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

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

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I follow the recusal statutes and Code of Conduct for United States Judges. If required by the recusal statutes, the Code of Conduct for United States Judges, or to ensure impartiality and the appearance of impartiality of the court, I disclose any potential conflict or recuse myself or both.

Our court does not utilize an automatic recusal system, so I review each case that is assigned to me. I also continue to review cases as they proceed to determine whether a conflict has arisen.

In all of the cases where I have recused myself I have done so *sue sponte* and because, as an Assistant United States Attorney, I either worked on the case at issue or worked on a case involving a party in the suit at issue. For instance, I handled dozens of prisoner petitions as an Assistant United States Attorney; thus, as a magistrate judge I recuse myself from cases brought by or against those same plaintiffs or petitioners. I have recused myself in the following matters.

Civil

Nunes v. United States, No. 5:09-cv-00205
United States v. White et al., No. 5:09-cv-00363
Smith v. Warden, No. 5:10-cv-00419
Ledford v. Warden, No. 5:10-cv-00475
McFarland v. Middlebrooks et al., No. 5:10-cv-00639
Shojaei v. United States, No. 5:11-cv-00247
Potts v. Warden, No. 5:12-cv-00319
Stewart v. Warden, No. 5:12-cv-00430
James v. United States et al., No. 5:12-cv-00443
Schonberg v. Romney et al., No. 5:12-cv-00474
James v. Decamilla et al., No. 5:12-cv-00640
Holley v. Warden, No. 5:12-cv-00664
Martinez-Martinez v. Warden, No. 5:13-cv-00131
Notz v. United States, No. 5:13-cv-00313
Collins v. Warden, No. 5:13-cv-00457
James v. Warden, No. 5:13-cv-00539
McIntyre v. United States, No. 5:14-cv-00164
Thomas v. Warden, No. 5:14-cv-00366
Notz v. United States, No. 5:14-cv-00386
United States v. James et al., No. 5:14-cv-00387

Brinkley v. Warden, No. 5:14-cv-00465
Notz v. United States et al., No. 5:14-cv-00557
Ragosta v. United States, No. 5:14-cv-00610
Ellis v. Warden, No. 5:14-cv-00694
Potts v. Warden, No. 5:15-cv-00242

Criminal

United States v. Ragosta, No. 5:11-cr-00014
United States v. Mateo-Mateo, No. 5:12-cr-00027
United States v. Williams, No. 5:12-cr-00028
United States v. Robinson, No. 5:12-cr-00031
United States v. Harrison, No. 5:12-cr-00037
United States v. Dean, No. 5:12-cr-00038
United States v. Epps, et al., No. 5:13-cr-00003
United States v. Farmer, No. 5:13-cr-00008
United States v. Farmer, No. 5:13-cr-00036
United States v. Willis, No. 5:03-cr-00025
United States v. Rodriguez-Torres, No. 5:12-cr-00025
United States v. LNU, et al., No. 5:13-cr-00028
United States v. Williams, No. 5:13-cr-00058

A search of the court's records reveals eight cases where a plaintiff or petitioner sought my recusal and did so based of my experience as an Assistant United States Attorney or federal employee or because of dissatisfaction with an order I entered. I did not recuse myself on those facts alone, where no basis to question my impartiality was established. Specifically, recusal was requested in the following:

Fields v. United States of America, 5:11-cv-8 (M.D. Fla). Denied request.
Dent v. Warden, FCC Coleman-USP II, 5:12-cv-508 (M.D. Fla.). Case dismissed by district judge before motion ruled on.
Watts v. Warden, FCC Coleman-USP II, 5:13-cv-182 (M.D. Fla.). Denied request.
Crompton v. Warden, FCC Coleman-USP II, 5:13-cv-254 (M.D. Fla.). Denied request.
Pinkney v. Warden, FCC Coleman-USP II, 5:13-cv-257 (M.D. Fla.). Denied request.
Sewell v. Warden, FCC Coleman-USP II, 5:14-cv-350 (M.D. Fla.). Denied request.
Dent v. Samuels, et al., 5:15-cv-177 (M.D. Fla.). Denied request.
Zone v. Warden, FCC Coleman-USP I, 5:15-cv-195 (M.D. Fla.). Denied request.

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.

None.

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 served as a clerk to the Honorable Wm. Terrell Hodges on the United States District Court for the Middle District of Florida, Ocala Division from 2002 to 2004.

I served as a clerk to the Honorable Joel F. Dubina on the United States Court of Appeals for the Eleventh Circuit from 2004 to 2005.

- 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.

2005 – 2006

United States Department of Justice, Civil Division, Torts Branch,
Constitutional and Specialized Tort Litigation Section
1425 New York Avenue NW, Suite 8114
Washington, D.C. 20005
Trial Attorney

2006 – 2008

City of Jacksonville Office of General Counsel
City Hall

117 West Duval Street, Suite 480
Jacksonville, Florida 32202
Assistant General Counsel

2008 – 2012

United States Attorney's Office for the Middle District of Florida
35 Southeast First Avenue, Suite 300
Ocala, Florida 34471
Assistant United States Attorney

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

While in private practice I never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From 2005 to 2006, my work as a Trial Attorney for the U.S. Department of Justice largely focused on constitutional claims against the United States and individual federal employees. It was a federal court practice that was defensive in nature, like my civil practice as an Assistant United States Attorney. I also reviewed and made recommendations to the Tort Director and agency counsel on requests made by federal employees for government attorney representation.

Prior to joining the United States Attorney's Office, my practice as an Assistant General Counsel with the City of Jacksonville from 2006 to 2008 largely involved civil defense in state court. The majority of the cases involved state negligence actions, but I also worked on federal constitutional claims under 42 U.S.C. Section 1983 in federal court. My more significant cases included the accidental shooting of a hotel patron by an officer, the death of an inmate, the failed rescue of a man, and the negligent maintenance of a Jacksonville Electric Authority facility.

From 2008 to 2012, I served as an Assistant United States Attorney. When I began as an Assistant United States Attorney in April 2008 I was initially assigned to the civil division. As a civil Assistant United States Attorney I handled all Ocala civil division matters, as well as some out of division and district assignments. I defended cases involving the U.S. Bureau of Prisons. I defended other government agencies such as the U.S. Naval Hospital, the Veterans Administration, and the U.S. Postal Service in claims involving

medical malpractice, general torts, employment discrimination, and constitutional challenges. I prosecuted affirmative cases brought under the False Claims Act (qui tam actions). I also handled habeas petitions for the Ocala prisoner docket.

After serving several months exclusively in the civil division I began to also handle criminal matters. From December 2008 to November 2011 I handled both a civil and criminal docket. I prosecuted a full range of federal criminal offenses such as white collar crimes (e.g., bank, tax, and Social Security fraud) and multi-defendant drug cases. Some of my more significant prosecutions involved a multi-defendant credit card fraud scheme, a local pharmacist engaged in prescription fraud, a bank vice-president involved in bank fraud, and a long-time methamphetamine manufacturer. I also handled all misdemeanor offenses.

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

As a Trial Attorney for the U.S. Department of Justice I represented the United States and federal employees, including high ranking officials, sued in their individual capacities.

As an Assistant General Counsel with the City of Jacksonville, I generally defended state negligence actions against the City and its agencies, federal constitutional claims brought against the City for the actions of its Sheriff's Office under 42 U.S.C. Section 1983, and constitutional claims brought directly against individual officers.

As an Assistant United States Attorney in the criminal division my client was the United States. In that capacity I worked with several client agencies including the FBI, ATF, DEA, IRS, HHS, and USSS. When I served as an Assistant United States Attorney in the civil division my client was the United States or individual federal employees or both. I generally defended government agencies in medical malpractice actions (e.g., the U.S. Naval Hospital and the VA) and general tort claims (e.g., motor vehicle accidents and slip and fall suits against the U.S. Postal Service). Additionally, I directly represented individual federal employees sued in their personal capacities for purported constitutional wrongs. I also defended habeas petitions filed by inmates housed at the Federal Correctional Complex in Coleman against its wardens.

- 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 caseload at the Department of Justice was entirely civil and involved solely federal court litigation. While I did not have an opportunity to make an appearance in court in this role, I did engage in a motions practice and defended the United States in an appeal before the United States Court of Appeals for the Ninth Circuit in an immigration asylum case.

Prior to serving as an Assistant United States Attorney, my civil courtroom experience as an Assistant General Counsel was generally before the Circuit Court in Duval County, defending the City in tort claims. In this capacity I appeared before the court on a weekly or monthly basis to argue motions ranging from challenges to a plaintiff's administrative notice to more complex issues involving the City's entitlement to sovereign immunity on a motion to dismiss. Although I handled several federal cases in the Jacksonville division for the Middle District, my actual appearances in court were all before the State and all involved civil litigation.

During my service as an Assistant United States Attorney, I principally practiced in federal court on a regular (usually daily) basis. My court appearances were typically in criminal cases (approximately 90%) but I also appeared in some civil cases (10%). Almost all of my court appearances were as sole counsel (95%). I tried three felony drug cases to a jury. I also tried, as sole counsel, six misdemeanor bench trials. In addition, I handled all of the hearings that generally occur in a felony matter. On the civil side I served as associate counsel in a four-day state jury trial, handled a preliminary injunction hearing, and prosecuted petitions to enforce IRS summonses.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 10% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 30% |
| 2. criminal proceedings: | 70% |

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

I have tried 11 cases to verdict. I was sole counsel in nine, lead counsel in one, and associate counsel in one.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 45% |
| 2. non-jury: | 55% |

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

I have not practice before the Supreme Court of the United States.

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

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

1. *Smith, et al. v. United States, et al.*, No. 5:08-cv-84 (N.D. Fla.) (District Judge Richard Smoak)

Shortly after I joined the U.S. Attorney's Office for the Middle District of Florida in 2008, I was asked to serve as a Special Assistant United States Attorney for the Northern District for this case. Twenty-one plaintiffs, who fell into separate, discrete groups such as current and former federal employees, current and former federal inmates, public plaintiffs, and a federal whistleblower, sued the United States, U.S. Department of Justice, U.S. Bureau of Prisons, Federal Prison Industries, Inc., and individual defendants in their official capacities, for plaintiffs' alleged exposure to toxic substances related to a recycling program at the Federal Correctional Institution in Marianna, Florida. I moved to dismiss the complaint on behalf of the government defendants because plaintiffs failed to identify a basis for the court's jurisdiction and could not overcome the government's entitlement to sovereign immunity. Indeed, each plaintiff failed to pursue the appropriate, and in some cases exclusive, relief: the current and former employees were required to seek relief under the Federal Employees Compensation Act, which is an exclusive remedy; the former inmates were required to seek relief under the Inmate Accident Compensation Act, which was their exclusive remedy; the public plaintiffs were required to first fully exhaust the requirements of the Federal Tort Claims Act; and the lead plaintiff, Mr. Smith, who was a federal whistleblower, was required to pursue his claims under the Whistleblower Protection Act. The court agreed that it lacked jurisdiction and dismissed the case in September 2009.

Counsel for Plaintiffs:
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Solo Practitioner
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850-933-9265

Patrick Ryan Frank
Frank & Rice PA
325 West Park Avenue
Tallahassee, Florida 32301
850-629-4168

Harold Richard Bisbee
Solo Practitioner
1882 Capital Circle NE, Suite 206
Tallahassee, Florida 32308
850-386-5300

2. *State of Florida, ex rel. Cobb, et al. v. United States, et al.*, No. 5:10-cv-118, 2010 WL 3211992 (N.D. Fla. Aug. 12, 2010) (District Judge Richard Smoak), *aff'd*, 440 F. App'x 860 (11th Cir. 2011) (Circuit Judges Frank M. Hull, Peter Thorp Fay, and District Judge Clyde Roger Vinson, sitting by designation)

A plaintiff from the *Smith* action also brought suit in state court on behalf of the State of Florida, seeking to enjoin the recycling program at the Federal Correctional Institution in Marianna, Florida under Florida's Public Nuisance Statute. After the action was removed to federal court, I again defended the litigation as a Special Assistant United States Attorney for the Northern District of Florida. The case went into discovery and I spent a significant period of time preparing responses to plaintiffs' requests, while also preparing a comprehensive motion to dismiss in August 2010, in which I argued that the State's attempt to enjoin the correction institution's recycling program must be denied and the action dismissed because the State could not establish standing to sue the federal government on behalf of its citizens in this context; Florida's public nuisance statute did not provide a basis for the federal court's jurisdiction; and the federal government was entitled to sovereign immunity. The district judge and the Eleventh Circuit agreed.

Counsel for Plaintiffs:
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Tallahassee, Florida 32308
850-386-5300

Patrick Ryan Frank
Frank & Rice PA

325 West Park Avenue
Tallahassee, Florida 32301
850-629-4168

3. *Shaffer, as parent and natural guardian of a minor, et al. v. United States*, No. 3:07-cv-1110 (M.D. Fla.) (District Judge Harvey E. Schlesinger)

In this case, which was one of my first medical malpractice defense cases, Ms. Shaffer, on behalf of herself and her minor son and the father of the minor son, brought suit against the United States under the Federal Tort Claims Act related to the medical care Ms. Shaffer and the minor child received at the Naval Air Station in Jacksonville, Florida. Ms. Shaffer complained that her son suffered a brachial plexus injury during his delivery, with resulting neurological damage, as a result of the negligent care provided by the Navy hospital's nurses and doctors.

Between May 2008, when I appeared as sole counsel in the case, and August 2009, when a settlement was reached, this case was extensively litigated. I interviewed numerous doctors and nurses, deposed Ms. Shaffer, defended depositions of the Navy nurses and doctors, and retained, consulted, and defended the depositions of numerous expert witnesses, including an obstetrician and a pediatric neurologist from John's Hopkins, and a neonatologist from the Children's Hospital of Philadelphia. After an unsuccessful settlement conference with a mediator, plaintiffs' counsel and I were able to reach a settlement that was approved by the United States Attorney.

Counsel for Plaintiffs:

Gary M. Cohen
Grossman Roth, PA
925 South Federal Highway, Suite 350
Boca Raton, Florida 33432
561-367-8666

4. *S. Gallagher, individually and as parent and guardian of a minor v. United States*, No. 5:08-cv-494 (M.D. Fla.) and related case *N. Gallagher v. United States*, No. 5:08-cv-495 (M.D. Fla.) (District Judge Wm. Terrell Hodges)

These related motor vehicle accident cases were brought against the United States under the Federal Tort Claims act for injuries suffered by S. Gallagher, her minor daughter, and N. Gallagher when their vehicle was struck by a vehicle driven by a U.S. Postal Service mail carrier. Each plaintiff suffered injuries, but S. Gallagher sustained the most significant injuries: bilateral crush injuries to her ankles and feet, and a fractured femur. Despite multiple surgeries, S. Gallagher claimed her injuries were debilitating and permanent.

To defend this action I first retained a mechanical engineer and accident reconstructionist to evaluate the crash and an orthopedic surgeon to evaluate each plaintiff and the individual medical care they received as a result of the collision. In addition, as to S.

Gallagher, I retained a psychiatrist from the University of Florida, along with a life care planner and an economist. I engaged in extensive discovery, deposed the plaintiffs, and reviewed scores of medical records. Given S. Gallagher's injuries, the combined value of the case exceeded the authority of the United States Attorney, and I sought and obtained approval from the U.S. Department of Justice for a settlement. This process required a detailed and supported analysis of the proposed settlement. At mediation, we reached an agreement as to the minor and N. Gallagher first, and then counsel successfully negotiated S. Gallagher's claims directly over the next few days. The case settled in April 2010.

Counsel for Plaintiffs:

Robert F. Spohrer
Matthew Spohrer
Spohrer & Dodd, PL
701 West Adams Street, Suite Two
Jacksonville, Florida 32204
904-309-6500

5. *United States v. Castellano*, No. 5:10-cr-16 (M.D. Fla.) (District Judge Anne C. Conway)

In this felony drug case, the U.S. Drug Enforcement Administration (DEA) was investigating marijuana grow-house operations in the Ocala area and identified defendant's home in a residential neighborhood. The home was diverting power and the property had indicia of a grow operation. The defendant, who was found at the home, allowed the agents to search the home. DEA immediately discovered a fully-equipped grow-house in the midst of a 100-plant grow. The defendant denied he knew the plants were marijuana or that he was maintaining them. The case proceeded to trial over two days in August 2010, and the jury returned a guilty verdict. I served as sole counsel in this case at trial and sentencing. He received a 36-month term of imprisonment.

Counsel for Defendant:

Rick Carey
Federal Public Defender, Middle District of Florida
2910 Southeast 23rd Avenue
Ocala, Florida 34471
352-266-0049

6. *United States v. Arguello-Bedolla & Becerra-Becerra*, No. 5:09-cr-52 (M.D. Fla.) (District Judge John Antoon II), *aff'd*, 437 F. App'x 827 (11th Cir. 2011) (Circuit Judges James Larry Edmondson, Rosemary Barkett, and Robert Lanier Anderson)

A grand jury returned a two-count indictment against these two defendants for conspiracy and possession with intent to distribute five kilograms or more of cocaine. I presented this case, which was my first criminal jury trial, to the grand jury and litigated it through trial and sentencing. While Mr. Arguello-Bedolla entered a guilty plea, Mr. Becerra-Becerra, who had initially fled from police and evaded arrest at the time of the traffic stop, moved

to suppress the cocaine and argued the stop itself was unlawful. I argued the motion before the district judge and prevailed. The Eleventh Circuit agreed that the stop, which was made because the defendant was travelling too close to the vehicle in front of him, was lawful.

Mr. Becerra-Becerra was tried before a jury for two days in February 2010 and convicted on both counts. Before returning the verdict, however, the jury asked whether the defendant needed to have knowledge that the drug was a specific drug (i.e., cocaine) or simply that it was a controlled substance. I argued to the court, and the district judge agreed and so instructed the jury, that he only needed to have knowledge that it was a controlled substance. This issue was also affirmed on appeal by the Eleventh Circuit. Mr. Becerra-Becerra was sentenced to a term of imprisonment of 133 months, which included an upward adjustment as a result of his flight.

Co-counsel:

Samuel D. Armstrong

Solo Practitioner (formerly at U.S. Attorney's Office)

P.O. Box 5939

Ocala, Florida 34478

352-470-8318

Counsel for Defendant Becerra-Becerra:

David Gerhardt Mengers

Law Office of David Mengers

500 Northeast Eighth Avenue

Ocala, Florida 34470

352-622-5514

Counsel for Defendant Arguello-Bedolla:

Rick Carey

Federal Public Defender, Middle District of Florida

2910 Southeast 23rd Avenue

Ocala, Florida 34471

352-266-0049

7. *United States v. Patel*, No. 5:10-cr-28 (M.D. Fla.) (District Judge Anne C. Conway)

The defendant, a local pharmacist and pharmacy owner, was investigated for several months by the U.S. Department of Health and Human Services and the U.S. Attorney's Office in this felony fraud case where I served as sole counsel. The investigation established that the defendant had been fraudulently billing Medicaid, Medicare, TRICARE, and Medco for prescriptions that were never filled. The fraud resulted in an aggregate loss from the health care benefit programs in the amount of \$165,934.

After the production of discovery and meetings and discussions with defense counsel, the defendant agreed to plead guilty in September 2010 to an Information and the entry of

forfeiture and restitution in the amount of the loss. He also agreed to relinquish his pharmacist license. Defense counsel and I continued to communicate over sentencing issues, including the filing of a sentencing memorandum. In January 2011, the defendant ultimately received an 18-month term of imprisonment and an order of restitution and forfeiture.

Counsel for Defendant:
Kevin J. Darken
Solo Practitioner
201 East Kennedy Boulevard, Suite 1950
Tampa, Florida 33602
813-225-1655

8. *United States v. Simmons*, No. 5:10-cr-24 (M.D. Fla.) (District Judge John Antoon II)

A grand jury returned a two-count indictment against Mr. Simmons, who was known to law enforcement for his methamphetamine production, after he was discovered cooking methamphetamine in an outdoor meth-lab he built in the Ocala National Forest. His lab was a significant hazard to the community, as hiking trails that are used by members of the public were nearby. I presented this case to the grand jury, defended Mr. Simmons's challenge to his competency to stand trial before the district judge, and litigated the case through his last-minute guilty plea on March 7, 2011. Mr. Simmons plead guilty to the charges as jury selection was about to begin on the morning of his trial. He received a ten-year mandatory minimum in light of his criminal history and the quantity of methamphetamine he had cooked the day he was arrested.

Counsel for Defendant:
Michael William Nielsen
Nielsen Law Firm
720 West State Road 434
Winter Springs, Florida 32708
407-327-0384

9. *United States v. E. Hernandez-Echeverria, L. Hernandez-Echeverria, Hernandez, Salas, & Richardson*, No. 5:11-cr-34 (M.D. Fla.) (District Judge Wm. Terrell Hodges), *aff'd*, *United States v. Richardson*, 512 F. App'x 1006 (11th Cir. 2013) (Circuit Judges Frank M. Hull, Beverly Baldwin Martin, and Adalberto J. Jordan)

I was sole counsel for the government in the jury trial of one defendant arising out of this drug case. With the exception of Ms. Richardson, all of the defendants were stopped shortly after agreeing to sell cocaine to a known drug dealer in the Ocala area. E. Hernandez-Echeverria fled from law enforcement, but was arrested after a high speed chase. In addition to cocaine, firearms were recovered from the vehicles. And, at the time of the initial contact with law enforcement, the U.S. Drug Enforcement Administration recognized defendant Mr. Salas as a convicted felon who had escaped from the custody of the U.S. Bureau of Prisons.

It was determined that Ms. Richardson had transported five kilograms or more of cocaine from Texas to Ocala for the Hernandez-Echeverria brothers, who obtained the help of Mr. Salas to sell it. Her vehicle contained a secret compartment, which was used to move the cocaine. The defendants were debriefed, and all but Ms. Richardson agreed to plead guilty. The brothers received lengthy terms of imprisonment, and Salas received a period of 262 months, to be served consecutively to his undischarged term of imprisonment from his prior federal conviction.

Ms. Richardson proceeded to a three-day jury trial in March 2011, where I was sole counsel. The jury returned a guilty verdict and she appealed. The Eleventh Circuit affirmed, and denied her contention that she was an unwilling accessory, finding that the evidence presented of her involvement "was sufficient for a reasonable jury to conclude that her role was significantly greater than that." She received a ten-year term of imprisonment.

Counsel for E. Hernandez-Echeverria:
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352-867-0766

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Counsel for Salas:
Rick Carey
Federal Public Defender, Middle District of Florida
2910 Southeast 23rd Avenue
Ocala, Florida 34471
352-266-0049

Counsel for Richardson:

David Gerhardt Mengers
Law Office of David Mengers
500 Northeast Eighth Avenue
Ocala, Florida 34470
352-622-5514

10. *United States v. Thornell, Jr.*, No. 5:11-cr-30 (M.D. Fla.) (District Judge Wm. Terrell Hodges)

This white collar criminal case involved the theft of money by Mr. Thornell, who was at the time a bank vice president. Mr. Thornell stole money from clients of the bank directly out of their bank accounts to fund his own personal trading accounts. The case required a lengthy grand jury investigation period to track down where the money went and what Mr. Thornell did with it, as multiple banks and accounts were involved. In total he stole approximately \$365,000. After he received the discovery, which included all of the supporting bank records, Mr. Thornell entered a guilty plea in February 2012. He was sentenced to 36 months' imprisonment and ordered to pay restitution in the amount of the loss.

Counsel for Defendant:
Rick Carey
Federal Public Defender, Middle District of Florida
2910 Southeast 23rd Avenue
Ocala, Florida 34471
352-266-0049

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.)

Mediation: In addition to my general judicial tasks as a magistrate judge, I regularly serve as a mediator in cases assigned to me or assigned to other judges from different divisions. Typically, I handle cases on my Ocala docket and from July 2012 to January 2016 would also assist the Orlando division by serving as an available magistrate judge to conduct settlement conferences where the parties request one with the court. Recently, I served as a mediator in a case before the Eleventh Circuit, where the parties requested my assistance, and in a Tampa division case that received some local media attention and involved several Deputy United States Marshals and local law enforcement for alleged Fourth Amendment violations.

Presentations: My service as a federal judge not only involves litigation and mediation, but also active participation with my colleagues on the bench and involvement with the

legal community, as an educator, liaison, and ambassador for the Court. To fulfill this role I have presented to and with my colleagues on the state and federal bench on numerous occasions over the last few years. In addition to sitting on panels to discuss career and clerkship opportunities to law students, serving as a judge for a University of Florida Levin College of Law moot court competition, and discussing legal issues and federal practice at local Federal Bar Association events (both the North Central Florida and Jacksonville Chapters) and specialty bar association events, shortly after becoming a judge I participated as a faculty member for technology training to new magistrate judges, and, more recently, I participated as a faculty member at the Department of Justice's National Advocacy Center for civil trial practice.

I have never participated in or performed any lobbying activities.

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

I have not taught any courses.

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

None.

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

I have no such plans.

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 Statement.

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.

To the best of my knowledge, none. If confirmed, I will continue to adhere to the Code of Conduct for United States Judges and other applicable authority regarding conflicts of interest, and recuse myself accordingly.

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

If confirmed, I will continue to adhere to the Code of Conduct for United States Judges and other applicable authority regarding conflicts of interest, and recuse myself accordingly.

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.

During my professional career, I have served as a public employee and have been limited in my ability to provide pro bono services. Thus, I have worked in other ways to make a positive impact on the legal system and the administration of justice. As a law clerk, and then again as a judge, I participated in several Open Doors to the Federal Courthouse programs for school children. I have also spoken with law students on multiple occasions at the University of Florida about the legal profession and judicial clerkships. And, while I was an attorney for the City of Jacksonville, I spoke with students at Florida Coastal School of Law. Recently, as a judge I presided, with other federal and state judges, over the University of Florida's moot court competition finals, and with other magistrate judges over mock trials at the National Advocacy Center. I have also presented to judges and lawyers on various topics.

Beginning in 2013, I have been involved with the Frank Deluca YMCA in Ocala, Florida as a volunteer coach and assistant coach for the Youth Basketball, Soccer, and Flag Football teams.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and

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

On July 23, 2015, I submitted an application for the position of United States District Judge for the Middle and Northern Districts of Florida to the Florida Federal Judicial Nominating Commission (JNC). On September 10, 2015, I interviewed in Orlando with the Middle District Conference of the JNC for the Middle District vacancies in Orlando and Ft. Myers. On September 15, 2015, I interviewed in Tallahassee with the Northern District Conference of the JNC for the Northern District vacancy in Pensacola. On October 14, 2015, I met with Senator Nelson at his office in Orlando. On November 16, 2015, I met with Senator Rubio in his office in Washington, D.C. Since February 9, 2016, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 28, 2016, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On April 28, 2016, 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.