

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Landya B. McCafferty
Formerly Landya Marie Boyer

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

United States District Judge for the District of New Hampshire

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

United States District Court for the District of New Hampshire
Warren B. Rudman United States Courthouse
55 Pleasant Street, Room 417
Concord, New Hampshire 03301

Residence: Portsmouth, New Hampshire

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

1962; Washington, D.C.

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1988 – 1991, Northeastern University School of Law; J.D., 1991
1980 – 1984, Harvard University, A.B. (*cum laude*); 1984

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

2010 – present
United States District Court for the District of New Hampshire
Warren B. Rudman United States Courthouse
55 Pleasant Street
Concord, New Hampshire 03301
United States Magistrate Judge

2003 – 2010
New Hampshire Attorney Discipline Office
Four Chenell Drive, Suite 102
Concord, New Hampshire 03301
Disciplinary Counsel

1995 – 2003, November 1989 – February 1990
New Hampshire Public Defender Program
15 Fourth Street, Suite 3
Dover, New Hampshire 03820
Staff Attorney (1995 – 2003)
Legal Intern (November 1989 – February 1990)

1994 – 1995
United States District Court for the District of Massachusetts
One Courthouse Way
Boston, Massachusetts 02210
Law Clerk for Honorable A. David Mazzone (deceased)

1993 – 1994, 1990 – 1991
McLane, Graf, Raulerson & Middleton, PA
900 Elm Street
Manchester, New Hampshire 03105
Litigation Associate (1993 – 1994)
Legal Intern (1990 – 1991)

1992 – 1993
United States Court of Appeals for the First Circuit
One Courthouse Way
Boston, Massachusetts 02210
Law Clerk for Honorable Norman H. Stahl

1991 – 1992
United States District Court for the District of New Hampshire
55 Pleasant Street
Concord, New Hampshire 03301
Law Clerk for Honorable Norman H. Stahl

Summer 1990
Wilmer Cutler Pickering Hale and Dorr, LLP
60 State Street.
Boston, Massachusetts 02109
Summer Associate

Summer 1989
United States District Court for the District of New Hampshire
55 Pleasant Street
Concord, New Hampshire 03301
Legal Intern for Honorable Shane Devine (deceased)

1984 – 1988
St. Paul's School
325 Pleasant Street
Concord, New Hampshire 03301
Assistant Director of Admissions/Teacher

Summer 1984
Grant Village Lodge at Yellowstone National Park
Old Faithful ByPass Road
Yellowstone Lake Park, Wyoming 82190
Waitress/Hostess

Other affiliations (uncompensated):

Approximately 2000 – 2002
St. John's Episcopal Church
101 Chapel Street
Portsmouth, New Hampshire 03801
Vestry Member

Approximately 2000 – 2002
Chase Home for Children
698 Michelle Road
Portsmouth, New Hampshire 03801
Member, Board of Directors

Approximately 1992 – 1996
Northeastern University School of Law Alumni/ae Association
400 Huntington Avenue
Boston, Massachusetts 02115
Member, Board of Directors

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

I have not served in the military. I am not required to register for the selective service.

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

New Hampshire Bar Association Faculty Honor Roll (2003 – 2004, 2004 – 2005, 2005 – 2006, 2008 – 2009, 2009 – 2010, 2011 – 2012)

Northeastern University School of Law, Head Teaching Assistant for first-year legal writing course (1990)

Harvard University, Gottesman Award for Leadership, Winthrop House (1984)

Harvard University, Awarded sophomore standing upon admission (1980)

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.

Committee on Cooperation with the Courts (2011 – present)

Federal Magistrate Judges' Association (2010 – present)

New Hampshire Bar Association (1991 – present)

National Organization of Bar Counsel (2004 – 2010)

American Bar Association (2004 – 2009)

New Hampshire Supreme Court Professional Conduct Committee (2000 – 2004)

New Hampshire Association of Criminal Defense Lawyers (1995 – 2003)

10. **Bar and Court Admission:**

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

New Hampshire, 1991

There have been no lapses in my 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 First Circuit, 1993
United States District Court for the District of New Hampshire, 1993
New Hampshire Supreme Court, 1991

There have been no lapses in my membership.

11. **Memberships:**

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

Charles C. Doe American Inn of Court, Member (2010 – present)

Chase Home for Children (approximately 2000 – 2002)
Member, Board of Directors

Northeastern University School of Law Alumni/ae Association (approximately
1992 – 1996)
Member, Board of Directors

St. John's Episcopal Church (1995 – present)
Youth Group Leader (2008 – 2010)
Vestry Member (approximately 2000 – 2002)

Although James R. Muirhead, Esq., then a partner at the McLane firm, asked me, as an associate at McLane, to assist him in his role as Chairman of the Manchester City Government Review Task Force from 1993 to 1994, I do not otherwise recall serving as a formal member of this Task Force. I only list it here in an effort to be as inclusive as possible.

- 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 my knowledge, none of the organizations listed in my response to 11a 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.

With Muirhead, Hon. James R., “Federal Civil Litigation in the First Circuit,” Vol. II. Ch. 19, *Practice in the District of New Hampshire*, Massachusetts Continuing Legal Education, Inc. (2011). In 2011, I made minor updates to this chapter; the original was written entirely by Judge Muirhead. Copy supplied.

On May 25, 2010, I posted questions about my computer on my “Mac User’s Group” listserve. Copy supplied.

On May 3, 2008, I posted a link to information about iStabilize, software for MacOS X to a Yahoo iMovie group. Copy supplied.

On June 17, 2007, I posted questions about iMovie on a listserve called “themacintoshguy.com.” Copy supplied.

Chart *Collateral Consequences of Motor Vehicle Convictions*, NEW HAMPSHIRE PUBLIC DEFENDER 2004 PRACTICE GUIDE (August 2004). I drafted the original version of this document with substantial assistance from a legal intern in my office, Beth Kelsch. Copy supplied.

With Linda J. Slamon, Esq., *Trial: Evidence Objections – Other Crimes and Misconduct: Rule 404(b)*; NEW HAMPSHIRE PUBLIC DEFENDER 2002 PRACTICE GUIDE (August 2002). I co-authored the original version of this document with Linda J. Slamon, Esq. The document has received substantial updates since. A copy of the substantially updated version is supplied. I was unable to locate the original.

Juvenile Bill of Particulars RSA 169-B:6(II), THE MITTIMUS (February 13, 1997). Copy supplied.

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

None.

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

September 23, 2009: I spoke in support of the nomination to the New Hampshire Superior Court of then-attorney David Garfunkel at his hearing before the New Hampshire Executive Council. Mr. Garfunkel was confirmed on October 7, 2009. I have no notes, transcript, or recording. The address of the New Hampshire Executive Council is 107 North Main Street, State House, Room 207, Concord, New Hampshire 03301.

May 17, 2006: I spoke in support of the nomination to the Rochester District Court of then-attorney Susan W. Ashley at her hearing before the New Hampshire Executive Council. Ms. Ashley was confirmed on June 7, 2006. I have no notes, transcript, or recording. The address of the New Hampshire Executive Council is 107 North Main Street, State House, Room 207, Concord, New Hampshire 03301.

- 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 record of my presentations and speeches, nor have I retained my calendars. Much of the material on this list is based on my best recollection. It is possible that I have omitted presentations for which I did not retain records and have no memory.

June 14, 2013: Rockingham County Bar Association CLE on "iPads and Legal Ethics," Portsmouth, New Hampshire. I provided "live" training for lawyers on the topic of document management on the iPad. I have no notes, transcript, or recording. The address for the Rockingham County Bar Association is c/o Tara C. Schoff, Esq., Tober Law Offices, PA, 381 Middle Street, P.O. Box 1377, Portsmouth, New Hampshire 03802.

May 17, 2013: "The Future of the Practice of Law/Access to Justice," a panel discussion sponsored by the New Hampshire Bar Association Leadership Academy Program," Concord, New Hampshire. I spoke on the topic of the use of technology by the judiciary. Notes supplied.

May 17, 2013; March 22, 2013; November 16, 2012; September 21, 2012; August 17, 2012; March 16, 2012; November 18, 2011; and April 22, 2011: I presided over naturalization ceremonies on these dates at the United States District Court for the District of New Hampshire, Concord, New Hampshire. Remarks supplied.

March 14, 2013: Table for Eight Mentoring Dinner, Manchester, New Hampshire. I was “mentor for the evening” at an informal question-and-answer session with members of the New Hampshire Women’s Bar Association. I have no notes, transcript, or recording. The address for the New Hampshire Women’s Bar Association is P.O. Box 915, Manchester, New Hampshire 03101.

January 24, 2013: United States District Court for the District of New Hampshire CLE on “iPad for Litigators,” Concord, New Hampshire. I spoke on the topic of document management on the iPad, and my co-presenter, R. Matthew Cairns, Esq., spoke about using the iPad during trial. This was a “live” training session. I have no notes, transcript, or recording. The address for the United States District Court for the District of New Hampshire is Warren B. Rudman United States Courthouse, 55 Pleasant Street, Concord, New Hampshire 03301.

October 4, 2012: “Federal Judge Open Forum,” sponsored by the Federal Practice Institute, Concord, New Hampshire. I participated in this question-and-answer session with the other judges of this district court. I have no notes, transcript, or recording. The address for the United States District Court for the District of New Hampshire is Warren B. Rudman United States Courthouse, 55 Pleasant Street, Concord, New Hampshire 03301.

July 17, 2012; October 20, 2011; and September 22, 2011: “Introduction to the iPad,” Concord, New Hampshire. I provided iPad training for lawyers on these dates at the United States District Court for the District of New Hampshire. These were “live” training sessions. I have no notes, transcript, or recording. The address for the United States District Court for the District of New Hampshire is Warren B. Rudman United States Courthouse, 55 Pleasant Street, Concord, New Hampshire 03301.

June 8, 2012: I participated in an informal lunch meeting with new members of the New Hampshire Bar to answer questions about discovery in federal court. The luncheon took place at the United States District Court for the District of New Hampshire in Concord, New Hampshire. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

June 5, 2012: New Hampshire Bar Admission Ceremony, Concord, New Hampshire. Remarks supplied.

February 16, 2012: “Sexual Harassment News and Views,” Concord, New Hampshire. I was a panelist, along with Chief Judge Joseph N. Laplante, for a

question-and-answer session sponsored by the New Hampshire Bar Association's Employment Law Section. I spoke briefly on the topic of discovery issues in employment law cases. Notes supplied.

December 7, 2011: Charles C. Doe American Inn of Court, Durham, New Hampshire. I presented on the topic of GPS Tracking and the Fourth Amendment. Materials supplied.

November 3, 2011: Heronfield Academy Enrichment Series, Hampton Falls, New Hampshire. I participated in a question-and-answer session about the state and federal judicial systems in New Hampshire with Honorable Tina Nadeau, the Chief Justice of the New Hampshire Superior Court. Judge Nadeau and I answered questions from a moderator and then from the audience. I have no notes, transcript, or recording. The address for Heronfield Academy is 356 Exeter Road, Hampton Falls, New Hampshire 03844.

October 26, 2011: "Lunch with the Dean," Concord, New Hampshire. I attended a luncheon hosted by Dean John Broderick at the University of New Hampshire School of Law. I answered students' questions about my career. I have no notes, transcript, or recording. The address for the University of New Hampshire School of Law is Two White Street, Concord, New Hampshire 03301.

May 6, 2011: "The Path to the Bench: Demystifying the Judicial Selection Process for Women," Manchester, New Hampshire. I was a panelist along with several other female judges in New Hampshire. I gave no prepared remarks; it was an informal question-and-answer session. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

December 2010: "Bench and Bar," Concord, New Hampshire. I gave a short speech welcoming new members of the New Hampshire Bar at this annual "meet-and-greet" event. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

November 12, 2010: "Federal Judge Open Forum," Federal Practice Institute, Concord, New Hampshire. I participated in this question-and-answer session with the other judges of this district court. I have no notes, transcript, or recording. The address for the United States District Court for the District of New Hampshire is Warren B. Rudman United States Courthouse, 55 Pleasant Street, Concord, New Hampshire 03301.

October 4, 2010: Guest lecturer at Professor John Greabe's Civil Procedure class at the University of New Hampshire School of Law. Along with District Judge Gustavo Gelpi, who sits on the United States District Court for the District of Puerto Rico, I spoke to students about pleading requirements. I have no notes,

transcript, or recording. The address for Professor John Greabe is University of New Hampshire School of Law, Two White Street, Concord, New Hampshire 03301.

June 25, 2010: Swearing-in Ceremony of Landya B. McCafferty, United States Magistrate Judge for the District of New Hampshire, Concord, New Hampshire. Remarks supplied.

April 12, 2010: Panelist at the University of New Hampshire School of Law, Concord, New Hampshire. Law students asked a group of attorneys, including me, general questions about the practice of law in New Hampshire. I have no notes, transcript, or recording. The address for the University of New Hampshire School of Law is Two White Street, Concord, New Hampshire 03301.

April 5, 2010; April 12, 2010; October 14, 2009; April 13, 2009; April 9, 2008; November 19, 2007; April 11, 2007; April 12, 2006; November 16, 2005; April 11, 2005; September 15, 2004; November 4, 2004; and April 19, 2004: Guest lecturer for Professors Mitchell Simon, Esq. and Russell Hilliard, Esq., at the University of New Hampshire School of Law, Concord New Hampshire. I spoke to third-year law students on the topic of sanctions in attorney discipline cases in New Hampshire. I have no notes, transcript, or recording. The address for the University of New Hampshire School of Law is Two White Street, Concord, New Hampshire 03301.

March 5, 2010: New Hampshire Association for Justice CLE on “Ethics Blitz,” Lincoln, New Hampshire. I spoke on the top of “Legal Ethics in the Digital Age: Issue Spotting.” Materials supplied.

February 12, 2010: New Hampshire Bar Association Ethics Presentation, Concord, New Hampshire. I led a discussion using a set of legal ethics hypotheticals. Materials supplied.

June 19, 2009: New Hampshire Department of Justice Annual Training, Concord, New Hampshire. I presented with Alan Cronheim, Esq., on the topic of ethics issues faced by prosecutors. I have no notes, transcript, or recording. The address for the New Hampshire Department of Justice is 33 Capitol Street, Concord, New Hampshire 03301.

June 18, 2009: Nashua Bar Association panel discussion on legal ethics, Nashua, New Hampshire. I was on a panel with several other attorneys; we discussed legal ethics hypotheticals and answered questions of attendees. I have no notes, transcript, or recording. The address for the Nashua Bar Association is 29 Factory Street, Nashua, New Hampshire 03060.

June 10, 2009; December 10, 2008; December 12, 2007; June 6, 2007; December 13, 2006; June 7, 2006; December 24, 2005; June 8, 2005; December 8, 2004; and December 9, 2004: New Hampshire Bar Association CLE on Practical Skills

Workshop session on legal ethics, Concord, New Hampshire. I co-presented on these dates with Richard Uchida, Esq., at this CLE that the New Hampshire Bar Association requires of all new admittees. We used legal ethics hypotheticals to generate discussion. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

September 2008: New Lawyer Training for the New Hampshire Public Defender, Concord, New Hampshire. I lectured on legal ethics. I have no notes, transcript, or recording. The address for the New Hampshire Public Defender is Ten Ferry Street, Suite 425, Concord, New Hampshire 03301.

December 5, 2007: Charles C. Doe American Inn of Court, Durham, New Hampshire. I spoke on the attorney discipline system and legal ethics in New Hampshire. I have no notes, transcript, or recording. The Inn does not have a physical address.

June 28, 2007: New Hampshire Bar Association CLE on “The Laws Governing New Hampshire Lawyers,” Concord, New Hampshire. I spoke on a panel with other lawyers at a mid-year Bar meeting in Concord, New Hampshire. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

September 22, 2006: New Hampshire Department of Justice Annual Training, Concord, New Hampshire. I do not recall specifics of this event, but I am certain I would have presented on a topic concerning legal ethics. I have no notes, transcript, or recording. The address for the New Hampshire Department of Justice is 33 Capitol Street, Concord, New Hampshire 03301.

June 16, 2006: New Hampshire Judicial Council training program, Concord, New Hampshire. I co-presented with Christopher M. Keating, Esq., on the topic entitled “Avoiding Professional Conduct Complaints: 10 Tips for Attorneys.” I have no notes, transcript, or recording. The address for the New Hampshire Judicial Council is State House Annex, Room 424, 25 Capitol Street, Concord, New Hampshire 03301.

April 7, 2006: I attended an informal luncheon to answer questions about the New Hampshire attorney disciplinary system for attorneys at the New Hampshire Department of Justice in Concord, New Hampshire. I have no notes, transcript, or recording. The address for the New Hampshire Department of Justice is 33 Capitol Street, Concord, New Hampshire 03301.

February 16, 2006: I was a judge in a mock trial competition for students at the University of New Hampshire School of Law in Concord, New Hampshire. I have no notes, transcript, or recording. The address for the University of New Hampshire School of Law is Two White Street, Concord, New Hampshire 03301.

February 10, 2006: Discussion for Statewide Professionalism Day held at Strafford County Superior Court in Dover, New Hampshire. My recollection is that I led a discussion (along with a co-presenter, Thomas Velardi, Esq.) on professionalism for members of the New Hampshire Bar. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

February 1, 2006: Discussion at the Daniel Webster-Batchelder American Inn of Court, Bedford, New Hampshire. My best recollection is that I was invited to speak on the attorney discipline system and legal ethics in New Hampshire. I have no notes, transcript, or recording. The Daniel Webster-Batchelder American Inn of Court does not have a physical address.

April 1, 2005: New Hampshire Bar Association CLE on "The Nuts and Bolts of Criminal Law Practice in New Hampshire," Concord, New Hampshire. I do not recall specifics, but I would have presented on legal ethics. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

February 16, 2005: New Hampshire Bar Association CLE on "10 Traps That Lead to Professional Conduct Committee Issues," Concord, New Hampshire. I spoke on a panel with other lawyers at a mid-year Bar meeting on the topic of how to avoid malpractice and ethical complaints. I have no notes, transcript, or recording. The address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

September 23, 2004: New Lawyer Training for the New Hampshire Public Defender, Concord, New Hampshire. I lectured on legal ethics. I have no notes, transcript, or recording. The address for the New Hampshire Public Defender is Ten Ferry Street, Suite 425, Concord, New Hampshire 03301.

September 15, 2004: Guest lecturer for Professor Jennifer Sargent's professional responsibility class at Vermont Law School, South Royalton, Vermont. The topic concerned sanctions in attorney discipline cases. I have no notes, transcript, or recording. The address for the Vermont Law School is 164 Chelsea Street, South Royalton, Vermont 05068.

September 10, 2004: New Hampshire Public Defender Training Program, Concord, New Hampshire. I led a discussion on legal ethics using a set of hypotheticals and a "game show" format. I have no notes, transcript, or recording. The address for the New Hampshire Public Defender is Ten Ferry Street, Suite 425, Concord, New Hampshire 03301.

February 13, 2004: New Hampshire Bar Association CLE on "The New Attorney Disciplinary System," Concord, New Hampshire. I spoke on a panel with other lawyers at a mid-year Bar meeting. I have no notes, recording, or transcript. The

address for the New Hampshire Bar Association is Two Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

September 5, 2003: New Lawyer Training for the New Hampshire Public Defender, Concord, New Hampshire. I lectured on legal ethics. I have no notes, transcript, or recording. The address for the New Hampshire Public Defender is Ten Ferry Street, Suite 425, Concord, New Hampshire 03301.

April 11, 2001: “Advanced Drug Defense,” Manchester, New Hampshire. I presented on “Detention and Consent: Cutting Edge Issues in Search and Seizure Law.” Materials supplied.

June 11, 1999: “Defense of Sexual Assault Cases,” Manchester, New Hampshire. I presented on “Suggestibility of Child Witnesses.” Materials supplied.

Technology Training for Federal Judges

Since joining the bench, I have presented numerous technology training sessions for federal judges.

April 29, 2013: “iPad for Judges.” I taught this webinar to newly appointed federal magistrate judges via software controlled by the Federal Judicial Center. I have no notes, transcripts, or recordings. The address for the Federal Judicial Center is One Columbus Circle, NE, Washington, DC 20002.

January 30, 2013: “iPad for Judges, Part 2.” I taught this webinar to judges of the United States District Court for the District of Arizona via software controlled by the Federal Judicial Center. I have no notes, transcript, or recording. The address for the Federal Judicial Center is One Columbus Circle NE, Washington, DC 20002.

January 28, 2013: “iPad for Judges, Part 1.” I taught this webinar to judges of the United States District Court for the District of Arizona via software controlled by the Federal Judicial Center. I have no notes, transcript, or recording. The address for the Federal Judicial Center is One Columbus Circle NE, Washington, DC 20002.

December 7, 2012: “iPad for Beginners,” First Circuit Judicial Conference, Newcastle, New Hampshire. This was a “live” presentation. I also created short instruction manuals and a set of “how-to” videos for the judges at this Conference. These videos were made available to all federal judges through links on the Federal Judicial Center website. Materials (including videos) supplied.

September 27, 2012: “iPad for Judges - Advanced.” I taught this webinar, along with David Sparks, Esq., to a national audience of federal judges via software controlled by the Federal Judicial Center. Materials supplied.

September 25, 2012: “iPad for Judges - Beginner.” I taught this webinar, along with David Sparks, Esq., to a national audience of federal judges via software controlled by the Federal Judicial Center. I have no notes, transcript, or recording. The address for the Federal Judicial Center is One Columbus Circle NE, Washington, DC 20002.

August 22, 2012, and August 24, 2012: FJC Phase I Orientation for Newly Appointed United States Magistrate Judges Information Technology Training, San Antonio, Texas. I was an instructor at this class, but I do not believe I contributed to the voluminous teaching materials. I have no notes, transcript, or recording. The address for the Federal Judicial Center is One Columbus Circle NE, Washington, DC 20002.

July 24, 2012: “iPad for Judges,” FJC Workshop for United States Magistrate Judges II, Denver, Colorado. I have no notes, transcript, or recording. The address for the Federal Judicial Center is One Columbus Circle NE, Washington, DC 20002.

May 7, 2012: iPad Training for Judges of the United States Court of Appeals for the First Circuit, Boston, Massachusetts. This was a “live” training session. I have no notes, transcript, or recording. The address for the United States Court of Appeals for the First Circuit is One Courthouse Way, Suite 3700, Boston, Massachusetts 02210.

April 19, 2012: “iPad for Judges,” FJC Workshop for United States Magistrate Judges II, Miami, Florida. Audio supplied.

August 15, 2011, and August 18, 2011: “iPad for Judges,” conference sponsored by the Administrative Office of the United States Courts. I made several informal iPad presentations for employees of the federal courts at the CM/ECF Operational Practices Forum in National Harbor, Maryland. Audio supplied.

July 21, 2011: “Working on the Run - Using Kindles and iPads for Court Related Work,” FJC Workshop for United States Magistrate Judges II, Atlanta, Georgia. Audio supplied.

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

“Three Steps to an Ethical Path,” NH BAR NEWS, Aug. 17, 2012. Copy supplied.

“Hon. McCafferty Featured at Judicial Open Forum,” NH BAR NEWS, Feb. 18, 2011. Copy supplied.

“Landya McCafferty Joins Federal Bench as Magistrate,” NH BAR NEWS, Jun. 18, 2010. Copy supplied.

I appeared on one occasion in 2007 as a guest on the Digital Photography Show with Scott Sherman. This was a radio podcast that was broadcast on “The Podcast Network.” My memory is that I helped the host of the show interview a copyright lawyer about the legal issues involved in digital photography. I have no notes or other records from my appearance on this radio show. The Digital Photography Show is no longer on the air, and I was unable to obtain a copy of the podcast.

Bantz, Phillip, “Keene Lawyer Accused of Duping Paraplegic Client,” entry on author’s blog, <http://phillipbantz.wordpress.com>, May 21, 2009. Copy supplied.

James A. Kimble, “New Rules to Relieve Backlog of Complaints Against Attorneys,” EAGLE TRIBUNE.COM, Apr. 1, 2007. Copy supplied.

“Former House Majority Leader Bosse in Legal Trouble Again,” THE ASSOCIATED PRESS STATE & LOCAL WIRE, Aug. 30, 2006. Copy supplied.

Lisa Segal, “Tough But Fair,” NH BAR NEWS, Jan. 23, 2004. Copy supplied.

“Sex Offender Pleads Guilty Though Facing Possible Life Sentence,” THE ASSOCIATED PRESS STATE & LOCAL WIRE, May 15, 2001. Copy supplied. (This story was also reprinted as “Guilty of Rapes” in THE UNION LEADER, May 16, 2001.)

“Judge Overturns Teen’s Robbery Conviction Because Police Withheld Evidence,” THE ASSOCIATED PRESS STATE & LOCAL WIRE, Aug. 23, 2000. Copy supplied. (This story was also reprinted as “Court Overturns Teen’s Conviction for Robbery,” in THE UNION LEADER, Aug. 24, 2000.)

Jennifer Dillon, “U. New Hampshire Grad Clears Name of Felony Charges,” THE NEW HAMPSHIRE, Apr. 23, 1999. Copy supplied.

“UNH Student Clears Name of Felony Charges,” THE ASSOCIATED PRESS STATE & LOCAL WIRE, Apr. 9, 1999. Copy supplied.

Paula Tracy, “UNH Student Clears Name of Felony Charges,” NEW HAMPSHIRE SUNDAY NEWS, Apr. 18, 1999. Copy supplied.

Jennifer Dillon, “Former U. New Hampshire Football Player Found Not Guilty in Stabbing,” THE NEW HAMPSHIRE Feb. 2, 1999. Copy supplied.

Jennifer Dillon, “Alleged Stabbing at U. New Hampshire Stirs Lingering Controversy,” THE NEW HAMPSHIRE, Dec. 8, 1999. Copy supplied.

Derek Rose, "Hogan Gets Two Years in Plea Bargain," THE UNION LEADER, May 28, 1997. Copy supplied.

"Man Not Guilty," THE UNION LEADER, Mar. 5, 1997. Copy supplied.

Derek Rose, "Lawyer: Indicted UNH Student Ryan Hogan Plans to Withdraw," THE UNION LEADER, Dec. 18, 1996. Copy supplied.

Derek Rose, "UNH Rape Case Dorm Hearing Set for Dec. 17," THE UNION LEADER, Dec. 11, 1996. Copy supplied.

Derek Rose, "Teen Indicted in Rape Still at UNH," THE UNION LEADER, Dec. 7, 1996. Copy supplied.

John Aloysius Farrell, "Simon Raises Investment of Time, Energy in New Hampshire," THE BOSTON GLOBE, Oct. 26, 1987. Copy supplied.

Kevin Carter, "UMass Shuts Out Batwomen's Streak," THE HARVARD CRIMSON, Apr. 23, 1984. Copy supplied.

Kevin Carter, "Batwomen Survive Tufts; Victory Preserves Streak," THE HARVARD CRIMSON, Apr. 18, 1984. Copy supplied.

Kevin Carter, "Batwomen Sweep Dartmouth Twinbill, 5-4, 5-2," THE HARVARD CRIMSON, Apr. 16, 1984. Copy supplied.

"Senior Co-Captain Receives Farewell," THE HARVARD CRIMSON, Feb. 27, 1984. Copy supplied.

Neal Shultz, "Batwomen Cream Curry College, 13-5," THE HARVARD CRIMSON, May 1, 1982. Copy supplied.

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

In May 2010, I accepted appointment and currently serve as the United States Magistrate Judge for the United States District Court for the District of New Hampshire. The authority of magistrate judges is derived from the Federal Magistrate Act of 1968, 28 U.S.C.A. § 631-37 (2006 & Supp. 2012). In the District of New Hampshire, the United States Magistrate Judge is given substantial authority to handle a wide range of criminal and civil cases. As the magistrate judge assisting with the criminal docket, I preside over all initial proceedings, including arraignments, bail revocation hearings, and preliminary hearings on complaints and probation violations. I also review and issue criminal complaints, arrest and search warrants, and I preside over the grand jury. As the magistrate judge assisting with the civil docket, I preside over civil cases and conduct

jury trials with parties' consent. In my two and one-half years as a magistrate judge, I have presided over three jury trials and approximately 213 other civil cases. Additionally, on dispositive motions referred to me by the district judges, I issue written reports and recommendations to the district judges. On non-dispositive motions, I hold hearings and resolve those matters by order. I conduct preliminary review of all civil cases filed by prisoners and pro se parties. I conduct mediations in civil cases upon referral from the district judges.

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

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

- i. Of these, approximately what percent were:

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

- 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. *eClipse Enterprise Solutions, LLC v. EndoCeutics, Inc.*, No. 10-cv-00547-LM, United States District Court for the District of New Hampshire

This was a four-day jury trial of a business dispute in which a software developer sued a customer for breach of contract based upon alleged failures to pay for services and to participate in a data-capture trial. The customer asserted a counterclaim for breach of contract and another counterclaim under the New Hampshire Consumer Protection Act ("CPA"). The breach-of-contract claims were tried to a jury, and the CPA claim was tried to the court. The jury found in favor of the plaintiff on its breach-of-contract claims and awarded \$177,934 in damages. I granted judgment to the plaintiff on the defendant's CPA counterclaim. See *eClipse Enter. Solutions, LLC v. EndoCeutics, Inc.*, No. 10-cv-547-LM, 2012 WL 3688510 (D.N.H. Aug. 27, 2012).

Counsel for the Plaintiff:

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Counsel for the Defendant:

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Cook Little Rosenblatt & Manson PLLC
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Manchester, NH 03101
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2. *Torres-Mendez v. Antilus, et al.*, No. 10-cv-00352-LM, United States District Court for the District of New Hampshire

This was a three-day jury trial of an inmate's federal civil rights and state tort claims against a corrections officer and the county's department of corrections. Plaintiff alleged that the corrections officer used excessive force in violation of the Fourteenth Amendment and committed the state tort of battery during a physical altercation with him at the jail. Evidence showed that plaintiff suffered a broken rib from the altercation. Before trial, I ruled from the bench on five motions in limine. After the trial, and while the jury was deliberating, the parties settled the case.

Counsel for the Plaintiff:

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Counsel for the Defendant:

John A. Curren, Esq.
Curtin Murphy & O'Reilly PC
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3. *Universal Am-Can, Ltd. v. Concrete Systems, Inc.*, No. 11-cv-00030-LM, United States District Court for the District of New Hampshire

This was a three-day jury trial of a business dispute in which a trucking company sued a customer for failing to pay a fuel surcharge to which it had allegedly agreed. The plaintiff asserted claims for breach of contract, quantum meruit, unjust enrichment, and violation of the Consumer Protection Act (“CPA”). The customer asserted counterclaims for violation of the CPA, breach of the implied covenant of good faith and fair dealing, and misrepresentation. Before trial, I granted summary judgment to the plaintiff on all of the defendant’s counterclaims. *See Universal Am-Can, Ltd. v. CSI-Concrete Concrete Sys., Inc.*, No. 11-cv-030-LM, 2012 WL 579167 (D.N.H. Feb. 22, 2012). The plaintiff’s breach-of-contract claim was tried to a jury, while the equitable claims and the CPA claim were tried to the court, with the jury providing an advisory verdict on the quantum meruit claim. The jury returned a defendant’s verdict on the plaintiff’s breach-of-contract claim, and recommended a plaintiff’s verdict, and an award of \$13,475, on the quantum meruit claim. After trial, I granted judgment to the plaintiff on its quantum meruit claim in the amount of \$13,475, and granted judgment to the defendant on the plaintiff’s CPA claim. *See id.*, 2012 WL 2627764 (D.N.H. July 5, 2012).

Counsel for the Plaintiff:

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Michael J. Tierney, Esq.
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Counsel for the Defendant:

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Brian Moushegian, Esq.
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(603) 669-1000

4. *Bleish v. Moriarty, et al.*, No. 11-cv-00162-LM, United States District Court for the District of New Hampshire

This case involved claims under the Federal Constitution and state law based upon the plaintiff’s arrest for interfering with the arrest of another person at a public rally. The plaintiff claimed that she was arrested, in violation of her

First Amendment rights, for videotaping police officers. The defendants prevailed on both a motion for judgment on the pleadings, *see Bleish v. Moriarty*, No. 11-cv-162-LM, 2011 WL 6141271 (D.N.H. Dec. 9, 2011), and a motion for summary judgment, *see id.*, 2012 WL 2752188 (D.N.H. July 9, 2012).

Counsel for the Plaintiff:

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Counsel for the Defendants:

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5. *Bourne v. Arruda*, No. 10-cv-00393-LM, United States District Court for the District of New Hampshire

This was a case brought against local officials for comments they made concerning the plaintiff at a public meeting. The case involved numerous pre-trial discovery issues, but was resolved before trial. Early on, I granted a motion to dismiss plaintiff's gross negligence claim, his oath-of-office claim, and his retaliation claim. I also dismissed all but two of his defamation claims. *See Bourne v. Arruda*, No. 10-cv-393-LM, 2011 WL 2357504 (D.N.H. June 9, 2011). I later granted summary judgment to the defendants on the plaintiff's two remaining defamation claims. *See id.*, 2013 WL 93637 (D.N.H. Jan. 8, 2013).

The plaintiff was acting pro se.

Counsel for the Defendants:

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6. *Coach, Inc., et al. v. Gata Corp., et al.*, No. 10-cv-00141-LM, United States District Court for the District of New Hampshire

This was a trademark infringement case brought against a flea market operator by a seller of designer leather goods. The case settled before trial, but along the way, I handled numerous discovery disputes and granted summary judgment to the plaintiffs on one claim. *See Coach, Inc. v. Gata Corp.*, No. 10-cv-141-LM, 2011 WL 1580926 (D.N.H. Apr. 26, 2011); *id.*, 2011 WL 2358671 (D.N.H. June 9, 2011).

Counsel for the Plaintiffs:

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Counsel for the Defendants:

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7. *Collins v. University of New Hampshire, et al.*, No. 09-cv-00078-LM, United States District Court for the District of New Hampshire.

This was a civil rights action asserted by a professor against the university that employed him, based upon the university suspending him with pay and banning him from campus after he was arrested by campus police for disorderly conduct and stalking. My predecessor, Magistrate Judge James R. Muirhead, granted the defendants judgment on the pleadings on two claims for false arrest. Thereafter, I granted the defendants summary judgment on the plaintiff's due process and defamation claims, *see Collins v. Univ. of N.H.*, 746 F. Supp. 2d 358 (D.N.H. 2010), and the Court of Appeals for the First Circuit affirmed, *see* 664 F.3d 8 (1st Cir. 2011).

Counsel for the Plaintiff:

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8. *DAE Aviation, Inc. v. Aviation Managers, Inc., et al.*, No. 11-cv-00554-LM, United States District Court for the District of New Hampshire

This was a multi-party declaratory judgment action brought to determine the amount of insurance coverage available to an aviation-services company to cover claims made by the widow of the pilot of a plane the company serviced just before it was involved in a fatal crash. The crash occurred shortly after take-off as a result of a leak in the plane's oil line. I resolved all but a minor portion of the case on summary judgment, *see DAE Aviation Enters., Corp. v. Old Republic Ins. Co.*, No. 11-cv-554-LM, 2012 WL 3779154 (D.N.H. Aug. 31, 2012), and the parties settled what remained after summary judgment.

Counsel for the Petitioner:

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Counsel for the Respondents:

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Tory A. Weigand, Esq.
Scott Douglas Burke, Esq.
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Paul M. Koziell, Esq.
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9. *Precourt, et al. v. Fairbank Reconstruction Corp., et al.*, No. 10-cv-00337-LM, United States District Court for the District of New Hampshire

This case, brought against a beef supplier, a meat packer, and a grocery store, involved claims by the administrator of the estate of a woman who died after eating tainted ground beef that had passed through the hands of all three defendants. I granted summary judgment to the beef supplier on the plaintiff's claims that the supplier breached the implied warranty of fitness for a particular purpose and violated the CPA. *See Precourt v. Fairbank Recon. Corp.*, 856 F. Supp. 2d 327 (D.N.H. Mar. 5, 2012). On the eve of trial, the parties settled the remainder of the case.

Counsel for the Plaintiff:

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10. *Randall v. City of Laconia*, 10-cv-00050-LM, United States District Court for the District of New Hampshire

In this case, a homeowner sued the Town of Laconia, from which he had purchased his home, claiming that the Town had violated the federal Residential Lead-Based Paint Hazard Reduction Act of 1992. I granted summary judgment to the defendant, based on the statute of limitations, *see Randall v. City of Laconia*, No. 10-cv-050-LM, 2011 WL 1085679 (D.N.H. Mar. 2011), and the Court of Appeals for the First Circuit affirmed, *see* 679 F.3d 1 (1st Cir. 2012).

Counsel for the Plaintiff:

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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. *Walker v. N.H. Admin. Office of the Cts.*, No. 11-cv-421-PB, 2013 WL 672584 (D.N.H. Feb. 22, 2013).

Counsel for the Plaintiff:

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Counsel for the Defendants:

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Civil Bureau
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2. *Ameriswiss Tech., LLC v. Midway Line of Ill., Inc.*, 888 F. Supp. 2d 197 (D.N.H. 2012).

Counsel for the Plaintiff:

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Counsel for Consolidated Plaintiff:

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Counsel for Defendant:

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3. *DAE Aviation Enters., Corp. v. Old Republic Ins. Co.*, No. 11-cv-554-LM, 2012 WL 3779154 (D.N.H. Aug. 31, 2012).

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4. *Bleish v. Moriarty*, No. 11-cv-162-LM, 2012 WL 2752188 (D.N.H. July 9, 2012).

Counsel for the Plaintiff:

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Counsel for Defendants:

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5. *Glenn v. N.H. State Prison Family Connections Ctr.*, No. 11-cv-475-JD, 2012 WL 2413934 (D.N.H. June 4, 2012), *report and recommendation approved*, 2012 WL 2401734 (D.N.H. June 26, 2012).

The plaintiff was pro se.

Counsel for Defendants:

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6. *Precourt v. Fairbank Recon. Corp.*, 856 F. Supp. 2d 327 (D.N.H. 2012).

Counsel for the Plaintiff:

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7. *Michnovetz v. Blair, LLC*, 795 F. Supp. 2d 177 (D.N.H. 2011).

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Joel Thomas Emlen, Esq.
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8. *Bader v. Wrenn*, No. 11-cv-043-SM, 2011 WL 9374839 (D.N.H. Mar. 14, 2011), *report and recommendation approved*, No. 11-cv-043-SM (D.N.H. May 25, 2011), *aff'd*, 675 F.3d 95 (1st Cir. 2012).

Counsel for the Plaintiff:

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Counsel for the Defendant:

Danielle Pacik, Esq.
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9. *PC Connection, Inc. v. Crabtree*, 754 F. Supp. 2d 317 (D.N.H. 2010).

Counsel for the Plaintiffs:

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Anne E. Trevethick, Esq.
Day Pitney LLP
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Hartford, CT 06103
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The defendant was pro se.

10. *Collins v. Univ. of N.H.*, 746 F. Supp. 2d 358 (D.N.H. 2010), *aff'd*, 664 F.3d 8 (1st Cir. 2011).

Counsel for the Plaintiff:

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

Goldblatt v. Geiger, No. 10-CV-537-PB, 2011 WL 1362119 (D.N.H. Mar. 8, 2011) (report and recommendation (McCafferty, M.J.)), *report and*

recommendation adopted, 2011 WL 1362080 (D.N.H. Apr. 6, 2011) (Barbadoro, J.), *aff'd*, No. 12-1535 (1st Cir. Feb. 11, 2013), *petition for cert. filed*, 81 U.S.L.W. 3650 (U.S. May 4, 2013) (No. 12-1334).

Thurber v. Bank of New York Mellon, No. 12-CV-245-PB, 2012 WL 3156006 (D.N.H. July 18, 2012) (report and recommendation (McCafferty, M.J.)), *report and recommendation adopted*, 2012 WL 3155833 (D.N.H. Aug. 2, 2012) (Barbadoro, J.), *aff'd*, No. 12-2017 (1st Cir. Dec. 17, 2012), *petition for cert. filed*, No. 12-9976 (U.S. Apr. 26, 2013).

Starr v. Knierman, No. 10-cv-437-PB, 2011 WL 2680486 (D.N.H. June 21, 2011) (report and recommendation (McCafferty, M.J.)), *report and recommendation adopted*, 2011 WL 2680489 (D.N.H. July 7, 2011) (Barbadoro, J.), *aff'd*, 474 F. App'x 785 (1st Cir. 2012), *cert. denied*, 133 S. Ct. 833, 184 L. Ed. 2d 651 (2013).

Blackmer v. U.S. Dep't of Justice, No. 10-CV-124-SM, 2010 WL 2710401 (D.N.H. July 7, 2010) (first report and recommendation (McCafferty, M.J.)) and No. 10-CV-124-SM (D.N.H. July 29, 2010) (second report and recommendation (McCafferty, M.J.)), *report and recommendations adopted*, 2010 WL 3608336 (D.N.H. Sept. 10, 2010) (McAuliffe, J.), *aff'd*, No. 10-2159 (1st Cir. June 2, 2011), *cert. dismissed*, 132 S. Ct. 1600, 182 L. Ed. 2d 155 (Feb. 21, 2012).

- 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.

Roy v. Wrenn, No. 12-cv-303-JD, 2012 U.S. Dist. Lexis 185994 (D.N.H. Dec. 14, 2012), *report and recommendation approved in part*, No. 12-cv-303-JD, 2013 WL 568475 (D.N.H. Feb. 13, 2013).

In this case, I recommended that the district judge dismiss all of the claims brought by a pro se prisoner against various officials of the New Hampshire Department of Corrections. I specifically recommended dismissal of a First Amendment claim that officials had retaliated against plaintiff by pursuing disciplinary proceedings against him in August 2012, having determined that the complaint failed to show that prison officials were motivated by any retaliatory intent. I further recommended that the district judge, upon dismissing all of the federal claims in the case, decline to exercise supplemental jurisdiction over the state claims. The district judge accepted my recommendation as to the federal claims, except for the First Amendment retaliation claim. The district judge found that the complaint stated a claim that defendants had retaliated against the plaintiff, in violation of the First Amendment, "by initiating a false disciplinary charge against him and finding him guilty on the charge without required due process." *Roy v. Wrenn*, No. 12-cv-303-JD, 2013 WL 568475, at *8 (D.N.H. Feb.

13, 2013). The district judge exercised supplemental jurisdiction over the state law claims and dismissed them for failure to state a claim upon which relief can be granted. *See id.*

- 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.

As a magistrate judge, I issue orders on non-dispositive matters in cases that are referred to me and in cases over which I preside with consent of the parties. I also issue reports and recommendations on dispositive matters that the district judges refer to me. My non-dispositive orders include rulings on discovery motions, motions to amend the pleadings, motions to modify a scheduling order, and other miscellaneous motions. I issue hundreds of such orders in any given year. Very few of these civil orders are published, although they are all available through the court's Case Management Electronic Filing System (CM/ECF). In addition to CM/ECF, I believe all of my reports and recommendations are available on Westlaw or Lexis.

- 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.

Pepin v. Gerry, No. 11-cv-515-PB, 2013 WL 1165154 (D.N.H. Feb. 22, 2013), *report and recommendation approved*, 2013 WL 1155423 (D.N.H. Mar. 19, 2013).

Farrelly v. City of Concord, N.H., No. 10-cv-583-LM, 2012 WL 4513888 (D.N.H. Oct. 2, 2012), *vacated in part*, 2012 WL 6643278 (D.N.H. Dec. 20, 2010) (I vacated my previous order granting judgment on plaintiff's state-law claims and declined to exercise supplemental jurisdiction over them).

Ouahman v. Barnes, No. 11-cv-075-SM, 2012 WL 5303292 (D.N.H. Oct. 1, 2012), *report and recommendation approved*, 2012 WL 5303302 (D.N.H. Oct. 25, 2012).

Bleish v. Moriarty, No. 11-cv-162-LM, 2012 WL 2752188 (D.N.H. July 9, 2012).

Glenn v. N.H. State Prison Family Connections Ctr., No. 11-cv-475-JD, 2012 WL 2413934 (D.N.H. June 4, 2012), *report and recommendation approved*, 2012 WL 2401734 (D.N.H. June 26, 2012).

Burns v. Gerry, No. 06-cv-131-PB, 2012 WL 2072658 (D.N.H. May 9, 2012), *report and recommendation approved*, 2012 WL 2077187 (D.N.H. June 7, 2012).

Bleish v. Moriarty, No. 11-cv-162-LM, 2011 WL 6141271 (D.N.H. Dec. 9, 2011).

Lewis v. Warden, N.H. State Prison, No. 10-cv-274-JL, 2011 WL 4091853 (D.N.H. Aug. 8, 2011), *report and recommendation approved*, 2011 WL 4102346 (D.N.H. Sept. 14, 2011).

Starr v. Knierman, No. 10-cv-437-PB, 2011 WL 2680486 (D.N.H. June 21, 2011), *report and recommendation approved*, 2011 WL 2680489 (D.N.H. July 7, 2011), *aff'd*, 474 F. App'x 785 (1st Cir. 2012), *cert. denied*, 133 S. Ct. 833, 184 L. Ed. 2d 651 (2013).

Merrimack Congregation of Jehovah's Witnesses v. Town of Merrimack, No. 10-cv-581-JD, 2011 U.S. Dist. LEXIS 36556 (D.N.H. Jan. 24, 2011), *report and recommendation approved*, No. 10-cv-581-JD, 2011 U.S. Dist. LEXIS 36090 (D.N.H. Mar. 31, 2011).

PC Connection, Inc. v. Crabtree, 754 F. Supp. 2d 317 (D.N.H. 2010).

Collins v. Univ. of N.H., 746 F. Supp. 2d 358 (D.N.H. 2010), *aff'd*, 664 F.3d 8 (1st Cir. 2011).

- 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 decide recusal issues in accordance with 28 U.S.C. §§ 144 and 455, and the Code of Conduct for United States Judges. The federal court in New Hampshire does not use an automated recusal system. Rather, the court uses conflict-checking software as part of our case management system (CM/ECF). Each judge maintains a recusal list which contains the names of people and/or entities from whose cases the judge has decided recusal is always appropriate. I review that list periodically to ensure it is up to date. The software alerts me whenever a name on my recusal list appears in a newly-assigned case, or when a new party or attorney appears in a case. A “recusal flag” is then placed on the case in CM/ECF, and that flag effectuates my recusal.

As a former bar counsel, I deal with recusal issues that arise as a result of my having prosecuted lawyers for disciplinary infractions. Because these recusal issues are unique, and I could not find advisory opinions and decisions on point, I sought advice from the Committee on Codes of Conduct. The Committee approved of my approach. In short, my approach is to recuse whenever my impartiality might reasonably be questioned. For instance, I recuse in cases where the lawyer appearing before me is someone against whom I (as bar counsel) sought a serious sanction or is someone I prosecuted for an infraction that called into question that lawyer’s honesty, particularly before a tribunal.

A litigant or party requested that I recuse in the following cases:

Sealed Proceeding, No. 13-fp-362, United States District Court for the District of New Hampshire: The plaintiff moved to recuse all judges and clerks in the District of New Hampshire who had worked on his prior cases, based on a non-specific claim of conflict of interest and bias. Judge Laplante denied the motion based upon findings that the plaintiff offered no specific reason for recusal, and that there was no actual reason for recusal.

Ryan v. Krause, No. 11-cv-00037-MJK, United States District Court for the District of Rhode Island: The plaintiffs, who had sued defendants affiliated with the Roman Catholic Diocese of Providence, moved to recuse me, citing my past employment and my spouse’s past employment by St. Paul’s School and my spouse’s current employment by a parochial school in the Roman Catholic Diocese of Manchester. While the motion was pending, all of the district judges and I recused after a long-time court employee determined that she was a relative of a defendant.

Puiia v. Cross, et al., No. 12-cv-00054-PB, United States District Court for the District of New Hampshire: The plaintiff, who cited my relationships with members of the bar and courts in the state, moved for my recusal. After determining that a defendant in this case was represented in a related matter by an attorney who is on my recusal list, I recused.

King v. Friends of Kelly Ayotte, et al., No. 10-cv-00501-PB, United States District Court for the District of New Hampshire: The plaintiff moved for my recusal, asserting that I was biased, based upon the fact that lead counsel for the defendant had

been one of my supervising attorneys during my employment with the McLane firm in 1993, and that Senator Kelly Ayotte and I had worked for the same law firm. Ultimately, I recused because a person on my recusal list appeared as a party in the case.

Martin v. Kimball, et al., No. 11-cv-00129-PB, United States District Court for the District of New Hampshire: The plaintiff moved for my recusal, asserting that I was biased, based upon my past orders or statements in the case. The presiding judge in this case denied the motion as moot because it was filed after the referral to me had concluded.

United States, ex rel. Busse, et al. v. United States, et al., No. 10-cv-00321-JL, United States District Court for the District of New Hampshire: A plaintiff moved for my recusal, claiming that my past rulings in the case manifested bias. I found the bias claim to be unfounded and denied the motion.

Bourne v. N.H. Sup. Ct., et al., No. 12-cv-00251-PB, United States District Court for the District of New Hampshire: The plaintiff moved for my recusal, asserting that I had a conflict of interest because of my past employment as Disciplinary Counsel for the Attorney Discipline Office, which operated under the oversight of the New Hampshire Supreme Court. The presiding judge withdrew the referral of pending matters to me and denied the motion as moot.

Listed below are cases in which I recused sua sponte.

Villar v. Kimberly Dow, et al., No. 12-cv-00424, United States District Court for the District of New Hampshire: The plaintiff sued an employee of the United States Marshal's Office for New Hampshire. For that reason, I joined all of this court's district judges in recusing.

Schillinger v. Strafford Cnty. Super. Ct., et al., No. 12-cv-00429-JD, United States District Court for the District of New Hampshire: I represented the petitioner when I was a public defender. His habeas petition was based, in part, on convictions I believed he obtained while I represented him. I recused because of my prior representation of the petitioner.

United States v. Mascoma Sav. Bank, et al., No. 11-cv-00567-GZS, United States District Court for the District of New Hampshire: One of the parties threatened a judge in this district. For that reason, I joined all of this court's district judges in recusing.

Elmo, et al. v. Bowditch & Dewey, et al., No. 12-cv-00216-PB, United States District Court for the District of New Hampshire: Prior to the referral in this case, I had conducted a mediation in a related case. For that reason, I recused.

Riley v. Colantuono et al., No. 12-cv-00175-MML, United States District Court for the District of New Hampshire: The plaintiff sued the United States Attorney for New Hampshire. For that reason, I joined all of this court's district judges in recusing.

Azubuko v. Muirhead et al., No. 12-cv-00165-MML, United States District Court for the District of New Hampshire: The plaintiff sued the former United States Magistrate Judge for the District of New Hampshire. For that reason, I joined all of this court's district judges in recusing.

Barnett v. Lynch, No. 12-cv-00051-JAW, United States District Court for the District of New Hampshire: The plaintiff sued my court's Chief Deputy Clerk. For that reason, I joined all of this court's district judges in recusing.

Gerhard v. United States, No. 11-cv-00498-GZS, United States District Court for the District of New Hampshire: The plaintiff threatened a judge in this district. For that reason, I joined all of this court's district judges in recusing.

Associated Merch. Grp., Inc., et al. v. Am. Mktg. & Capital, Inc., et al., No. 11-cv-00311-PB, United States District Court for the District of New Hampshire: I recused because an attorney on my recusal list appeared in the case.

Neeper v. N.H. State Prison, Warden, No. 11-cv-00135-PB, United States District Court for the District of New Hampshire: I recused because the attorney who represented the petitioner in the state-court action underlying this habeas petition was on my recusal list.

Pure Barnyard, Inc. v. Organic Labs., Inc., et al., No. 08-cv-00501-JL, United States District Court for the District of New Hampshire: I recused because an attorney on my recusal list appeared in the case.

Veale v. United States, No. 02-mc-00011, United States District Court for the District of New Hampshire: The plaintiffs in this case are restricted filers in this district. In connection with their motion seeking permission to file a claim under the Federal Tort Claims Act, they filed a letter from the Administrative Office of the United States Courts indicating that that office had considered and denied tort claims against the judges of this court. For that reason, I joined all of this court's district judges in recusing.

United States v. 43 Mill Rd., Kingston, N.H., et al., No. 06-cv-00421-SM, United States District Court for the District of New Hampshire: I conducted a settlement conference in this case. The case did not settle and was scheduled for a bench trial before me. In accordance with Canon 3C(1) of the Code of Conduct for United States Judges, a judge "shall disqualify" under such circumstances. I recused.

United States v. Isaacson, et al., No. 09-cv-00332-JL, United States District Court for the District of New Hampshire: I recused because an attorney on my recusal list appeared in the case.

United States v. Radkay, et al., No. 10-cv-00065-PB, United States District Court for the District of New Hampshire: I recused because an attorney who filed an appearance in the case was representing me in a lawsuit, *Ginsberg v. DeHart, et al.*, No. 10-cv-00452-DBH, United States District Court for the District of New Hampshire.

Riley v. Alford, et al., No. 10-cv-00218-GZS, United States District Court for the District of New Hampshire: The plaintiff sued the former United States Marshal for New Hampshire. For that reason, I joined all of this court's district judges in recusing.

Ford v. Bettez, et al., No. 10-cv-00444-SM, United States District Court for the District of New Hampshire: I recused because an attorney who filed an appearance in the case was representing me in a lawsuit, *Ginsberg v. DeHart, et al.*, No. 10-cv-00452-DBH, United States District Court for the District of New Hampshire.

Marston v. United States, et al., No. 10-cv-00278-WES, United States District Court for the District of New Hampshire: The complaint in this case included a claim against United States Probation & Pretrial Services, District of New Hampshire, and one probation officer. For that reason, I joined all of this court's district judges in recusing.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public office other than judicial office. I have not had any unsuccessful candidacies for appointed office or unsuccessful nominations for appointed office.

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

I have not held office in or rendered services to any political party or election committee. I have played no role in any political campaign.

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

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

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

From 1991 to 1992, I served as a law clerk to Honorable Norman H. Stahl, District Judge for the United States District Court for the District of New Hampshire.

From 1992 to 1993, I served as a law clerk to Honorable Norman H. Stahl, Circuit Judge for the United States Court of Appeals for the First Circuit.

From 1994 to 1995, I served as a law clerk to Honorable A. David Mazzone, District Judge for the United States District Court for the District of Massachusetts.

- 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.

1993 – 1994

McLane, Graf, Raulerson & Middleton, PA
900 Elm Street
Manchester, NH 03105
Litigation Associate

1995 – 2003

New Hampshire Public Defender Program
Ten Ferry Street
Concord, NH 03301
Staff Attorney

2003 – 2010

New Hampshire Attorney Discipline Office
Four Chenell Drive, Suite 102
Concord, NH 03301
Disciplinary Counsel

- 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.

Before my appointment as magistrate judge, I did not ever serve 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.

My career as a practicing lawyer can be divided into three distinct categories and time-frames: I was in private practice from 1993 to 1994, I served as a public defender from 1995 to 2003, and I served as a Disciplinary Counsel for New Hampshire from 2003 to 2010.

Private Practice. In 1993, I joined the law firm of McLane, Graf, Raulerson & Middleton, and remained there for one year. As an associate at the McLane firm, I worked primarily in the Litigation Department. I worked on numerous marital cases, including a highly charged custody trial that I handled. In addition to marital work, I conducted research and handled discrete litigation assignments for corporate clients in the areas of contract law, environmental insurance defense, civil rights, and employment and education law.

Public Defender. From 1995 to 2003, I worked as Staff Attorney for the New Hampshire Public Defender program in the Strafford County (Dover, New Hampshire) office. I represented hundreds of indigent criminal defendants, both adults and juveniles charged with felonies and misdemeanors. I handled numerous jury and bench trials. From 2002 to 2003, I worked as an Assistant Appellate Defender for the New Hampshire Public Defender program. In that capacity, I drafted briefs and argued appeals before the New Hampshire Supreme Court on behalf of indigent criminal defendants.

Legal Ethics Prosecution. From 2003 to 2010, I worked for the New Hampshire Supreme Court Attorney Discipline Office as Disciplinary Counsel and practiced exclusively in the area of legal ethics. In that capacity, I prosecuted complaints of professional misconduct brought against attorneys in the State of New Hampshire. My practice was divided evenly between trial work and appellate advocacy. I litigated contested hearings before hearing panels, and I argued cases before both the Professional Conduct Committee and the New Hampshire Supreme Court. I resolved a significant percentage of my caseload with negotiated agreements, many of which required oral argument before the Committee

and the Court. I also handled all requests for reciprocal discipline, reinstatements and readmission, and any matters dealing with an attorney's interim or emergency suspension.

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

As an associate at the McLane Firm, the clients I served were individuals and corporations. My primary focus was in litigation.

As a public defender, I represented indigent criminal defendants, and thereby developed an expertise in criminal law.

As Disciplinary Counsel, I prosecuted attorneys in the State of New Hampshire who committed ethical misconduct and thereby developed an expertise in legal ethics. The vast majority of my work did not involve the representation of clients; rather, I was representing the attorney discipline system. However, when I argued cases before the New Hampshire Supreme Court, I was representing, as clients, either the Attorney Discipline Office or the Professional Conduct Committee. I represented the Attorney Discipline Office when I appealed a sanction decision of the Professional Conduct Committee. I represented the Professional Conduct Committee when I petitioned the New Hampshire Supreme Court to impose a suspension or disbarment ordered by the Professional Conduct Committee.

- 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.

100% of my career has been in litigation. As an associate at the McLane firm, I assisted partners on matters pending before the federal court. I drafted pleadings such as motions for summary judgment and appeared for a small number of pre-trial conferences. I handled one bench trial in state court; the case was a marital matter that settled near the completion of the trial.

From 1995 to 2002, as a Staff Attorney for the New Hampshire Public Defender program, I appeared in state courts almost daily and handled numerous jury and bench trials.

From 2002 to 2003, as an Assistant Appellate Defender, I appeared before the New Hampshire Supreme Court as lead counsel for oral argument in approximately 20 cases.

From 2003 to 2010, as Disciplinary Counsel, I appeared frequently before hearing panels in contested administrative hearings. In addition to contested hearings,

I argued numerous cases both before the Professional Conduct Committee and the New Hampshire Supreme Court.

- i. Indicate the percentage of your practice in:
 1. federal courts: 1%
 2. state courts of record: 50%
 3. other courts: 0%
 4. administrative agencies: 49%
- ii. Indicate the percentage of your practice in:
 1. civil proceedings: 50%
 2. criminal proceedings: 50%
- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried approximately 60 criminal cases (jury and bench trials) to verdict. I was lead or sole counsel on almost all of these. On approximately four of the jury trials, I served as a co-counsel. In addition, I have tried approximately 40 administrative hearings to judgment. I was lead counsel in each instance.

- i. What percentage of these trials were:
 1. jury: 20%
 2. non-jury: 80%
- 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 appeared 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.

With respect to the criminal jury trials, I was unable to locate precise data about each of these cases despite making efforts to do so. With respect to the dates of these cases, I have provided my best estimates.

1. *In re O'Meara*, 164 N.H. 170 (2012), before a hearing panel of the New Hampshire Supreme Court Attorney Discipline Office ("ADO") and the Professional Conduct Committee ("PCC").

While I am not counsel in the reported opinion in this attorney-discipline case, I was the sole prosecutor and handled all of the underlying litigation in 2009 and 2010. Mr. O'Meara was charged with acting under a conflict of interest when he advised his clients to settle their personal injury case for \$11.5 million while demanding a fee in an amount that the clients had not agreed to and did not want to pay him. Mr. O'Meara was also charged with deceit for testifying falsely before the arbitration panel that later heard the fee dispute. He contested all charges. After several days in trial and a contested sanction hearing, the hearing panel recommended Mr. O'Meara's disbarment from the practice of law. I handled the first phase of the oral argument before the PCC. After I was appointed to the bench in 2010, briefing and oral argument took place before the New Hampshire Supreme Court. Mr. O'Meara was ultimately disbarred.

Counsel for the Respondent:

Michael R. Callahan, Esq.
Gallagher, Callaghan & Gartrell
214 Main Street
Concord, NH 03301
(603) 228-1181

2. *In re Bosse*, 155 N.H. 128 (2007), before an ADO hearing panel, the PCC, and the New Hampshire Supreme Court.

While a licensed New Hampshire attorney, Mr. Bosse forged a signature on legal documents in a business transaction and then made misrepresentations about the validity of those documents to a third party involved in the transaction. I was the sole prosecutor in this case, which was litigated in 2006 and 2007. In May 2006, Mr. Bosse stipulated to the material facts and ethical violations, and the litigation concerned the appropriate sanction. I sought disbarment, and Mr. Bosse sought a short suspension. The PCC ordered a six-month suspension. I appealed that order to the New Hampshire Supreme Court. Following briefing and oral argument, the court ordered a two-year suspension.

Counsel for the Respondent:

Honorable David A. Garfunkel

Associate Justice, New Hampshire Superior Court
45 Chenell Drive, Suite 1
Concord, NH 03301
(603) 271-2030

3. *In re King*, No. 01-069, Attorney Discipline Office; and *In re Quinn*, No. 04-078, Attorney Discipline Office.

I was the sole prosecutor in these two related cases that were litigated from 2004 through 2007. In 2004, I brought charges against Mr. King for neglecting his clients in a probate matter. Mr. King did not respond to the charges, and upon my inquiry, claimed that he had never received the charging document. Following a contested hearing, the ADO hearing panel did not believe Mr. King's claim that he never received the charging document. During Mr. King's sanction hearing, at which I sought disbarment for his deceit, a partner in Mr. King's firm, Mr. Quinn, testified as a surprise witness that he (Mr. Quinn) had destroyed the charging document. Because Mr. Quinn had previously testified during a deposition that he had no knowledge of Mr. King's missing charging document, I pursued charges against Mr. Quinn for deceit. After a contested hearing, the hearing panel recommended a finding of "no misconduct." I challenged that finding before the PCC, which deferred to the hearing panel and dismissed the charges against Mr. Quinn. I decided not to appeal the dismissal to the New Hampshire Supreme Court. Mr. King stipulated to a one-year suspension from the practice of law.

Counsel for Mr. King:

William B. Parnell, Esq.
Parnell & McKay, PLLC
25 Nashua Road, Suite C4
Londonderry, NH 03053
(603) 434-6331

Counsel for Mr. Quinn:

Edmund J. Boutin, Esq.
Boutin Altieri, PLLC
One Buttrick Road
Londonderry, NH 03053
(603) 432-7419

4. *In re Reiner*, 152 N.H. 163 (2005), before the Hon. Douglas Gray (referee appointed by the New Hampshire Supreme Court); *In re Reiner*, 152 N.H. 594 (2005).

As Disciplinary Counsel and sole prosecutor, I litigated this matter before the New Hampshire Supreme Court in 2005. Mr. Reiner, a licensed New Hampshire attorney, was indicted on federal criminal charges. On the basis of his indictment, the New Hampshire Supreme Court issued an order of immediate suspension. Mr. Reiner contested that

suspension primarily on due process grounds, and the court ordered me to brief and litigate the matter. In its first reported opinion in this case, the court determined that it could lawfully suspend an attorney on the basis of an indictment alone, without first providing the attorney a hearing. In its second reported decision, the court lifted Mr. Reiner's suspension, ruling that the allegations in the indictment were insufficient to find that suspension was necessary for public protection.

Counsel for the Respondent:

Steven M. Gordon, Esq.
Shaheen & Gordon, PA
107 Storrs Street
Concord, NH 03301
(603) 819-4231

5. *State v. Spencer*, 149 N.H. 622 (2003).

While serving as an Assistant Appellate Defender, I drafted the brief and presented the oral argument before the New Hampshire Supreme Court in this case. My client was convicted on theft and forgery charges. My brief argued for reversal on grounds that my client's pre-*Miranda* silence and post-*Miranda* confession should have been suppressed. The facts below established that during her arrest, my client repeatedly proclaimed her innocence and accused the officers of having arrested the wrong person. An officer showed her surveillance photos that appeared to incriminate her, and she became silent in response. Thereafter, my client calmed down and told the officers she did not want to be held on bail because she had three young children at home. In response, an officer told her that, if she cooperated, they would argue for her release on bail and try to ensure she was reunited with her children. Following *Miranda* warnings, my client made a full confession. The New Hampshire Supreme Court ruled that the act of showing my client the surveillance photos did not constitute "interrogation" to which the Fourth Amendment applied, and the officer's promise to argue for her release on bail in exchange for her cooperation did not render her subsequent confession involuntary. Two justices dissented as to the pre-*Miranda* portion of the ruling.

Counsel for the State of New Hampshire:

Susan P. McGinnis, Senior Assistant Attorney General
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301
(603) 271-3671

6. *State v. Cushing*, Criminal No. 99 -S-746-F, before the Hon. Peter Fauver, Strafford County Superior Court.

My client was charged with multiple counts of kidnapping and aggravated felonious sexual assault, and he was tried in May of 2000. After several days of trial, the case ended in a mistrial due to prosecutorial misconduct. Before the state recharged the client, the case ended with a guilty plea to misdemeanors. I was assisted in the trial by a colleague, Attorney Randy Hawkes, but I served as lead counsel.

Co-Counsel for the Defendant:

Randy Hawkes, Executive Director
New Hampshire Public Defender Program
Ten Ferry Street
Concord, NH 03301
(603) 224-1236

Prosecutor:

Peter Odom, Esq.
The Odom Law Firm
1708 Peachtree Street, Suite 115
Atlanta, GA 30309
(866) 959-7322

7. *State v. Bill*, 99-cr-4438-4441, before the Hon. Bruce Larson, Rochester District Court.

My client was charged with several misdemeanor offenses. To the best of my recollection, the case went to trial in 1999. My client was convicted. During the sentencing phase of the case, I discovered significant exculpatory evidence that had been withheld by the Rochester Police Department. I then filed a motion to dismiss the charges. A lengthy hearing on that motion resulted in the dismissal of all charges. The case garnered a great deal of media attention, and I recall that the local paper published two editorials in support of my position that dismissal of the case was warranted. As a result of this case, the Rochester Police Department changed its policy with regard to the disclosure of evidence from internal investigations. I was the sole counsel for the defendant.

Prosecutor:

Diane Dubay, Esq.
Hearings Examiner
New Hampshire Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
(800) 852-3345

8. *State v. Dixon*, 144 N.H. 273 (1999).

My client was charged with three counts of aggravated felonious sexual assault. He was tried in 1998, in Strafford County Superior Court, before Judge Peter Fauver. After a jury trial that lasted several days, he was convicted on one count. Along with a colleague, I litigated the entire case until the appeal. The New Hampshire Supreme Court affirmed my client's conviction in the reported opinion cited above.

Co-Counsel for the Defendant:

John F. Durkin, Jr., Esq.
Wilson Bush Durkin & Keefe
184 Main Street, Suite 222
Nashua, NH 03060
(603) 595-0007

Prosecutor:

Honorable Susan W. Ashley
New Hampshire Circuit Court, 7th Circuit
Rochester Family Division
259 County Farm Road
Dover, NH 03820
(855) 212-1234

9. *State v. Monteiro*, No. 98-951 (I could not confirm whether this is a docket number in the district court (now the circuit court) or the superior court), before the Hon. Peter Fauver, Strafford County Superior Court.

My client, a student at the University of New Hampshire, was charged with second degree assault. There was a great deal of media attention about this case because my client was a member of the university's football team, and the university suspended him while his criminal case was pending. After a jury trial lasting almost one week, in 1998 or 1999, my client was acquitted. I was the sole counsel for the defendant in his criminal case, and I also represented him before the judicial conduct board at the university.

Prosecutor:

Honorable Susan W. Ashley
New Hampshire Circuit Court, 7th Circuit
Rochester Family Division
259 County Farm Road
Dover, NH 03820
(855) 212-1234

10. *State v. Hogan*, Criminal No. 98-S-30, before the Hon. Bruce Mohl, Strafford County Superior Court.

My client was charged with 19 counts of aggravated felonious sexual assault. This case, which was tried in 1997 or 1998, involved a large amount of pre-trial litigation, and included a defense expert on the suggestibility of child witnesses. After a lengthy jury trial, my client was acquitted on all charges. I shared the litigation responsibilities evenly with my colleague, Linda J. Slamon, Esq., although I handled the expert witness.

Co-Counsel for the Defendant:

Linda J. Slamon, Esq.
New Hampshire Public Defender's Office
15 Fourth Street, Suite 3
Dover, NH 03820
(603) 749-5540

Prosecutor:

Honorable Susan W. Ashley
New Hampshire Circuit Court, 7th Circuit
Rochester Family Division
259 County Farm Road
Dover, NH 03820
(855) 212-1234

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.)

Almost every significant legal activity I have pursued as an attorney has involved litigation. As Disciplinary Counsel, however, I was involved in the investigation of numerous matters that culminated in my seeking dismissal of the complaints, or resolution of the charges without litigation. Similarly, as a public defender, a large portion of my caseload was resolved short of litigation, with negotiated plea agreements. While I would not point to one case in this context as particularly significant, I consider my pursuit of non-litigated cases in both of those jobs an important aspect of my legal experience.

In 2000, while I was serving as a Public Defender, the New Hampshire Supreme Court appointed me to serve on the Professional Conduct Committee. I served on the Committee until the end of 2003. During my service as a member on this Committee,

New Hampshire had not yet adopted a “bar counsel model” for the prosecution of attorney misconduct cases. My service was quasi-judicial in nature: I investigated complaints against attorneys, wrote reports on those investigations for review by the full Committee, and then served on hearing panels at least once monthly to adjudicate claims against attorneys.

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 college level or law school courses. After graduating from college, I taught at St. Paul’s School, a residential preparatory school in Concord, New Hampshire. I recall the specific name of only one of the courses I taught: “Law and Government.” I also taught courses in American and African-American History. I could not locate the syllabi.

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

I do not have any uncompleted contracts or other future benefits from which I expect to derive compensation.

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 Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

Other than those individuals and/or entities whose names appear on my recusal list, I do not believe there are any family members, parties, categories of litigators, or financial arrangements that are likely to present potential conflicts of interest for me were I to assume the position.

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

To the extent any such potential conflicts were to arise, I would resolve them through careful adherence to 28 U.S.C. §§ 144 and 455 (2006), and the Code of Conduct for United States Judges.

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.

While a litigation associate at McLane, I represented at least one client on a pro bono basis. I recall that the case involved a child custody issue, but I do not remember any other details. I have not done any other pro bono legal work. While a public defender, I was prohibited by state statute from representing persons other than indigent criminal defendants, under appointment by the court. While Disciplinary Counsel, I abided by the policy of the Attorney Discipline Office not to engage in the practice of law outside of my duties as Disciplinary Counsel and, of course, as a United States Magistrate Judge, I am precluded from practicing law.

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.

Upon District Judge McAuliffe's announcement that he would be taking senior status effective April 1, 2013, I telephoned Senator Jeanne Shaheen's office to inform her that I was interested in being considered for the opening on the court. On February 28, 2013, I was interviewed by a member of Senator Shaheen's staff in Manchester, New Hampshire. On March 11, 2013, I was interviewed by Senator Shaheen in Dover, New Hampshire. On March 26, 2013, Senator Shaheen telephoned me to inform me that I was under consideration. Since that time, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On April 26, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 23, 2013, 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.

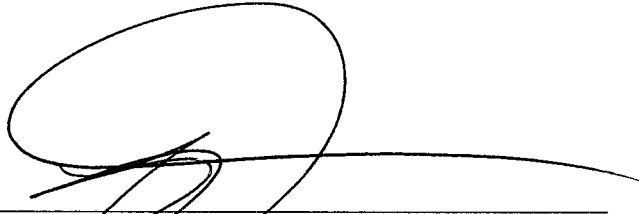
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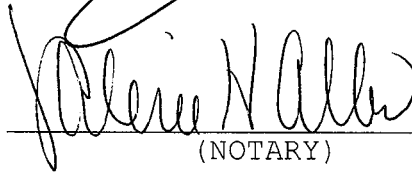
I, Landya B. McCafferty, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

6-18-13

(DATE)



(NAME)



(NOTARY)

VALERIE H ALLEN
NOTARY PUBLIC

State of New Hampshire
My Commission Expires: 03/24/2015