

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Mae Avila D'Agostino

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

United States District Judge for the Northern District of New York

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

Office: D'Agostino, Krackeler, Maguire & Cardona, P.C.
16 Sage Estate
Menands, New York 12204

Residence: Latham, New York

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

1954; Albany, New York

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

1977 – 1980, Syracuse University College of Law; J.D. 1980
1973 – 1977, Siena College; B.A. (*magna cum laude*), 1977

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.

1997 – present

D'Agostino, Krackeler, Maguire & Cardona, P.C.

(formerly known as D'Agostino, Krackeler, Baynes & Maguire, P.C.)

16 Sage Estate

Menands, New York 12204

Partner

1991 – present

Albany Law School

80 New Scotland Avenue

Albany, New York 12208

Adjunct Professor of Trial Tactics and Medical Malpractice

1985 – 1990

Junior College of Albany

140 New Scotland Avenue

Albany, New York 12208

Instructor in paralegal studies

1981 – 1997

Maynard, O'Connor & Smith (now known as Maynard, O'Connor, Smith & Catalinotto)

Tower Place

Albany, New York 12203

Partner (1985 – 1997)

Associate (1981 – 1985)

1978 – 1980

Syracuse University College of Law

E.I. White Hall

Syracuse, New York 13244

Teaching Assistant – Legal Writing Program

Other Affiliations (uncompensated)

1990 – 1994

Siena College

515 Loudon Road

Loudonville, New York 12211

Chair of the Board of Associate Trustees (1993 – 1994)

Member of the Board of Trustees (1990 – 1993)

1991 – 1992

Albany County Bar Association

One Lodge Street, 2nd Floor

Albany, New York 12207

President

1987 – 1990
Albany Law School
80 New Scotland Avenue
Albany, New York 12208
Member of the Board of Trustees

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 was not required to register for Selective Service.

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

Super Lawyers (2005 – 2010)
Outstanding Lawyers in America (1999 – 2010)
Best Lawyers in America (1999 – 2010)
Kate Stoneman Award, Albany Law School (2008)
- For professional excellence in fostering women in the legal profession
Family Friendly Award, Albany County Woman's Bar Association (2001)
- Awarded to my law firm for fostering family friendly policies
Daniel H. Mahoney Award in Trial Advocacy, Capital District Trial Lawyers (1998)
- For outstanding service in the art of trial advocacy
Benjamin Kuhn Award, Siena College (1995)
- For outstanding service to the Siena College community
Siena College Distinguished Alumnae Award (1995)
- For service to the Siena College community
Women of Excellence Award, Albany Chamber of Commerce (1995)
President's Award, Albany County Bar Association (1992)
- For organizing Settlement Week program in the New York Supreme Court
Special Recognition Award, Albany Law School (1992)
- For serving as coach of the mock trial team from approximately 1985 – 1992
Young Lawyer Award, NYS Bar Insurance Negligence & Compensation Section (1989)

Syracuse University College of Law Honors & Awards

International Academy of Trial Lawyers Award

- For oral advocacy

Order of the Barristers Award

- For oral advocacy

Trial Lawyer's Cup (1st Place), New York State Bar Association (1979 – 1980)

Team Member, National Mock Trial Champions (1979)

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.

Associations

Albany County Bar Association
President (1991 – 1992)
American College of Trial Lawyers
Capital District Women’s Bar Association
International Academy of Trial Lawyers
New York State Bar Association
Chair, Trial Lawyers Section (1992)

Committees

New York State Continuing Legal Education Board (2003)
New York State Courts, Third Department
Judicial Screening Committee (1993)
Local Task Force to Reduce Litigation Costs and Delay (1996 – 1997)
United States District Court for the Northern District of New York
Magistrate Judge and Bankruptcy Judge Merit Selection Panels (various years)
United State Bankruptcy Court for the Northern District of New York
Bankruptcy Court Public Liaison (approximately 2005 – present)

10. **Bar and Court Admission:**

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

New York (Third Department), 1981

There has been no lapse in membership.

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

United States Court of Appeals for the Second Circuit, 2008
United States District Court for the Northern District of New York, 1981

There has been no lapse in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which

you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Chair of the Board of Associate Trustees, Siena College (1993 – 1994)
Member of the Board of Trustees, Siena College (1990 – 1993)
Member of the Board of Trustees, Albany Law School (1987 – 1990)
Wolferst Roost Country Club (1991 – present)

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

In years prior to my full membership at Wolferst Roost Country Club, I understand women were not permitted to be full members. The policy changed at about the time that I was admitted to full membership to the club, and I believe I was the first woman afforded full membership. After representing a physician in a medical malpractice case who was a member of Wolferst Roost Country Club, I discussed with him the fact that it was inappropriate for the country club not to admit women as full members. I asked him to sponsor me for the full membership, and he did. Since that time, women have been welcomed as full members of the club. I am aware of no other current or former discrimination by the organizations of which I have been a member.

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.

Doctor File Should be Private, *Albany Times-Union*, Jan. 9, 2003 at D2. Copy supplied.

Independent Medical Examinations in Personal Injury Actions, *Insurance Negligence Compensation Law Section Journal of the New York State Bar Association* (Dec. 1989). Copy supplied.

I searched my files and publicly-available Internet sources to create a response to this question as comprehensive as possible, but there may be other published material I have been unable to recall or identify.

- 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.

In 1992, I served on the Albany County Democratic Task Force. We issued a report making recommendations for the County Democratic Committee's structure. Copy supplied.

In approximately 1997, I served on a New York State Courts Local Task Force to Reduce Litigation Costs and Delay. While I believe the Task Force issued a report, I have not retained a copy.

While a member of the New York State Continuing Legal Education Board in 2003, I may have participated in approving reports as a member of the Board. Due to the passage of time, I have not retained records from my one year of service on the Board and I do not have copies of any such reports.

Having searched my records and my memory, there are no other reports that I prepared or to which I contributed that I recall or have been able to identify.

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

None that I recall or have been able to identify.

- 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 searched my files and calendars as well as publicly-available Internet sources to create a response to this question as comprehensive as possible, but there may be

other speeches or talks I have given that I have been unable to recall or identify. In particular, I have presented to CLEs on trial skills and in other areas when asked to do so and I often present without notes. I also have sought to accept invitations to speak at my college and law school, especially at career and ethics programs, and I have not retained records of each occasion when I have done so. All presentations took place in Albany, New York, except as noted.

Albany County Bar Association, CLE Program, April 8, 2010. I gave a presentation entitled "Depositions from A to Z." Outline supplied.

Albany Law School, Health Law Careers Forum, February 24, 2010. I spoke as part of a panel on my practice in health law. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Ave., Albany, NY 12208.

Albany Law School, Health Law Careers Forum, November 11, 2009. I spoke as part of a panel on my practice in health law. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Ave., Albany, NY 12208.

New York State Bar Association, "Calculating and Proving Damages," June 2009. I have no notes, transcript, or recording. The address of the Association is One Elk Street, Albany, NY 12207.

New York County Lawyers Association (NYLCA), October 24, 2008 (New York, NY). I participated in a "Masters in Trial" CLE demonstration to educate attorneys about trial advocacy. I was part of the defense direct/cross-examination team. I have no notes, transcript, or recording. The address of NYCLA is 14 Vesey St., New York, NY 10007.

In 2008, I presented welcoming remarks at the U.S. District Court for the Northern District of New York to a Second Circuit panel hearing oral arguments. The text of my remarks is supplied.

New York State Academy of Trial Lawyers, "Turning Stalemate into Success—Achieving the Best Settlement for Your Client," May 2006. I have no notes, transcript, or recording. The address for the Academy is 39 N. Pearl St., 6th Floor, Albany, NY 12207.

New York State Bar Association, "The People's Law School," November 22, 2005. I was one of two speakers for a two-hour presentation covering civil lawsuits. Although this program was recorded, the New York State Bar Association advised me that it has not retained the tapes. The address of the Association is One Elk Street, Albany, NY 12207.

Albany County Bar Association, CLE Program, May 12, 2005. I gave a presentation entitled "Depositions from A to Z." I used the same outline as supplied for my presentation on April 8, 2010.

Capital District Women's Bar Association, CLE Breakfast, September 22, 2004. I spoke on a panel on the legal profession and family, including issues related to maternity and family leave. I have no notes, transcript, or recording. News coverage of the event is supplied.

New York State Bar Association, Presentation to the Torts, Insurance and Compensation Law Section, September 2003. I have no notes, transcript, or recording. The address of the Association is One Elk Street, Albany, NY 12207.

New York State Bar Association, CLE entitled "How to Try Damages," November 2002. I have no notes, transcript, or recording. The address of the Association is One Elk Street, Albany, NY 12207.

Albany Law School Institute of Legal Studies, "Recent Development in Lead Paint Litigation for Counties," February 2002. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Ave., Albany, NY 12208.

New York State Bar Association, CLE entitled "How to Try an Accident Case: For Novice and Experienced Attorneys," Spring 2000. I have no notes, transcript, or recording. The address of the Association is One Elk Street, Albany, NY 12207.

Albany County Bar Association, Memorial Ceremony, December 7, 1998. I gave welcome remarks at a ceremony to honor attorneys and judges who had passed away in 1998. I have no notes, transcript, or recording. News coverage of the event is supplied.

Capital Roundtable, February 1998. I spoke on a panel about Albany's major industries and communities, specifically about the legal workforce. I have no notes, transcript, or recording. News coverage of the event is supplied.

Albany County Bar Association, Judicial Portrait unveiling, September 14, 1997. I introduced speakers at a ceremony dedicating portraits of two state judges. I have no notes, transcript, or recording. News coverage of the event is supplied.

New York State Bar Association Committee on Women, "Rainmaking" panel, June 19, 1995. I gave remarks on a panel presented by NYSBA at Fordham Law School. I have no notes, transcript, or recording. The address of NYSBA is One Elk St., Albany, NY 12207.

New York State Bar Association, CLE program, May 15, 1992. I moderated a program entitled "Anatomy of Trauma." I have no notes, transcript, or recording. The address of Association is One Elk St., Albany, NY 12207.

Albany County Bar Association, Celebration of Justice Edward S. Conway, January 16, 1992. I presided over a program at the Desmond Americana honoring New York Supreme Court Justice Conway. News coverage of the event is supplied.

Siena College (Loudonville, NY), Symposium on "Issues in Contemporary Ethics," February 26, 1991. I moderated a medical ethics panel. I have no notes, transcript, or recording. The address of Siena College is 515 Loudon Road, Loudonville, NY 12211.

Siena College (Loudonville, NY), Symposium on "Issues in Contemporary Ethics," April 5, 1990. I moderated a panel on a public sector ethics scenario. I have no notes, transcript, or recording. The address of Siena College is 515 Loudon Road, Loudonville, NY 12211.

- 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.

I searched my files as well as publicly-available Internet sources to create a response to this question as comprehensive as possible, but there may be other interviews I have given that I have been unable to recall or identify. I have supplied a copy of each item listed below.

Pharmacy Officers Attack Investigator's Motives, *Orlando Sentinel*, July 3, 2010 at B1.

Candidate's Reputation Extends Past Albany, *Albany Times-Union*, June 30, 2010 at B3.

'Fresh Voice' for U.S. Bench, *Albany Times-Union*, June 24, 2010 at D1.

Union Chiefs: Words Hurt, *Albany Times-Union*, May 18, 2010 at A1.

Helping Those Who Heal, *Super Lawyers Magazine*, September 2009 at 8.

Social Workers in 'Torturous' Case Are Ruled Immune from Lawsuit, *New York Law Journal*, January 26, 2009, N.Y.L.J. 1 (col 4).

Pharmacists Sue over Steroid Case, *Albany Times-Union*, October 10, 2008.

D'Agostino Recognized for Seeking Changes, Expanding Opportunities for Women in Law, *Krackeler & Maguire Press Release*, June 12, 2008.

Realizing Mae's Potential, *Siena News*, Fall 2007 at 11.

Menands Law Firm Learning to Cope Without a Founding Partner, *Business Review*, June 5, 2006.

Colleagues and Friends Mourn Death of Attorney, *Albany Times-Union*, May 18, 2006 at B6.

Mae D'Agostino, Esq. Included in 2007 "Best Lawyers in America" List, *Krackeler & Maguire Press Release*, February 23, 2006.

Sex Case Teacher Chided in Court, *Albany Times-Union*, November 22, 2005 at B1.

Geisel Agrees to Rape Case Deal, *Albany Times-Union*, September 27, 2005 at B1.

Fired Teacher Charged with Rape, *America*, August 29, 2005 at 6.

The Nancy Grace Show, *CNN*, August 19, 2005.

At Large With Geraldo, *Fox News Network*, August 14, 2005.

Sex Scandal Teacher Turns Tables?, *CBS News*, August 5, 2005.

Media Frenzy Prompts Appeal, *Albany Times-Union*, August 4, 2005 at B1.

Anthony V. Cardona, Jr., Esq. of Delmar Named Partner at D'Agostino, Krackeler & Maguire P.C., *Krackeler & Maguire Press Release*, December 8, 2003.

Legal Eagles to Help Colleagues Brush Up on Law in Half-Day Class, *Albany Times-Union*, November 20, 2003 at B2.

Mae D'Agostino, Esq. Inducted into Two Prestigious Trial Lawyers Societies, *D'Agostino, Krackeler & Maguire Press Release*, November 7, 2003.

9/11 Put Searches in New Light, *Albany Times-Union*, June 27, 2002 at B3.

Catholic Church, Priest Sued, *The Journal News [Westchester County]*, June 22, 2002 at 1A.

Spaces, *Albany Times-Union*, December 2, 2001 at E1.

Mother Wins a \$720,000 Settlement in a Lead Poisoning Lawsuit, *Associated Press*, October 17, 2001.

Lead Victims Get \$720,000, *Albany Times-Union*, October 17, 2001 at B4.

Jury's Verdict in Crash Disputed, *Albany Times-Union*, April 13, 2001 at B1.

Bill Passed in Silence Has Angry Voices Raised, *New York Law Journal*, August 10, 2000, N.Y.L.J. 1 (col 5).

Legal Barriers; African-American Lawyers Find Few Opportunities in Capital Region Law Firms, *Albany Times-Union*, January 9, 2000 at G1.

Retiring State Justice a Champion of Fairness, *Albany Times-Union*, December 25, 1999 at B1.

Ex-Student's Lawsuit Dismissal Upheld, *Albany Times-Union*, December 19, 1999 at E13.

Courthouse Introduces Metal Detectors, *Albany Times-Union*, July 20, 1999 at B4.

Judgments Shifting Toward Defendants, *Albany Times-Union*, June 20, 1999 at D1.

Marketing Gives Law Firms a Case of Ad Nauseam, *Albany Times-Union*, March 7, 1999 at 13.

Wounded Student's Lawsuit Thrown Out, *Albany Times-Union*, August 12, 1998 at B1.

Women Advance in Law Schools, *Albany Times-Union*, May 30, 1998 at B1.

Ex-D.A., Judge Chosen by Pataki, Wins Praise, *New York Law Journal*, May 28, 1998, N.Y.L.J. 1.

Women Can be Litigators and Still Have Time With Family, *Capital District Business Review*, April 24, 1988.

Verbatim, *Albany Times-Union*, February 22, 1998 at 11.

Jurist Recuses Self from Etkin Case, *Albany Times-Union*, August 8, 1997 at B4.

4 Split from Law Firm to Form New Practice, *Albany Times-Union*, July 2, 1997 at E1.

Local Lawyers, *Albany Times-Union*, February 5, 1997 at A7.

The Search for Excellence Ends Here, *Albany Times-Union*, June 15, 1995 at C7.

Lawyers Put Family Name on Shingle After Leaving Carter Conboy Posts, *Capital District Business Review*, March 14, 1994 at 3.

Trashing the 'Junk' in Court, *Albany Times-Union*, July 25, 1993 at A1.

Ex-Troopers Off the Hook in \$40M Wrongful Arrest Suit, *Daily Freeman*, July 9, 1993.

Medical Privacy; Husband Sues Employers for Getting Wife's Records, *Albany Times-Union*, April 6, 1993 at A1.

DJ's False Arrest Suit Nears Trial, *Albany Times-Union*, December 12, 1992 at B3.

150 Settlements Cut Court Calendar, *Albany Times-Union*, December 5, 1992 at B3.

Judge Suspends Trials Five Days to Encourage Settlements, *Albany Times-Union*, October 30, 1992 at B5.

Lawyers Race for Implant Lawsuits, *Albany Times-Union*, July 7, 1992 at C1.

Susan Tatro Talks Tough, Works Hard, *Albany Times-Union*, March 29, 1992 at D1.

Siena to Hold Ethics Symposium Thursday, *Albany Times-Union*, February 26, 1992 at B2.

Jury Backs Staffers, Albany Med in Trial; Detention of a Mother at Issue, *Albany Times-Union*, August 16, 1991 at B2.

Limitations of Juries an Endless Question, *Albany Times-Union*, May 5, 1991 at A7.

Trial Lawyers Use Videotapes to Provide Evidence, *Capital District Business Review*, April 29, 1991 at 15.

Litigator Shows Mettle in Emotion-Charged Cases, *Capital District Business Review*, February 25, 1991 at 10.

Ethical Questions Topic of Siena College Forum, *Albany Times-Union*, February 18, 1991 at B4.

Colonie Settlement Formalized, *Albany Times-Union*, December 12, 1990 at B3.

\$725,000 Settlement Approved in Colonie, *Albany Times-Union*, October 12, 1990 at B12.

Physician's Lawsuit over Physical Exams Targets State Regulations, *Albany Times-Union*, June 29, 1990 at B12.

Symposium to Examine Ethics Issues, *Albany Times-Union*, April 3, 1990 at C2.

Law School Team to Defend Title, *Albany Times-Union*, January 31, 1990 at B6.

New York Lawyers Divided Over Need to Continue Their Education, *Daily Gazette*, January 8, 1990 at B3.

Final Lawsuit Dismissed in Murder of Woman, *Albany Times-Union*, October 4, 1989 at B7.

Mandatory Pretrial Claim Review Under Fire, *Albany Times-Union*, July 9, 1989 at A1.

AIDS Victim Sues Under Toxic Exposure Law, *Albany Times-Union*, July 7, 1989 at B1.

Education on Trial; Mandatory Added Study Likely for Lawyers in State, *Albany Times-Union*, April 17, 1989 at A1.

Cameras Still Issue in Court; Bar Group Seeks Longer Test Period, *Albany Times-Union*, April 16, 1989 at B5.

Little League Coach's Suit Dismissed; Law Students Win Regional Contest, *Albany Times-Union*, February 14, 1989 at B4.

Albany Law Team Studies for Competition, *Albany Times-Union*, February 4, 1989 at D2.

Law Opens to Women, *Albany Times-Union*, September 5, 1988 at A1.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
 - i. Of these, approximately what percent were:

jury trials:	_____ %
bench trials:	_____ %
 civil proceedings:	 _____ %
criminal proceedings:	_____ %
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- 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).
- 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.
- e. Provide a list of all cases in which certiorari was requested or granted.
- 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.
- 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.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. 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.

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 have not served as a judge.

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

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

I have not held public office. I have had no unsuccessful candidacies for elective 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 been a member of the Democratic Party. I have never held any political office within the party. In 1991 and 1992, I served as a volunteer member of the Albany County Democratic Task Force appointed by then-Party Chair Harold Joyce. This committee was charged to evaluate the structure and operations of the County Democratic Committee and to suggest a framework for the future.

I have been asked by New York State Supreme Court Judges to be on their committees for re-election and I have agreed to do so. I have not otherwise personally campaigned for any Judge. I have allowed at least six NYS Supreme Court candidates to place my name on their letterhead as being a member of a committee to re-elect. I believe I have assisted New York State Supreme Court Justice Joseph Teresi in Albany County; NYS Supreme Court, Appellate Division, Third Department, Justice Karen Peters; Candidate for New York State Supreme Court Justice Rachel Kretzer; New York State Supreme Court Justice Frank Williams in Saratoga County; New York State Supreme Court Justice Thomas Mercure, Appellate Division, Third Department; and Presiding Justice of the New York State Supreme Court Appellate Division, Third Department, Anthony V. Cardona. There may be other judicial campaigns I have supported in this way that I am unable to recall.

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

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

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

I have never served as a clerk to a judge.

- 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.

1981 – 1997
Maynard, O'Connor & Smith
6 Tower Place
Albany, New York 12203
Associate (1981 – 1984)
Partner (1985 – 1997)

1997 – present
D'Agostino, Krackeler, Maguire & Cardona, P.C.
(formerly known as D'Agostino, Krackeler, Baynes & Maguire, P.C.)
16 Sage Estate
Menands, New York 12204
Partner

- 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.

Approximately six years ago I served on a three-member panel of arbitrators that heard a case involving an automobile accident. The three arbitrators, including myself, heard informal statements by the plaintiff's attorney and defendant's attorney. As best I recall, we awarded \$25,000.00 to the plaintiff.

b. Describe:

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

I have practiced consistently in the area of defense litigation since I began practicing law in 1981. Early in my career I litigated motor vehicle accidents and general negligence claims. In the last decade, my practice has concentrated on cases with the potential for very high verdicts in all areas of civil litigation but particularly in medical malpractice. These cases include a number of brain-damaged infant cases and other personal injury cases involving catastrophic injuries. Although my practice has been almost exclusively in civil litigation, I handled two or three criminal matters early in my career.

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

My typical clients are physicians, hospitals, municipalities, construction companies and personal injury plaintiffs. I have not specialized in any specific area but I have had a concentration in the area of medical malpractice.

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

Throughout my legal career, I have been an active litigator and have appeared in court frequently.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 30%
 - 2. state courts of record: 68%
 - 3. other courts
 - 4. administrative agencies: 2%

ii. Indicate the percentage of your practice in:

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

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 believe I have tried approximately 120 cases to verdict, all as sole counsel.

i. What percentage of these trials were:

1. jury: 100%
2. non-jury:

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

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

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

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

1. *Church v. San Juan Construction Company*, 285 A.D.2d 16 (3rd Dep't. 2001), *affirmed by* 99 N.Y.2d 104 (2002) New York State Supreme Court, Albany County. Trial Judge: the late Joseph Cannizzaro; 2001

This case involved a then-8-year-old boy who became a ventilator dependent quadriplegic following an automobile accident in which his mother had fallen asleep at the wheel. Prior to the time that I tried the case, there were three co-defendants. I was representing the guide rail construction company that had been involved in installing guide rail on the New York State Thruway. The plaintiff's mother fell

asleep at a point on the highway where there was supposed to be another 100 feet of guide rail but for some unknown reason, the defendant I represented did not complete the length of the guide rail. By the time I was trying the case, San Juan Construction Company was defunct and the owners had moved out of the country. Therefore, I had to try the case without any clients available to assist me. Three days before I was to begin the case, three other co-defendants settled out for nearly \$9 million dollars, leaving my client as the sole remaining defendant. The case was highly emotional and one of the most tragic cases in which I have been involved.

Prior to the trial, my law firm had made a motion for summary judgment, arguing that the work that had been done by the guide rail construction company had been approved by the project engineer and several years had passed before the accident. On motion for summary judgment, we argued that the contractor could not be held responsible for a job that had been approved, especially as the accident happened several years after the approval. We were still waiting for a decision on that motion at the time of trial.

My trial adversary was a very experienced trial attorney and he used the latest computer generated technology to try to demonstrate how the accident happened. An economist for the plaintiff had testified that it would cost approximately \$60 million to take care of the young man who had been involved in the accident. After presenting the case to the jury, the jury ultimately returned a verdict of \$6 million, holding my client responsible for only 10%. As a result of the previous settlements that had taken place and the application of New York State General Obligations Law, my client was not required to pay any money to the plaintiff. This was true, notwithstanding the fact that we had offered \$2 million during the trial and it had been rejected.

Opposing Counsel was Arthur Thorn, Thorn & Gershon, 5 Wembley Court, Albany, New York 12212, Tel: 518-464-6770.

2. *Watrobski v. Carenet, Rubych, Mongano, Cheon*, New York State Supreme Court, County of Saratoga, Honorable Frank Williams; 2002

This was a brain damage infant case in which it was alleged that there was a failure to appropriately treat a pregnant patient and a failure to respond to the patient's calls that she was having some bleeding at approximately 34 weeks gestation. There were numerous questions of fact about what had transpired on the day that the infant plaintiff was born. My physician clients maintained that they had told the mother to go to the hospital but the mother maintained that she had been told to go to the doctor's office. When the mother arrived at the Carenet office, the obstetricians on duty faced a very dangerous situation called a double footling breach in which the infant is born feet first. This baby was delivered under the most difficult conditions in my client's busy medical office and the baby had profound injuries including spastic quadriplegia, blindness and mental incapacity. After approximately a two week trial, the jury found for my clients (the defendants).

Opposing Counsel was William Ryan, Jr., Tabner, Ryan & Keniry, 18 Corporate Woods Blvd., Albany, New York 12211, Tel: Telephone: 518-465-9500.

3. *Beck v. Albany Medical Center*, New York State Supreme Court, County of Albany, Honorable Edward Conway; 1990

My client, a hospital technician, inadvertently gave a patient Technetium rather than Thallium for a routine scan that was going to be done at the hospital. There was absolutely no question that a syringe was mislabeled. The plaintiff in this case claimed that as a result of being administered Technetium rather than Thallium, she sustained over 100 urinary tract infections. I argued that the Technetium was not responsible for the urinary tract infections. The jury found that there was no proximate cause and returned a verdict for my clients (the defendants).

Opposing Counsel was Jerome Frost, 287 North Greenbush Road, Troy, New York 12180, Tel: 518-283-3000.

4. *Bowery v. St. Peter's Hospital*, U.S. District Court, Northern District of New York, Honorable Thomas McAvoy; 1995

This case, tried to the U.S. District Court for the Northern District of New York, was to my knowledge the first case involving the Americans with Disabilities Act tried in our District. One of the challenges in this case was to come up with an appropriate charge to submit to the court based on the Act. The plaintiff claimed that he was discriminated against because he had a seasonal disorder. My client, the employer, claimed that he was terminated because of his attitude, poor behavior and poor work habit. The verdict was for my client, St. Peter's Hospital.

Opposing Counsel was Frederick P. Korkosz, 744 Broadway, Albany, NY 12207, Tel: 518-813-9403.

5. *Mosher v. Wilkins*, New York State Supreme Court, County of Albany, Honorable Michael Lynch, 2009

This case involved a patient who received an interscalene block for shoulder surgery. There are known complications of interscalene blocks, but, in this case, once the interscalene block was administered in the neck, the patient went into respiratory arrest. This was a most unusual and unexpected complication. In order to adequately defend the physician, it was necessary that I fully educate the jury on the spinal cord, spinal column and all adjoining structures. In an important cross-examination, I also exposed the plaintiff's expert as someone who was not experienced in administering interscalene blocks. Plaintiff's counsel had argued that my client had inadvertently placed a needle directly into the spinal cord. The case was very challenging because, while the plaintiff did recover from her respiratory arrest, she was left with a

permanently clawed, dominant hand with chronic pain. The jury returned a verdict in favor of my client, the defendant.

Opposing Counsel was Gregory Mills, Mills Law Firm, 1520 Crescent Road, Clifton Park, New York 12065, Tel: 518-373-9900.

6. *Martz v. Staunton*, New York State Supreme Court, County of Schenectady, Honorable Vito Caruso; 2000

Plaintiff in this case alleged that a neurologist failed to appropriately treat a patient's epilepsy. At trial, I had to educate the jury on the disease of epilepsy and explain why it was unusual for a seizure to take the life of an individual, as it did in this case. The claim made in this case was that the treating neurologist did not appropriately medicate the patient for his epilepsy and we had to do a survey for the jury of all of the drugs used to treat epilepsy and educate them on the limitations of treatment. The jury found for my client, the defendant.

Opposing Counsel was David Taffany, Anderson, Moschetti & Taffany, PLLC, 26 Century Hill Drive, Latham, New York 12110, Tel: 518-785-4900.

7. *Barber v. Stimpson*, New York State Supreme Court, County of Warren, Honorable Thomas Mercure; 1990

Plaintiff claimed that my client, a general surgeon in Glens Falls, New York, should not have been performing a hysterectomy on a patient and that his performance of this surgery caused the patient to develop a fistula, imposing a limitation on the patient's ability to live a full life due to urinary and fecal incontinence. Plaintiff claimed that the physician nicked the bowel during the surgery. The jury returned a verdict for my client, the defendant.

Opposing Counsel was Peter Moschetti, Anderson, Moschetti & Taffany, 26 Century Hill Drive, Latham, New York 12110, Tel: 518-785-4900.

8. *Loika v. United Parcel Service*, New York State Supreme Court, County of Albany, Honorable Joseph Harris; 1994

Plaintiff in this case had fallen while loading boxes as an employee of United Parcel Service. He claimed that he suffered permanent and debilitating injuries that prevented him from working. The trial court gave a charge stating that the Workers' Compensation Board finding in favor of the plaintiff was evidence of negligence on the part of the United Parcel Service. I argued strenuously that there was a different standard of care between a Workers' Compensation Board Hearing and a negligence action, which required preponderance of the evidence. This was also the first case where I used surveillance to capture the plaintiff doing hard physical labor when his own physicians were testifying that he was essentially unable to perform his daily activities of life.

Opposing Counsel was Daniel Santola, Powers & Santola, 39 North Pearl Street, Albany, New York 12207, Tel: 518-465-5995.

9. *Loughlin v. Len*, New York State Supreme Court, County of Albany, Honorable Paul Cheesman; 1988

This was a medical malpractice case in which a 51-year-old man was diagnosed by my physician client with heart burn. Later that evening, the plaintiff's husband died of a massive heart attack at the age of 51 leaving small children and a wife. One of the first experts called by the plaintiff's counsel brought a file with him that had the name of another physician. After discovering the name of that physician, I spent the entire evening trying to gain information about the physician. I was able to contact the Health Department in the State of Washington, and I learned that the expert who was going to be called the following day had actually lost his license to practice in the State of Washington as well as New York State. This information was not known to the plaintiff's attorney, and it became known to me only after 24 hours of investigation during the trial. My resulting cross-examination called into doubt the quality of plaintiff's evidence. The jury found for my client, the defendant.

Opposing Counsel was Stephen Coffey, O'Connell & Aronowitz, 54 State Street, Albany, New York 12207, Tel: 518-462-5601.

10. *Malebranche v. Staunton*, 21 Misc. 3d 1137(A) (2006). New York State Supreme Court, County of Schenectady, Honorable Vincent Reilly; 2007

This unusual medical malpractice case pitted a physician against another physician. Plaintiff, a well-known surgeon, claimed not to have been appropriately treated for a stroke that he had suffered, with resultant neurological damages and an inability to work as a surgeon. The case involved very complex questions about the appropriate standards of care as they related to Heparin administration. At the conclusion of the plaintiff's case, the trial court granted a directed verdict in favor my clients, the defendants, finding that the plaintiff's expert had not appropriately established a violation of the standard of care. This case was appealed to the Appellate Division and was reversed. *See* 46 A.D.3d 959 (3rd Dep't. 2007). Just days before a scheduled re-trial, however, the case was discontinued on the merits and with prejudice.

Opposing Counsel was George Sarachan, Rosenblum, Ronan, Kessler & Sarachan, 110 Great Oaks Blvd., Albany, New York 12203, Tel: 518-464-0444.

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.)

I have had three major cases that did not go to trial involving alleged civil rights violation against New York County Departments of Social Services, which I represented. These cases were very challenging because in each of the cases, the welfare of children was involved. In two of the cases, we won motions for summary judgment. In the third case, we paid a settlement. Plaintiffs in each of the three cases alleged errors by the defendant Department of Social Services that caused harm to children. The cases involved issues of judgment and qualified immunity. Although, these cases did not go to trial, they were factually complex and compelling. Each of these cases impressed upon me insight into the civil rights of children in the custody of social services, foster parents and biological parents, and the experiences of these individuals – positive and negative – in these systems.

In 1992, I organized and managed Settlement Week in Albany County Courts. This was a major initiative in which the New York Supreme Court for Albany County was closed for trials for one week while each case on its calendar was mediated with volunteer mediators. My work was recognized with the Albany County Bar Association President's Award.

I have never performed lobbying activities for any client or organization.

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.

When I first graduated from law school I taught paralegal studies at the Junior College of Albany. I no longer have an outline for that course.

From 1991 until 1997, I taught Trial Tactics at Albany Law School. I no longer have the outline for that course. My assigned readings drew from the book Fundamentals of Trial Techniques, by Thomas Mauet, and the students in the class mooted civil and criminal cases during each weekly meeting.

Since 1998, I have taught a course on Medical Malpractice and Health Law at Albany Law School. A copy of my outline is supplied.

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.

Several years ago, my law firm settled a plaintiff's case. I structured a portion of my legal fees so that during the four years that my son will be in college, I will receive approximately \$20,000 per year to use toward his college expenses.

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.

If confirmed, I hope to continue to teach at Albany Law School, provided I can do so consistent with full discharge of the obligations I would assume to the court.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I would recuse myself from any case in which I had personal involvement and, for a period of time as required by the code, from any former client from my private practice.

In addition, my niece is a partner in a law firm in the Albany area and I would recuse from any case in which she appeared or participated.

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

In each case, I would follow the federal recusal statutes and Canon 3 of the Code of Conduct for United States Judges. I would recuse myself in any proceeding in which my impartiality could reasonably be doubted.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During the course of my career, I have always done pro bono work. I have represented individuals in Social Security Disability claims. I have voluntarily lectured to staff attorneys at Legal Aid. Most recently, this year, I was asked by a New York State Supreme Court Judge to serve pro bono as guardian ad litem for an individual involved in a complex civil confinement hearing as a potential witness. I spent approximately 20 hours on the confinement case.

26. **Selection Process:**

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

In February 2010, I met with a member of Senator Charles Schumer's office to discuss the possibility of applying for the judgeship on the U.S. District Court for the Northern District of New York. On March 17, 2010, I submitted an application for that position. On June 4, 2010, I interviewed with Senator Schumer regarding the position. On June 11, 2010, I was interviewed by Senator Schumer's Judicial Nomination Commission in New York City. On June 21, 2010, I learned that Senator Schumer recommended me for nomination.

Since June 25, 2010, I have been in contact with pre-nomination officials at the U.S. Department of Justice. I interviewed with attorneys from the White House Counsel's Office and the Department of Justice on August 11, 2010. On September 29, 2010, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) D'Agostino, Mae A.	2. Court or Organization U.S. District Court, Northern District of New York	3. Date of Report 09/29/2010
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge	5a. Report Type (check appropriate type) ☒ Nomination, Date 09/29/2010 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2009 to 08/31/2010
7. Chambers or Office Address Mae A. D'Agostino D'Agostino, Krackeler, Maguire & Cardona, PC 16 Sage Estates Albany, NY 12204	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Partner	D'Agostino, Krackeler, Maguire & Cardona, PC
2.	
3.	
4.	
5.	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

☐ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1. 05/01/2008	American International Life Assurance Co, structured settlement for future payments of legal fees earned
2. 09/04/2002	American General Life Insurance Co., structured settlement for future payments of legal fees earned
3.	

FINANCIAL DISCLOSURE REPORT

Page 2 of 8

Name of Person Reporting

D'Agostino, Mae A.

Date of Report

09/29/2010

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2008	Adjunct Professor Albany Law School	\$3,200.00
2. 2008	D'Agostino, Krackeler, Baynes & Maguire, PC	\$328,948.82
3. 2009	Adjunct Professor Albany Law School	\$3,200.00
4. 2009	D'Agostino, Krackeler, Maguire & Cardona, PC	\$145,538.09
5. 2009	American International Life Assurance Co., Structured Settlement - attorney fee received	\$100,070.09
6. 2010 YTD	D'Agostino, Krackeler, Maguire & Cardona, PC	\$100,041.00

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☒ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT

Page 3 of 8

Name of Person Reporting

D'Agostino, Mae A.

Date of Report

09/29/2010

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐NONE *(No reportable gifts.)*

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. EXEMPT		
2.		
3.		
4.		
5.		

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☒NONE *(No reportable liabilities.)*

<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.		
2.		
3.		
4.		
5.		

FINANCIAL DISCLOSURE REPORT

Page 4 of 8

Name of Person Reporting

D'Agostino, Mae A.

Date of Report

09/29/2010

VII. INVESTMENTS and TRUSTS -- Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Vanguard Prime Money Market	A	Dividend	M	T	Exempt				
2. Key Bank Money Market Checking	A	Interest	M	T					
3. Brokerage Account									
4. Fidelity Diversified International (FDIVX)	A	Dividend	J	T					
5. Spartan 500 Index Fid Adv Class (FSMAX)	A	Dividend	J	T					
6. Fidelity Cash Reserves (FDRXX)	A	Dividend	J	T					
7. Fidelity Contrafund (FCNTX)	A	Dividend	J	T					
8. Fidelity GNMA Fund (FGMNX)	A	Dividend	J	T					
9. Fidelity Low Priced Stock (FLPSX)	A	Dividend	J	T					
10. Fidelity Strategic Income (FSICX)	A	Dividend	J	T					
11. Fidelity Select Med Eqpt&Sys (FSMEX)	A	Dividend	J	T					
12. Artisan Mid Cap Value (ARTQX)	A	Dividend	J	T					
13. Columbia Val and Restruct Cl Z (UMBIX)	A	Dividend	J	T					
14. Oakmark Intrnl Small Cap I (OAKEX)	A	Dividend	J	T					
15. Perkins Mid Cap Value CL J (JMCVX)	A	Dividend	J	T					
16. Janus Overseas Fund CL T (JAOSX)	A	Dividend	J	T					
17. PIMCO Low Dur Cl D (PLDDX)	A	Dividend	J	T					

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000
I12 = More than \$5,000,000

E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

Page 5 of 8

Name of Person Reporting

D'Agostino, Mac A.

Date of Report

09/29/2010

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. PIMCO Invest Gr Corp Bond D (PBDDX)	A	Dividend	J	T					
19. PIMCO Glb Strat Bd CL D (PGSDX)	A	Dividend	J	T					
20. SSGA Emerging Markets (SSEMX)	A	Dividend	J	T					
21. Core Money Market	A	Interest	J	T					
22. 401(k) Plan #1									
23. -MFS Bond Fund - A	A	Dividend							
24. -MFS Total Return Fund - A	A	Dividend							
25. -MFS Money Market Fund	A	Dividend							
26. -MFS High Income Fund - A	A	Dividend							
27. -Massachusetts Investors Trust - A	A	Dividend							
28. -MFS International Value - A	A	Dividend							
29. -MFS Core Equity Fund - A	A	Dividend							
30. -MFS Conservative Alloc Fd - A	A	Dividend							
31. -MFS Growth Fund - A	A	Dividend							
32. -MFS Mid Cap Value Fund - A	A	Dividend							
33. -MFS International New Discovery - A	A	Dividend							
34. -MFS Global Equity Fund - A	A	Dividend							

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

FINANCIAL DISCLOSURE REPORT

Page 6 of 8

Name of Person Reporting

D'Agostino, Mae A.

Date of Report

09/29/2010

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. 401(k) Plan #2									
36. -JPM Mtg Bckd Sel	A	Dividend	M	T					
37. -Principal Sm Cap S&P 600 Indx Inst	A	Dividend	K	T					
38. -RdgWrth Ttl Rtn Bd 1	A	Dividend	M	T					
39. -MSIF MdCap Gr I	A	Dividend	K	T					
40. -Thmbrg Intl Val 1	A	Dividend	L	T					
41. -Vngrd Sel Val Inv	A	Dividend	K	T					
42. -DWS Inst Eq 500 Indx Inst	A	Dividend	L	T					
43. -Vngrd Trgt Rtrmt 2010	A	Dividend	L	T					
44. -Morley Stable Val VI	A	Dividend	M	T					
45. -Vngrd Divd Gr Inv	A	Dividend	L	T					
46. Vanguard LifeStrategy Mod Gr - IRA	A	Dividend	J	T					
47. Vanguard Gr & Inc - Custodial Acct	A	Dividend	J	T					
48. Prudential Annuity (inherited)	D	Interest	L	T					

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

FINANCIAL DISCLOSURE REPORT

Page 7 of 8

Name of Person Reporting

D'Agostino, Mae A.

Date of Report

09/29/2010

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of Report.)*

FINANCIAL DISCLOSURE REPORT

Page 8 of 8

Name of Person Reporting

D'Agostino, Mae A.

Date of Report

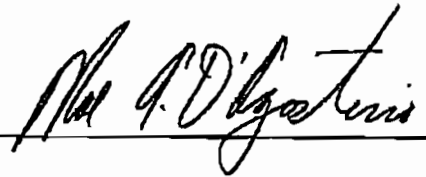
09/29/2010

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature



NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

Mae D'Agostino

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks – see schedule		308	699	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities—see schedule		906	732	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable—primary residence		95	650
Real estate owned—see schedule		540	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		50	000				
Cash value-life insurance							
Other assets itemize:							
- Annuity		91	500				
- Structured settlements – see schedule		164	100				
				Total liabilities		95	650
				Net Worth	1	965	381
Total Assets	2	061	031	Total liabilities and net worth	2	061	031
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you a defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Brokerage Account:

Fidelity Diversified International	\$ 2,499
Spartan 500 Index Fund Adv Class	7,804
Fidelity Cash Reserves	1,806
Fidelity Contrafund	6,730
Fidelity GNMA Fund	7,042
Fidelity Low Priced Stock	3,843
Fidelity Strategic Income	7,268
Fidelity Select Medical Equip & System	3,355
Artisan Mid Cap Value	3,941
Columbia Value and Restructuring CL Z	4,737
Oakmark International Small Cap I	3,622
Perkins Mid Cap Value Fund Class T	4,083
Janus Overseas Fund Class T	2,061
PIMCO Low Duration Class D	8,620
PIMCO Investment Grade Corp Bond CL D	7,159
PIMCO Global Advant Strategy Bond CL D	3,292
SSGA Emerging Markets	2,150
Core Money Market	865

401(k) Account:

Thornburg Intl Val I	76,737
Prncpl Inv S&P Sm Cap 600 Index Fund	35,565
MSIF Mid Cap Growth I	32,232
Vanguard Select Value	43,646
DWS Inst Equity 500 Index Inst	65,492
Vanguard Dividend Growth Inv	60,056
Vanguard Target Retirement 2010	71,817
JPM Mrtg Bckd Sel	137,862
Ridgeworth Total Return Bd I	157,430
Mrly Stbl Val VI	124,588

Other Holdings:

Vanguard LifeStrategy Moderate Growth Fund	12,466
Vanguard Growth & Income Fund (custodial account)	7,964
Total Listed Securities	\$ 906,732

Real Estate Owned

Primary residence	\$ 440,000
Time Share	100,000
Total Real Estate Owned	\$ 540,000

Structured Settlements

AIG annuity (payment of \$134,465 on 6/13/18)	(current est.)	\$ 90,600
American Home Assurance (4 yearly payments of \$20,000, beginning 08/12)	(current est.)	73,500
Total Structured Settlements		\$ 164,100

AFFIDAVIT

I, **Mae A. D'Agostino**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

October 1, 2010
(DATE)

Mae A. D'Agostino
(NAME)

Kathleen H. Rogers
(NOTARY)

KATHLEEN H. ROGERS
Notary Public, State Of New York
No. 01RO6084380
Qualified In Albany County
Commission Expired December 2, 20 10