

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Brian R. Martinotti

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

United States District Judge for the District of New Jersey

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

Office: Superior Court of New Jersey
Bergen County Justice Center
Ten Main Street
Hackensack, New Jersey 07601

Residence: Cliffside Park, New Jersey

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

1961; Englewood, New Jersey

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.

1983 – 1986, Seton Hall Law School; J.D. (*cum laude*), 1986

1979 – 1983, Fordham University, College of Business Administration; B.S., 1983

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.

2002 – Present
State of New Jersey Judiciary
Bergen County Justice Center

Ten Main Street
Hackensack, New Jersey 07601
Judge, Superior Court of New Jersey (2002 – Present)
Civil Division Judge (2006 – Present)
Multicounty Litigation (mass tort) Judge (2009 – Present)
Environmental Judge (2006 – 2009)
Mount Laurel Judge (2006 – 2009)
Family Division Judge (2002 – 2006)

1987 – 2002
Beattie Padovano, LLC
50 Chestnut Ridge Road
Montvale, New Jersey 07645
Partner (1994 – 2002)
Associate (1987 – 1993)

1995 – 2002
American Arbitration Association
220 Davidson Avenue
Somerset, New Jersey 08873
Arbitrator

1999 – 2002
Italian American Police Society
No physical address
Lyndhurst, New Jersey 07071
Legal Counsel

1991 – 2002
Borough of Cliffside Park
525 Palisade Avenue
Cliffside Park, New Jersey 07010
Councilmember (1991 – 2002)
Chairman, Public Safety and Legal Affairs (1992 – 2002)
Council President (1993, 1996, 1999)

1995 – 2002
Borough of Fairview
59 Anderson Avenue
Fairview, New Jersey 07022
Tax Attorney

1999 – 2002
Borough of Little Ferry
215-217 Liberty Street
Little Ferry, New Jersey 07643

Tax Attorney

1996 – 2000

Borough of Moonachie
70 Moonachie Road
Moonachie, New Jersey 07074
Public Defender

1993 – 1995

Borough of Bogota
375 Larch Avenue
Bogota, New Jersey 07603
Public Defender

1993 – 1995

Borough of South Hackensack
277 Phillips Avenue
South Hackensack, New Jersey 07606
Prosecutor

1988 – 1990

Borough of Cliffside Park
525 Palisade Avenue
Cliffside Park, New Jersey 07010
Public Defender

1986 – 1987

State of New Jersey, Tax Court
Ten Main Street
Hackensack, New Jersey 07601
Law Clerk to the Honorable Roger M. Kahn, J.T.C.

1985 – 1986

Demetrakis, Sinisi & Carmel, Esqs.
1050 Center Avenue
Fort Lee, New Jersey 07024
Law Clerk

1983 – 1984

Archers Restaurant
1310 Palisade Avenue
Fort Lee, New Jersey 07024
Server

Other Affiliations (uncompensated):

2000 – 2002

Palisades Medical Center
7600 River Road
North Bergen, New Jersey 07047
Member, Board of Governors

1999 – 2002
Bergen County 200 Club
560 Hudson Street
Hackensack, New Jersey 07601
Vice President

1999 – 2002
Bergen County Law and Public Safety Institute
281 Campgaw Road
Mahwah, New Jersey 07430
Board Member

1982 – 1986
Borough of Cliffside Park Board of Health
525 Palisade Avenue
Cliffside Park, New Jersey 07010
Board Member

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

I have not served in the military. I timely registered for selective service in 1979.

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.

Supreme Court of New Jersey, Certified Civil Trial Attorney (1993 – Present)
National Board of Trial Advocacy, Board Certified Trial Specialist (1998 – Present)
American Bar Association, Fellow (2011)
Seton Hall School of Law, Congressman Peter W. Rodino Medal of Excellence (2010)
Leadership of New Jersey, Fellow (2010)
Italian American Police Society of New Jersey, Christopher Columbus
Citizenship Award (1999)
Honor Legion of New Jersey, Citizen of the Month (March 1997)
B'nai B'rith, Palisades Lodge, Man of the Year (1996)
Cliffside Park Police Benevolent Association Local 96, Honorary Life Member (1993)

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

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

American Association for Justice (formerly Association of Trial Lawyers of America)
(1993 – 2002; 2010 – Present)

Bergen County Bar Association (1987 – Present)

ADR Committee, Co-Chair (2000 – 2001)

Judicial Appointments Committee (1996 – 1999)

Justice Morris Pashman Inn of Court (1990 – 2012)

Master (2004 – 2012)

Barrister (1998 – 2002)

Pupil (1990 – 1991)

National Arbitration and Mediation Member (1999 – 2002)

New Jersey Institute of Municipal Attorneys (1991 – 2001)

New Jersey State Bar Association (1987 – Present)

Automobile Repairs Special Committee (dates unknown)

New Jersey State Board of Mediation (2000 – 2002)

New Jersey Supreme Court Committees

Working Group on Ethical Issues Involving Metadata in Electronic Documents
(2015 – Present)

Committee on Complementary Dispute Resolution (2002 – 2006)

Family Program Subcommittee (2002 – 2006)

Committee on Model Jury Charges, Civil (1994 – 1996)

10. Bar and Court Admission:

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

New Jersey, 1987

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.

Supreme Court of the United States of America, 1992

United States Court of Appeals for the District of Columbia, 1989

United States Court of Appeals for the Third Circuit, 1989

United States District Court for the District of New Jersey, 1987

There have been no lapses in membership. I assumed inactive status in the District of Columbia in 1992 and judicial status when I assumed the bench in 2002.

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.

Bergen County 200 Club (1998 – 2002)

Vice President (1999 – 2002)

Chairman, Valor Committee (1999 to 2002)

Bergen County Community College Foundation (1998 – 2001)

Bergen County Law and Public Safety Institute Board Member (1999 – 2002)

Borough of Cliffside Park Board of Health Board Member (1982 – 1986)

Italian American Police Society (1995 – 2002)

Legal Counsel (1999 – 2002)

National Coalition of Italian American Law Enforcement Association (1995 – 2002)

North Jersey March of Dimes Walk-A-Thon, Darlington Committee Member (1999 – 2002)

Pascack Valley Chamber of Commerce (1997 – 1999)

Trustee (1997 – 1999)

Palisades Medical Center Board of Governors (2000 – 2002)

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

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

12. Published Writings and Public Statements:

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

Complex Litigation in New Jersey and Federal Courts: An Overview, in New

Jersey Mass Torts & Class Action Treatise, New Jersey Institute for Continuing Legal Education (Christopher Placitella, ed., 2015). Copy supplied.

Complex Litigation in New Jersey and Federal Courts: An Overview of the Current State of Affairs and a Glimpse of What Lies Ahead, 44 Loy U. Chic. L.J. 561 (December 2012). Copy supplied.

Who Pays Pedestrians Hit by Stolen Cars?, New Jersey Law Journal (December 30, 1991). 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.

Complimentary Dispute Resolution (CDR) Committee Report, January 12, 2007. Copy supplied.

Complimentary Dispute Resolution (CDR) Committee Final Report of the Evaluation of the Pilot Program for Mediation of Economic Aspects of Family Law Cases, May 23, 2005. Copy supplied.

Complimentary Dispute Resolution (CDR) Committee Report, March 1, 2004. Copy supplied.

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

As a Councilmember for the Borough of Cliffside Park from 1991 to 2002, I made statements concerning local issues at Council meetings that were open to the public, which occurred approximately once per month. During the meetings, the Council would review and discuss committee reports relating to the financial status of the Borough, Council appointments made during annual reorganization meetings, and the various departments and agencies within the Borough. I was responsible for overseeing legal counsel for the Borough. I cannot recall the specific dates of meetings. The minutes for these meetings are voluminous, and they are maintained at the clerk's office in hard copy format only.

As a member of the Bergen County Law and Public Safety Institute from 1999 to 2000, I attended several meetings that were open to the public. The meetings occurred approximately four times per year and related to the administration of the Bergen County Law and Public Safety Institute and its efforts to coordinate

with the various Police, Fire and EMS academies within Bergen County that comprise the Institute. I cannot recall the specific dates of meetings. There are no meeting minutes, transcripts, or recordings of these meetings.

As a member of the Borough of Cliffside Park Board of Health from 1982 to 1986, I would have attended meetings open to the public. Meetings occurred approximately once per month to discuss topics ranging from sanitary conditions at Borough dining establishments to vaccination programs for senior citizens. I cannot recall the specific dates. The minutes for these meetings are voluminous, and they are maintained at the clerk's office in hard copy format only.

- 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.

May 14, 2015: Moderator, Effective Settlement Techniques, Annual Meeting and Convention, New Jersey State Bar Association, Atlantic City, New Jersey. PowerPoint supplied.

March 4, 2015: Speaker, Read Across America, Cliffside Park School District, Cliffside Park, New Jersey. PowerPoint supplied.

February 18, 2015: Speaker, The New Jersey Judiciary – An Overview, Cliffside Park High School, Cliffside Park, New Jersey. PowerPoint supplied.

February 18, 2015: Speaker, Multicounty Litigation in New Jersey, New Jersey Institute for Continuing Legal Education, New Brunswick, New Jersey. I have no notes, transcript or recording. The address for the New Jersey Institute for Continuing Legal Education is One Constitution Square, New Brunswick, New Jersey 08901.

September 11 – 12, 2014: Panelist, Multidistrict Litigation Conference – MDL Best Practices, Duke University School of Law, Washington, DC. This was an invitation-only panel discussion concerning the development of best practices to be utilized in multidistrict litigation. I spoke about the coordination between state and federal judges in multicounty and multidistrict litigation matters. I have no notes, transcript or recording. The address of Duke University School of Law is 210 Science Drive, Box 90362, Durham, North Carolina 27708.

May 15, 2014: Panelist, Primer on Multicounty Litigation, New Jersey State Bar

Association Annual Meeting and Convention, Atlantic City, New Jersey. I participated in a panel discussion and provided an overview of multicounty litigation in New Jersey. I have no notes, transcript or recording. The address for the New Jersey State Bar Association is One Constitution Square, New Brunswick, New Jersey 08901.

April 25, 2014: Speaker, Perspectives from the Profession, Twelfth Annual Clifford Symposium on Tort Law and Social Policy honoring Judge Jack Weinstein, DePaul University School of Law, Chicago, Illinois. Transcript supplied.

March 24, 2014: Panelist, Social Media in Litigation, Bergen County Bar Association, Paramus, New Jersey. PowerPoint supplied.

March 5, 2014: Speaker, Read Across America, Cliffside Park School District, Cliffside Park, New Jersey. I used the same PowerPoint presentation supplied for the March 4, 2015 event.

February 2005 – 2014: Mock trial judge, Bergen County Finals, Vincent J. Apruzzese Mock Trial Competition, New Jersey State Bar Foundation, Hackensack, New Jersey. I presided over the regional finals of a state-wide mock trial competition for high school students. I welcomed the students, their advisors and families and made brief remarks to the students at the conclusion of the trial. I have no notes, transcript or recording. The address for the New Jersey State Bar Foundation is One Constitution Square, New Brunswick, New Jersey 08901.

May 16, 2013: Presenter, Social Media in Litigation, Annual Meeting and Convention, New Jersey State Bar Association, Atlantic City, New Jersey. Handout supplied.

March 25, 2013: Speaker, Effective Settlement Techniques, Bergen County Bar Association, Paramus, New Jersey. PowerPoint supplied.

September 10, 2012: Speaker, Mass Tort Law Review – An Essential Update, New Jersey Institute for Continuing Legal Education, New Brunswick, New Jersey. I, along with the other sitting mass tort judges in New Jersey, provided an overview of the then-present status of all pending mass torts in the State. I have no notes, transcript or recording. The address for the New Jersey Institute for Continuing Legal Education is One Constitution Square, New Brunswick, New Jersey 08901.

April 13, 2012: Speaker, 2012 Law Journal Symposium: The Future of Class Actions and Its Alternatives, Loyola University Chicago, Chicago, Illinois. I spoke about the coordination between state and federal courts in multicounty litigation and multidistrict litigation as well as alternatives to class actions in state courts. I have no notes, transcripts or recording, but a copy of the paper on which

the discussion was based is supplied in response to Question 12a. The address of Loyola University Chicago is Corboy Law Center, 25 East Pearson, Chicago, Illinois 60611.

February 27, 2012: Speaker, Effective Settlement Techniques, Bergen County Bar Association, Paramus, New Jersey. I used the same PowerPoint presentation supplied for the March 25, 2013 event.

June 2, 2011: Speaker, Mass Torts – A New Decade for New Classes, Evolving World of Handling Mass Tort Claims Conference, New Jersey Institute for Continuing Legal Education, New Brunswick, New Jersey. I provided an overview of new trends in mass tort litigation in New Jersey. I have no notes, transcript or recording. The address for the New Jersey Institute of Continuing Legal Education is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

May 7, 2011: Speaker, Civil Trial Practice – The Judicial Perspective, New Jersey Institute of Continuing Legal Education, Fairfield, New Jersey. I provided an overview of regularly filed motions in the civil division before a trial judge. I have no notes, transcript or recording. The address for the New Jersey Institute of Continuing Legal Education is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

March 15, 2011: Speaker, A Young Lawyers Crash Course in Mass Torts, Bergen County Bar Association, Paramus, New Jersey. I provided an overview of mass tort litigation for young lawyers. I have no notes, transcript or recording. The address for the Bergen County Bar Association is George W. Newman Law Building, 15 Bergen Street, Hackensack, New Jersey 07601.

November 3, 2010: Recipient, Congressman Peter W. Rodino, Jr. Medal of Excellence, Seton Hall University School of Law, Newark, New Jersey. I made brief remarks following my receipt of the Congressman Peter W. Rodino, Jr. Medal of Excellence to thank the organizers and sponsors of the event, among others. I have no notes, transcript or recording. The address for Seton Hall University School of Law is One Newark Center, 1109 Raymond Boulevard, Newark, New Jersey 07102.

April 7, 2010: Speaker, What Every Young Lawyer Should Know About Civil Practice, Bergen County Bar Association, Cliffside park, New Jersey. I provided an overview of civil practice in the New Jersey court system for young lawyers, including what to expect during the calendar call and at a pre-trial settlement conference. I have no notes, transcript or recording. The address for the Bergen County Bar Association is George W. Newman Law Building, 15 Bergen Street, Hackensack, New Jersey 07601.

January 27, 2010: Speaker, Mass Torts – A New Decade for New Classes, New

Jersey Institute of Continuing Legal Education, New Brunswick, New Jersey. I provided the yearly update on the status of mass tort litigation in New Jersey, with a concentration on new cases in state and federal courts. I have no notes, transcript or recording. The address for the New Jersey Institute of Continuing Legal Education is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

January 10, 2010: Speaker, A Guide to Miscellaneous Proceedings in Civil Court, New Jersey Institute for Continuing Legal Education, New Brunswick, New Jersey. I provided an overview of various proceedings that may come before a civil trial judge, such as name changes, proof hearings, wage garnishments, and similar proceedings. I have no notes, transcript or recording. The address for the New Jersey Institute of Continuing Legal Education is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

February 2009: Speaker, Civil Trial Practice – The Judicial Perspective, New Jersey Institute of Continuing Legal Education, Fairfield, New Jersey. I provided an overview of regularly filed motions in the civil division before a trial judge. I have no notes, transcript or recording. The address for the New Jersey Institute of Continuing Legal Education is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

January 6, 2009: Speaker, Mass Tort Practice, New Jersey State Bar Association, New Brunswick, New Jersey. As recently appointed mass tort judges, I and the Honorable Jessica Mayer participated in an informal meet-and-greet with the Products Liability and Toxic Tort section of the New Jersey State Bar Association. I have no notes, transcript or recording. The address for the New Jersey State Bar Association is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

March 10, 2007: Panelist, Legal Malpractice, New Jersey Institute for Continuing Legal Education, New Brunswick, New Jersey. I participated in a panel discussion addressing substantive and procedural issues in legal malpractice actions, particularly expert witnesses and settlement of the underlying claim. I have no notes, transcript or recording. The address for the New Jersey Institute of Continuing Legal Education is New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901.

September 2005: Speaker, Comprehensive Judicial Orientation Program: New Judges Orientation – Custody, Superior Court of New Jersey, Trenton, New Jersey. I gave a lecture to newly-appointed judges on decision-making in custody disputes. I have no notes, transcript or recording. The address for the Superior Court of New Jersey in Trenton is Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08625.

September 2005: Speaker, Comprehensive Judicial Orientation Program: Children

in Court, Superior Court of New Jersey, Trenton, New Jersey. I provided an overview of children in court for newly-appointed judges, specifically the seminal statutory and case law. I have no notes, transcript or recording. The address for the Superior Court of New Jersey in Trenton is Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08625.

September 2004: Speaker, Comprehensive Judicial Orientation Program: New Judges Orientation – Custody and Removal, Superior Court of New Jersey, Trenton, New Jersey. I provided an overview of the caselaw and statutes that a new judge is required to know to properly preside over a custody and removal trial. I have no notes, transcript or recording. The address for the Superior Court of New Jersey in Trenton is Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08625.

February 2004: Mock trial judge, Bergen County Finals, Vincent J. Apruzzese Mock Trial Competition, New Jersey State Bar Foundation, Washington Township, New Jersey. I presided over the regional finals of a state-wide mock trial competition for high school students. I welcomed the students, their advisors and families and made brief remarks to the students at the conclusion of the trial. I have no notes, transcript or recording. I have no notes, transcript or recording. The address for the New Jersey State Bar Foundation is One Constitution Square, New Brunswick, New Jersey 08901.

May 16, 1999: Recipient, Christopher Columbus Citizenship Award, Italian American Police Society of New Jersey, Wood-Ridge, New Jersey. I provided brief remarks to thank the sponsors and organizers of the event. I have no notes, transcript or recording. The address for the Italian American Police Society of New Jersey is Post Office Box 352, Lyndhurst, New Jersey 07071.

June 9, 1996: Recipient, B'nai B'rith Man of the Year, B'nai B'rith, Cliffside Park, New Jersey. I provided brief remarks to thank the sponsors and organizers of the event, among others. I have no notes, transcript or recording. The address for B'nai B'rith is Palisades South Lodge #2082, 2000 Linwood Avenue, #21K, Fort Lee, New Jersey 07036.

1990; 1993; 1996 & 1999: During my election campaigns for Councilmember in the Borough of Cliffside Park, I gave a handful of campaign speeches at brunches or cocktail parties hosted by the Cliffside Park Democratic Campaign Committee. I made remarks extemporaneously and have no notes, transcripts or recordings. I do not recall the specific dates or locations of these events, though typically events were held in June before the primary and October through November before the general election.

- 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.

Tamiyah Yancey, *Japanese Judge Visits U.S. to Learn from Veteran of Bergen Bench*, The Record (March 24, 2014). Copy supplied.

Press Release, *Bergen Vicinage Announces High School Mock Trial Tournament Winner*, Superior Court of New Jersey (February 11, 2010). Copy supplied.

Rocco Cammarere, *Defining Parameters of Permanent Injury*, New Jersey Lawyer (September 24, 2001). Copy supplied.

Cop, Firefighter Charged with Burglary and Arson of Cliffside Park Home, Associated Press (May 20, 1999). Copy supplied (reprinted in multiple outlets).

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.

Since February 2002, I have been a judge of the Superior Court of New Jersey. Judges are appointed by the governor and confirmed by the state senate, and subject to renomination after seven years to serve until mandatory retirement age. I was appointed by Acting Governor Donald DiFrancesco in 2001 and reappointed by Governor Jon Corzine in 2008. I was initially assigned to the family division, where I served from 2002 to 2006. In the family division, I presided over every docket type, with the exception of juvenile cases. Thereafter, in 2006, I was assigned to the civil division, where I maintained a regular law division docket. In September 2006, I was appointed by Chief Justice Stuart Rabner to serve as Bergen County's designated environmental law and Mount Laurel judge, where I presided over toxic tort cases and oversaw challenges to and implementation of New Jersey's landmark Mount Laurel law. I held this position until August 2009, when I was appointed by Chief Justice Stuart Rabner to serve as one of New Jersey's three mass tort (multicounty litigation) judges, a position I continue to hold. In 2010, I was appointed by Assignment Judge Peter E. Doyne, to serve as Bergen County's designated settlement judge, a position I continue to hold. Throughout my tenure in the civil division, I have maintained a regular law division docket.

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

I have presided over approximately 90 cases that have gone to judgment.

- i. Of these, approximately what percent were:

jury trials:	90%
bench trials:	10%
civil proceedings:	100%
criminal proceedings:	0%

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

The majority of my decisions are oral and transcripts can be ordered from the clerk's office. Only three of my decisions have been published in official reporters; they are listed below. Opinions in five other cases are available on Westlaw, and they are also listed below. In addition to these opinions, my written opinions in multicounty litigation cases are available via the Judiciary's Mass Tort Information Center, <http://www.judiciary.state.nj.us/mass-tort/>.

In re Nuvaring® Litigation, Case No. BER-L-3081-09, 2013 WL 1874321 (N.J. Super. Ct. Law Div. Apr. 18, 2013)

Slotnick v. ABC Tours, Inc., 430 N.J. Super. 59 (N.J. Super. Ct. Law Div. 2012)

In re DePuy ASR™ Hip Implants Litigation, Case No. BER-L-3971-11, 2011 WL 5593873 (N.J. Super. Ct. Law Div. Oct. 18, 2011)

Buttitta v. Allied-Signal, Inc., Case No. BER-L-9592-02, 2002 WL 34730063 (N.J. Super. Ct. Law Div. June 10, 2008) & 2008 WL 6809535 (N.J. Super. Ct. Law Div. Aug. 28, 2008), aff'd, 2010 WL 1427273 (N.J. Super. Ct. App. Div. Apr. 5, 2010), cert. denied, 203 N.J. 579 (2010)

Ivory v. Hackensack University Medical Center, Case No. BER-L-7539-05, 2007 WL 6882186 (N.J. Super. Ct. Law Div. Dec. 7, 2007)

Perry v. New Jersey Sports and Exposition Authority, Case No. BER-L-13703-04, 2006 WL 6834881 (N.J. Super. Ct. Law Div. Oct. 25, 2006), aff'd, 2008 WL 3287203 (N.J. Super. Ct. App. Div. Aug. 12, 2008)

State Div. of Youth & Family Servs. v. J.C., 399 N.J. Super. 444 (N.J. Super. Ct. Ch. Div. 2006), declined to follow by, State Div. of Youth and Family Services v. N.S., 412 N.J. Super. 593 (N.J. Super. Ct. App. Div. Feb. 9, 2010)

Vendetti v. Melz, 359 N.J. Super. 63 (N.J. Super. Ct. Ch. Div. 2002)

- 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. In re: Alleged Mahwah Toxic Dump Site Litigation, Case No. BER-L-489-08 (N.J. Super. Ct. Law Div. Nov. 5, 2010).

This matter was a previously-designated mass tort (multicounty litigation) that was reassigned to me in August 2009. The underlying controversy involved alleged damages for personal injuries on behalf of current and former residents of Upper Ringwood, New Jersey. More than 600 plaintiffs lived near the Ringwood Mine Landfill Site which was used by defendants, including Ford Motor Company, in the late 1960s and early 1970s. In 2006, the plaintiffs brought a civil action for damages allegedly caused by exposure to toxic and hazardous substances at, around, and emanating from the site. After conducting several case management conferences, the parties resolved all claims in a confidential settlement in January 2010. I issued opinions denying a motion to seal the record in the case and granting plaintiffs' attorneys' fees. Copies supplied.

Trial Date(s): There was no trial.

Plaintiffs' Counsel: Frank V. Floriani, Esq.
Sullivan Papain Block McGrath & Cannavo, PC
120 Broadway, 18th Floor
New York, New York 10271
(212) 732-9000

Defense Counsel: Mark J. Semeraro, Esq.
Kaufman, Semeraro & Leibman, LLP
Two Executive Drive, Suite 530
Fort Lee, New Jersey 07024
(201) 947-8855

John C. Garde, Esq.
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 639-2032

2. Buttitta v. Allied-Signal, Inc., Case No. BER-L-9592-02, 2002 WL 34730063 (N.J. Super. Ct. Law Div. June 10, 2008) & 2008 WL 6809535 (N.J. Super. Ct. Law Div. Aug. 28, 2008), aff'd, 2010 WL 1427273 (N.J. Super. Ct. App. Div. Apr. 5, 2010), cert. denied, 203 N.J. 579 (2010).

Mr. Buttitta died of mesothelioma, a rare form of cancer caused by exposure to asbestos. His widow, plaintiff Mrs. Buttitta, filed suit action against numerous defendants, alleging that Mr. Buttitta contracted mesothelioma when directly exposed to asbestos at a General Motors warehouse, where he worked during several summers in the early 1970s, and indirectly, from contact with his father, who worked for General Motors from 1952 through the 1970s. Prior to trial, I ruled on various pretrial discovery motions and

motions challenging expert testimony. After the pretrial disposition of the claims against many of the defendants, a trial against the remaining defendants was conducted in January and February 2008. Defendants C.L. Zimmerman Company and Honeywell International, Inc. settled during the trial. After trial, the jury returned a verdict in Mrs. Buttitta's favor for \$30 million, finding that defendants Borg-Warner Corporation and Asbestos Corporation, Ltd. had manufactured, sold or distributed a product not reasonably safe for its intended use, that Mr. Buttitta was exposed to the product, and that such exposure was a substantial contributing cause of Mr. Buttitta's development of mesothelioma. I then denied all post-trial motions filed by the defendants, including a motion for new trial and remittitur. Defendants appealed, and the appellate division affirmed my rulings.

Trial Date(s): January 3 – 5, 16, 2008; February 4 – 8, 11, 13, 19 – 22, 2008

Plaintiff's Counsel: Moshe Maimon, Esq.
Levy, Phillips & Konigsberg, LLP
800 Third Avenue
New York, New York 10022
(212) 605-6260

Richard D. Catenacci, Esq.
Connell Foley, LLP
85 Livingston Avenue
Roseland, New Jersey 07068
(973) 535-0500

Defense Counsel: Nora Grimbergen, Esq.
Hogan Longo
40 Peterson Street
New Brunswick, New Jersey 08903
(732) 545-4717

3. D'Elia v. DiStephano, Case No. BER-L-2276-03 (N.J. Super. Ct. Law Div. 2006).

This was a medical malpractice matter. The plaintiff, Ms. D'Elia, was a patient of one of the defendants, Dr. DiStephano, who performed a total knee replacement on the plaintiff. While in the hospital, the plaintiff was also seen by Dr. Corradino, who was covering for Dr. DiStephano. Ms. D'Elia alleged that the doctors failed to diagnose an infection which caused her knee to freeze. She further alleged that, as a result of the defendants' deviation from accepted standards of medical care, she became confined to her bed. In response, defendants contended that they followed proper protocol and

procedures, and that Ms. D'Elia had not contracted any infections. Following a trial, the jury found in the defendants' favor.

Trial Date(s): May 1 – 3, 5, 9, 11 – 12, 2006

Plaintiff's Counsel: Alan Bell, Esq.
Solo Practitioner
292 Bloomfield Avenue
Montclair, New Jersey 07042
(973) 783-0808

Defense Counsel: Michael J. Lunga, Esq.
Lunga, Evers & Johnson, P.C.
710 Route 46 East, Suite 100
Fairfield, New Jersey 07004
(973) 227-4200

David Weeks, Esq.
Ruprecht, Hart & Weeks, LLP
306 Main Street
Millburn, New Jersey 07041
(908) 232-4800

4. In re DePuy ASR™ Hip Implants Litigation, Case No. BER-L-3971-11, 2011 WL 5593873 (N.J. Super. Ct. Law Div. Oct. 18, 2011).

This matter was designated for centralized management by the New Jersey Supreme Court on April 12, 2011, at which time the cases were transferred to my docket. The more than 350 complaints share factual issues as to whether DePuy's ASR XL Acetabular Hip System, a device used in hip replacement surgery, was defectively designed or manufactured, and whether DePuy failed to provide adequate warnings concerning the device, which DePuy recalled along with another ASR device, the ASR Hip Resurfacing System, in August 2012. I have conducted 34 case management conferences and have coordinated with Judge David Katz in the Northern District of Ohio, who presided over the parallel federal multidistrict litigation proceedings. In October 2011, I issued an order denying plaintiffs' motion for a separate discovery protocol than the parallel federal litigation. 2011 WL 5593873. In August 2013, I denied defendants' motion to require separate bellwether trials. Copy supplied. In August 2014, the parties reached a several billion dollar settlement that resolved the vast majority of cases in the multicounty litigation. Approximately 34 cases remain active.

Trial Date(s): There has been no trial.

Plaintiffs' Counsel: David R. Buchanan, Esq.

Seeger Weiss, LLP
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New York, New York 10005
(212) 584-0700

Ellen Relkin, Esq.
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(212) 558-5500

Defense Counsel: Susan M. Sharko, Esq.
Drinker Biddle Reath, LLP
500 Campus Drive
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(973) 360-1100

5. Lee v. Policastro, Case No. BER-L-6629-03 (N.J. Super. Ct. Law Div. Sept. 22, 2006), aff'd, 2009 WL 2341535 (N.J. Super. Ct. App. Div. July 31, 2009), cert. denied, 200 N.J. 548 (2009), cert. denied, 562 U.S. 830 (2010).

This was a transactional legal malpractice action relating to discharge of a mortgage. Plaintiffs Mr. and Mrs. Lee held a third mortgage on commercial property owned by several non-attorney defendants. After the bank holding the first and second mortgages initiated foreclosure proceedings, the owners of the property found a buyer who required the discharge of plaintiffs' third mortgage as a condition of sale. Plaintiffs entered into a side agreement with a non-party to discharge their mortgage in return for \$200,000 payable at closing. Kalebic, Policastro & D'Amico (the attorney-defendants) released the discharge to the buyer prior to closing and plaintiffs were never paid. Plaintiffs alleged that attorney-defendants committed legal malpractice by failing to escrow the discharge of mortgage. Plaintiffs also sued for breach of contract, breach of fiduciary duty, fraud and spoliation of evidence and asserted state and federal RICO claims against all defendants. The attorney-defendants filed a third-party complaint against another attorney, Mr. Idouchi, alleging he represented plaintiffs in the formation and execution of the third mortgage. The parties resolved certain claims prior to trial, but the legal malpractice claims against the attorney-defendants and Mr. Idouchi proceeded to trial. The jury found in favor of the plaintiffs and awarded them \$100,000 in damages. All parties moved for judgment notwithstanding the verdict. I granted defendants' motion and the complaint was dismissed with prejudice. Copy supplied. The appellate division affirmed on appeal, and both the New Jersey Supreme Court and the United States Supreme Court denied certiorari.

Trial Date(s): June 6 – 8, 12 – 13, 16, 19, 27 – 30, 2006

Plaintiffs' Counsel: Michael Kimm, Esq.
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(201) 342-3377

Defense Counsel: Thomas Quinn, Esq.
Wilson Elser
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(973) 886-9880

Christopher J. Carey, Esq.
Graham Curtin, P.C.
Four Headquarters Plaza
Morristown, New Jersey 07962
(973) 292-1700

6. In re Nuvaring Litigation, Case No. BER-L-3081-09, 2013 WL 1874321 (N.J. Super. Ct. Law Div. April 18, 2013).

This matter was designated as a mass tort (multicounty litigation) by the New Jersey Supreme Court on March 10, 2009, at which time the cases were transferred to my docket. The underlying claims were that plaintiffs suffered a variety of injuries as a result of the level of hormones released into the bloodstream by a contraceptive device. There were over 200 cases consolidated in the multicounty litigation. I conducted 42 case management conferences and coordinated with District Judge Rodney Sippel in the Eastern District of Missouri in the concurrent federal multidistrict litigation. There were several rounds of procedural and substantive motions filed before me. I issued written opinions dismissing a plaintiff's complaint based on the statute of limitations and denying a motion to modify an order allowing defendants the right to conduct ex parte interviews of plaintiff's treating physicians. Copies supplied. I also granted summary judgment dismissing seven bellwether cases based on substantive choice of law principles and arguments that the products labels provided adequate warnings. 2013 WL 1874321. Thereafter, in both the state and parallel federal court actions, I conducted settlement discussions with all counsel. The majority of the discussions were held telephonically. Once I felt the matter was within a range of possible settlements, I ordered all counsel and decision makers to appear before me. After several sessions, the entire litigation settled for \$100 million.

Trial Date(s): There has been no trial.

Plaintiffs' Counsel: Kevin M. Hart, Esq.
Craig S. Hilliard

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Defense Counsel: Melissa A. Geist, Esq. and Daniel K. Winters, Esq.
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(201) 342-6000

7. Perry v. New Jersey Sports and Exposition Authority, Case No. BER-L-0137-03, 2006 WL 6834881 (N.J. Super. Ct. Law Div. Oct. 25, 2006), aff'd, 2008 WL 3287203 (N.J. Super. Ct. App. Div. Aug. 12, 2008).

Plaintiff Mr. Perry was a horse trainer who was injured when he slipped and fell on an accumulation of ice. The fall occurred in front of a barn located near the stables of the Meadowlands Racetrack complex. Mr. Perry sued a public entity, the New Jersey Sports and Exposition Authority, as the owner and operator of the racetrack. Mr. Perry alleged that the Authority had improperly maintained the barn's drainage system, thereby causing a dangerous condition as defined by New Jersey statute. I presided over the jury trial, after which the jury returned a verdict in Mr. Perry's favor and awarded him \$1.7 million in damages. I denied defendant's motion for a new trial and the appellate court affirmed.

Trial Date(s): July 24 – 27, 2006

Plaintiff's Counsel: Michael I. Deutsch, Esq.
Solo Practitioner
464 Valley Brook Avenue
Lyndhurst, New Jersey 07071
(201) 933-8844

Defense Counsel: Paul J. Soderman, Esq.
Zucker, Facher & Zucker
One Passaic Avenue
Fairfield, New Jersey 07004
(973) 808-1114

8. In re: Prudential Life Insurance Company of America Tort Litigation, Case No. BER-L-2251-10 (N.J. Super. Ct. Law. Div.).

This matter was filed in Essex County, New Jersey in 2002, and designated for centralized management by the New Jersey Supreme Court on February 9, 2010, at which time the cases were transferred to my docket. The plaintiffs, 236 former employees of Prudential, asserted claims of commercial bribery arising out of an alternative dispute resolution agreement, and various common law and statutory employment claims. Plaintiffs' initial settlement demand was in excess of \$1 billion. On November 11, 2010, I co-chaired a settlement conference with Kenneth Feinberg, Esq., and brokered the settlement of all but 43 cases. In October 2011, I granted defendants' motion to disqualify some of the law firms seeking to represent certain plaintiffs. In February 2012, I granted summary judgment for the defendants in two cases. In June 2012, I issued an opinion dismissing one case. Copies supplied. Plaintiffs' counsel continued to prosecute the remaining cases, and in May 2014, I ordered the parties to appear for a settlement conference. At this conference, all but three cases were resolved. The final cases were resolved in early 2015. In total, I held 23 case management conferences and issued numerous orders before bringing this case to a close.

Trial Date(s): There has been no trial.

Plaintiffs' Counsel: Evan L. Goldman, Esq.
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Three University Plaza
Suite 410
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(201) 488-2600

Angela Roper, Esq.
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Defense Counsel: Theodore V. Wells, Esq. and Gerard E. Harper, Esq.
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David W. Field, Esq.
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9. Soho MA New York v. Brinkmanship Import & Export, Case No. BER-L-2109-06 (N.J. Super. Ct. Law Div. 2008).

This case involved a dispute among the operators of a high-end clothing manufacturer and retailer, Beau Brummel. The dispute centered on a former business partner's claim to the right to operate under the Beau Brummel name. The dispute also involved a claim by one partner to a right to compensation under a consulting agreement for a ten-year period. Defendants maintained that the consulting agreement had been terminated pursuant to its terms and, accordingly, that they were under no obligation to tender payment. At the time of trial, defendants were operating the flagship Manhattan store, while plaintiffs were operating two satellite stores in Hoboken and Englewood, New Jersey. Defendants counterclaimed, seeking to enjoin plaintiff from continuing to operate under the Beau Brummel mark in New Jersey, alleging that plaintiff was selling low-end merchandise, compared to the designer merchandise sold in the Manhattan store. Following a jury trial, the jury returned a verdict in favor of the defendants, finding that the plaintiffs did not have a right to operate under the Beau Brummel name and that the defendants had properly terminated the consulting agreement.

Trial Date(s): April 17 – 18, 22 – 23, 2008

Plaintiffs' Counsel: Ian Hirsch, Esq.
Law Office of Ian J. Hirsch & Associates, LLC
125 State Street
Hackensack, New Jersey 07601
(201) 342-1151

Defense Counsel: William Pinilis, Esq.
Pinilis Halpern, LLP
160 Morris Street
Morristown, New Jersey 07960
(973) 401-1111

10. In re: Yaz/Yasmin/Ocella, Case No. BER-L-3572-10 (N.J. Super. Ct. Law Div.).

This matter was designated as a mass tort (multicounty litigation) by the New Jersey Supreme Court on February 9, 2010, at which time the cases were transferred to my docket for oversight of all management and trial issues. These more than 390 actions relate to the birth control pill Yaz and related pharmaceuticals. Plaintiffs allege that they contracted deep vein thrombosis, among other adverse effects, as a result of their ingestion of the pills. Plaintiffs asserted claims for negligence, strict product liability, breach of express warranty, breach of implied warranty, fraudulent misrepresentation, fraudulent concealment, negligent misrepresentation, medical monitoring, and fraud and deceit. I have conducted 47 case management conferences and coordinated with Judge David Herndon in the Southern District of Illinois, who presides over the parallel federal multidistrict litigation. A March 2013 settlement has resolved the majority of cases, but the remaining cases are still being litigated.

Trial Date(s): There has been no trial.

Plaintiffs' Counsel: Gregory Spizer, Esq.
Anapol, Schwartz, Weiss, Cohan, Feldman &
Smalley, P.C.
1040 Kings Highway, Suite 304
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Defense Counsel: Susan M. Sharko, Esq.
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Adam Hoeflich, Esq.
Bartlit, Beck, Herman, Palenchar, LLP
54 West Hubbard Street, Suite 300
Chicago, Illinois 60654

(312) 494-4400

- 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. In re: Alleged Mahwah Toxic Dump Site Litigation, Case No. BER-L-489-08 (N.J. Super. Ct. Law Div. Nov. 5, 2010). Decision previously supplied in response to Q13c.

Plaintiffs' Counsel: Frank V. Floriani, Esq.
Sullivan Papain Block McGrath & Cannavo, PC
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Defense Counsel: Mark J. Semeraro, Esq.
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McCarter & English, LLP
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2. Buttitta v. Allied-Signal, Inc., Case No. BER-L-9592-02, 2002 WL 34730063 (N.J. Super. Ct. Law Div. June 10, 2008).

Plaintiff's Counsel: Moshe Maimon, Esq.
Levy, Phillips & Konigsberg, LLP
800 Third Avenue
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(212) 605-6260

Richard D. Catenacci, Esq.
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Defense Counsel: Nora Grimbergen, Esq.

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(732) 545-4717

3. In re DePuy ASR™ Hip Implants Litigation, Case No. BER-L-3971-11, 2011 WL 5593873 (N.J. Super. Ct. Law Div. Oct. 18, 2011).

Plaintiffs' Counsel: David R. Buchanan, Esq.
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Defense Counsel: Susan M. Sharko, Esq.
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(973) 360-1100

4. Jacques v. Prudential Life Insurance Company of America, Inc., Case No. BER-L-3845-10 (N.J. Super. Ct. Law Div. Feb. 14, 2012). Decision previously supplied in response to Q13c.

Plaintiff's Counsel: Evan L. Goldman, Esq.
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Defense Counsel: Theodore V. Wells, Esq.
Gerard E. Harper, Esq.
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5. Lewis v. Prudential Life Insurance Company of America, Inc., Case No. BER-L-3284-10 (N.J. Super. Ct. Law Div. June 21, 2012). Decision previously supplied in response to Q13c.

Plaintiff's Counsel: Evan L. Goldman, Esq.
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Defense Counsel: Theodore V. Wells, Esq.
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6. Marino v. Organon USA, Inc., Case No. BER-L-2882-09 (N.J. Super. Ct. Law Div. Oct. 19, 2011). Decision previously supplied in response to Q13c.

Plaintiffs' Counsel: Kevin M. Hart, Esq.
Craig S. Hilliard
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7. In re Nuvaring Litigation, Case No. BER-L-3081-09, 2013 WL 1874321
(N.J. Super. Ct. Law Div. Apr. 18, 2013).

Plaintiffs' Counsel: Kevin M. Hart, Esq.
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8. Slotnick v. ABC Tours, Inc., 430 N.J. Super. 59 (N.J. Super. Ct. Law Div. 2013).

Plaintiff's Counsel: David Eisbrouch, Esq.
David Pamtz, Esq.
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Defense Counsel: Frank J. DeAngelis, Esq.
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Defense Counsel: Bruce A. Seidman, Esq.
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(973) 618-4173

9. Vendetti v. Melz, 359 N.J. Super. 63 (N.J. Super. Ct. Ch. Div. 2005).

Plaintiff's Counsel: Michelle Vendetti, pro se

Defense Counsel: Damian M. Fracasso, Esq.
Fracasso Law
International Trade Center
500 International Drive North, Suite 155
Mount Olive, New Jersey 07828

10. Wilson-Johnson v. Organon USA, Inc., Case No. BER-L-597-10 (N.J. Super. Ct. Law Div. May 29, 2012). Decision previously supplied in response to Q13c.

Plaintiffs' Counsel: Kevin M. Hart, Esq.
Craig S. Hilliard
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- e. Provide a list of all cases in which certiorari was requested or granted.

Lee v. Policastro, Case No. BER-L-6629-03 (N.J. Super. Ct. Law Div. Sept. 22, 2006), aff'd, 2009 WL 2341535 (N.J. Super. Ct. App. Div. July 31, 2009), cert. denied, 200 N.J. 548 (2009), cert. denied, 562 U.S. 830 (2010). Decision previously supplied in response to Q13c.

- 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.

Since becoming a judge, I have been reversed by the appellate division twelve times. Of those reversals, the reviewing court's ruling was subsequently reversed by the Supreme Court of New Jersey two times, in Van Dunk and Kalogeras, in effect confirming my initial ruling. I am also listing below two decisions in which I was affirmed but with criticism of a portion of my decision, and a decision that the appellate court later declined to adopt in an unrelated matter. I have supplied a copy of the appellate opinion or citation to Westlaw for the appellate opinions, and a copy of my underlying order where I was able to obtain a copy.

Hart v. Semon, Case No. BER-L-7908-10, aff'd, 2013 WL 1704990 (N.J. Super. Ct. App. Div. April 22, 2013): This case involved an alleged fraudulent transfer in violation of a New Jersey statute. The court granted summary judgment and dismissed with prejudice Ms. Hart's claims against a third party, the debtor's wife, seeking to compel the wife to turn over assets which Ms. Hart alleged were owed in satisfaction of a judgment. The appellate division found, as a threshold matter, that Ms. Hart was precluded from securing relief by way of a turnover motion because the third party had not admitted she was holding funds due to the judgment-debtor. The appellate division nevertheless considered Ms. Hart's substantive claims and concluded that she failed to satisfy her burden to show she was entitled to relief. Accordingly, the appellate division affirmed.

Van Dunk v. Reckson Assoc., Case No. BER-L-5897-06, rev'd, 415 N.J. Super. 490 (N.J. Super. Ct. App. Div. August 30, 2010), rev'd 210 N.J. 449 (2012): Plaintiff was injured while working on a construction site managed by defendant James Construction. Subsequent to the accident, OSHA investigated James Construction and issued a citation for a willful violation of safety. Plaintiff sued James Construction, and the trial court dismissed plaintiff's complaint, finding that the defendant was immune under the New Jersey Workers' Compensation Act. Copy supplied. The appellate division reversed, holding that the trial court failed to credit the OSHA citation. The New Jersey Supreme Court reversed the appellate division, holding that James Construction did not commit an intentional wrong and reinstated the trial court's grant of summary judgment.

Zizmor v. Levick, Case No. BER-L-0898-09, rev'd, A-3926-09T3 (N.J. Super. Ct. App. Div. March 8, 2012): Dr. Levick hired a contractor to construct a drainage system to alleviate problems with flooding in her basement. After a powerful storm hit in 2007, the yard neighboring Dr. Levick's flooded. The neighbors, Mr. and Mrs. Zizmor, incurred significant expenses from the flooding, including emergency repairs, and sued Dr. Levick for damages. The court granted summary judgment on behalf of the defendant. The appellate division reversed on the grounds that questions of fact remained, such as whether the damage to the Zizmors' property was foreseeable, and how the flooding damaged the property. The court noted that these questions could be determined without expert testimony. Copies supplied.

Pascack Com. Bank v. Universal Funding, LLP, Case No. BER-L-3579-09, rev'd, A2501-09T3 (N.J. Super. Ct. App. Div. March 17, 2011): Defendant Universal Funding LLP is a factoring company that purchased accounts receivable from Mr. D'Lusso. Plaintiff Pascack Community Bank issued a line of credit to Mr. D'Lusso that was secured, in part, by the accounts receivable. After Mr. D'Lusso defaulted, both Universal and Pascack claimed an interest in the accounts receivable. The trial court granted summary judgment to Pascack, finding that the factoring agreement perfected Pascack's security interest in the receivables. The appellate division reversed, noting that there were material issues of fact

regarding whether the unverified certification could stand as a perfected financing statement under the Uniform Commercial Code. Copies supplied.

Kalogeras v. 239 Broad Ave., Case No. BER-C-318-05, rev'd, 2009 WL 112767 (N.J. Super. Ct. App. Div. Jan. 20, 2009), rev'd, 202 N.J. 349 (2010): This dispute involved the failed sale of a diner and its liquor license. The seller reached an agreement to sell, but later reneged on the agreement. The potential buyer as well as a party holding a right to first refusal on the property both filed suit seeking specific performance. Under the facts of the case, the court granted specific performance. Copy supplied. The appellate division reversed with respect to specific performance of the liquor license, holding that specific performance may not be granted for a contract for the sale of a liquor license. The New Jersey Supreme Court reversed in part, noting that while the sale of a liquor license can be specifically enforced, the implied covenant of good faith and fair dealing requires that the parties obtain prior governmental approval as a condition precedent.

Pierides v. Geico Ins. Co., Case No. BER-L-3995-08, rev'd, A-2783-08T1 (N.J. Super. Ct. App. Div. April 19, 2010): This case involved whether an automobile insurer who issued a New York policy to a couple who later moved to New Jersey was responsible for damages arising out of an accident in New Jersey. Under the facts of the case, the insurer had some information that the couple had moved to New Jersey, but the car was still registered in New York and plaintiff requested the policy be mailed to the couple's business address in New York. The court ruled that the insurer had an obligation to send a buyer's guide to the plaintiffs after receiving notice of plaintiffs' move to New Jersey. The appellate division reversed the court's ruling that the insurer had an obligation to send a buyer's guide to plaintiffs. They also determined that a genuine issue of fact existed as to whether the insurer violated any duty under New Jersey law to advise plaintiffs to obtain a New Jersey policy. The court further found that failure to provide the buyer's guide did not create additional remedies. Finally, the appellate division stated that the trial court did not identify an actual conflict in its conflict of laws analysis, rejecting the trial court's finding that the difference in the mandatory minimum coverage amounts between the states exemplified an actual conflict of laws. Copies supplied.

State Div. of Youth and Family Services v. J.C., 399 N.J. Super. 44 (Law Div. March 3, 2006), declined to follow by, State Div. of Youth and Family Services v. N.S., 412 N.J. Super. 593 (App. Div. Feb. 9, 2010): This case involved an abuse and neglect proceeding in which the Division of Youth and Family Services sought to enjoin the defendant's attorney in a related criminal proceeding from representing the defendant in the abuse and neglect proceeding. The court analyzed state statute and found that allowing an attorney to represent a defendant in both a criminal and related Division matter would leave the victim child without the procedural safeguards that the legislature intended when establishing the statute. Thus, the court concluded that there was a valid reason to enjoin a

selected attorney from representing the defendant in both matters and granted Division's application. The appellate division examined the issue in an unrelated appeal. It refused to adopt a wholesale rejection of all such dual representation requests in favor of a case-by-case analysis, while recognizing that legislation and case law "counsel[ed] against unfettered access to the Division's file."

Palisades Collection LLC v. Graubard, Case No. BER-L-3394-06, rev'd, 2009 WL 1025176 (N.J. Super. Ct. App. Div. April 17, 2009): This case involved a credit card collection action, where the plaintiff, a collection agency, acquired defendant's account as part of a portfolio of delinquent accounts originating from Bank One Corporation. Following a bench trial, judgment was entered against the defendant in the amount of \$17,508. Copy supplied. On appeal, defendant argued that the trial court incorrectly applied the doctrine of judicial notice by relying upon articles from the New York Times and Wikipedia. The appellate division agreed, finding that such articles were not the proper subject of judicial notice.

Karolak v. Aravelo, Case No. BER-L-4598-05, rev'd, A-2472-07T3 (N.J. Super. Ct. App. Div. January 8, 2009): This case involved a car accident in which the defendant, Ms. Fasulo, backed into plaintiff Ms. Karolak's car in order to allow room for a Marcal tractor-trailer driven by Mr. Aravelo to complete a left-hand turn. Assuming that the tractor-trailer was stopped at the intersection at the time and that Mr. Aravelo waved Ms. Fasulo backwards so that he could complete the turn, the court determined that Ms. Fasulo had a duty to ensure he could back up safely. Thus, the court granted summary judgment for Mr. Aravelo and Marcal. Plaintiff Ms. Karolak settled with Ms. Fasulo. Ms. Karolak's insurance carrier informed Ms. Karolak that she could not proceed unless she successfully appealed the summary judgment order against Mr. Aravelo and Marcal. The appellate division reversed, finding genuine issues of fact regarding whether Mr. Aravelo waved for Ms. Fasulo to reverse, which could be a basis for finding that Mr. Aravelo also breached his duty of care. The appellate division held that whether Mr. Aravelo's wave indicated that Ms. Fasulo should back up or whether it was safe to do so was a question of fact for the jury. Copies supplied.

Kruh v. Ehrman, Case Nos. BER-L-4099-06 and 4139-06 (N.J. Super. Ct. Law Div. Sept. 1, 2006); rev'd, 2007 WL 4179082 (N.J. Super. Ct. App. Div. November 28, 2007), cert. denied, 194 N.J. 272 (Feb. 28, 2008): Plaintiff sellers executed a contract for the sale of their house in Saddle River to defendant buyer. Five days after executing the contract, the sellers asked the New Jersey Department of Environmental Protection to test the perchlorate in their well. The Department issued a report advising against drinking the water. The sellers sent the letter to the buyer, but the buyer did not respond. The buyer later attempted to cancel the contract, claiming that he never received the reports. The sellers objected. Both parties filed suit. In the intervening time, the sellers had installed a filtration system in the well to address the perchlorate problem. The court granted summary judgment for the sellers. Copy supplied. The appellate division reversed, reasoning that summary judgment was not appropriate because factual

issues remained regarding whether the existence of perchlorate materially impaired the contract. The panel also noted that disputed facts remained about the diminution in value caused by the perchlorate and, therefore, neither party was entitled to summary judgment.

Manning v. Manning, Case No. FM-02-6706-93, rev'd, A-4388-05T5 (N.J. Super. Ct. App. Div. April 11, 2007): The parties divorced in 1994. The ex-husband appealed orders entered on March 17, 2006 that: (1) denied his motion for discovery and a plenary hearing and (2) granted his ex-wife's motion seeking one-half of their three children's college expenses and one-half of unreimbursed medical expenses. The appellate division reversed on the grounds that the trial court did not state its reasons for denying the defendant's request for discovery and a hearing, and that the trial court should have explained how it evaluated, weighed, and balanced the common law factors for determining whether to order contribution for education expenses. Further, the appellate division noted that the parties did not submit current case information statements to the motion judge, and plaintiff failed to substantiate children's unreimbursed medical expenses. A copy of the appellate decision is supplied.

Meistrich v. Meistrich, Case No. BER-FM-02-1113-04, aff'd, 2006 WL 3077522 (N.J. Super. Ct. App. Div. Nov. 1, 2006): In this case, the divorcing parties had negotiated a property settlement agreement that resolved all but six issues. In an effort to conclude the matrimonial litigation, the parties agreed to submit the remaining issues to a judge for resolution. The court ruled that a note executed by the plaintiff was valid and required the plaintiff to repay \$80,000 to the defendant, that the plaintiff was not entitled to any artwork from the marital home other than the pieces he previously removed, and that the parties should share the costs of the children's out-of-network mental health expenses. With respect to the note, the court invoked the doctrine of judicial estoppel, and rejected the defendant's contention that the note was unenforceable, on the grounds of prior, inconsistent representations made during the plaintiff's personal bankruptcy proceeding. The appellate division concluded that judicial estoppel did not apply, but affirmed instead on equitable estoppel grounds.

Lew v. Ostrowsky, Case No. BER-FM-02-698-97, rev'd, A-3580-04T5 (N.J. Super. Ct. App. Div. May 2, 2006): Plaintiff Ms. Lew sought an increase in child support, contribution for Chinese classes, a replacement alimony check, and proof of all alimony checks. Defendant Mr. Ostrowsky did not object to an increase in child support, but questioned his former wife's imputed income. While the appellate division accepted the existence of changed conditions for a modification of child support, it reversed on the grounds that more information was needed about Mr. Ostrowsky's current income. The appellate court also noted that the trial court should have researched whether Ms. Lew was voluntarily unemployed and should have considered the special needs of the child in considering the issue of voluntary unemployment and a potential tax deduction for the defendant. Finally, the appellate division reversed on the ground that the passage of time

does not, in itself, constitute a waiver of a right to reimbursement of expenses, noting that the court should have made findings of fact in the record that would justify the application of laches. A copy of the appellate decision is supplied.

Tate-Perkins v. Perkins, Case No. FM-02-2012-04, rev'd, A-3986-04T5 (N.J. Super. Ct. App. Div. January 23, 2006): Plaintiff Ms. Tate-Perkins (ex-wife) filed for divorce in March 2004. Her attorney demanded that defendant Mr. Perkins, Jr. (ex-husband) produce all financial records. Mr. Perkins alleged that he could not produce this information because Ms. Tate-Perkins managed the family's finances and had all records. Ms. Tate-Perkins filed a motion to suppress Mr. Perkins' answer for failure to respond to the notice to produce, and Mr. Perkins failed to appear. The court granted the motion to suppress with prejudice. After Mr. Perkins failed to appear at a default hearing, the court found for Ms. Tate-Perkins and awarded nearly \$66,000 in equitable distribution. The appellate division reversed on the grounds that suppression of the answer is a harsh remedy that should only be imposed after Mr. Perkins received notice of the possible consequence and had further opportunity to provide discovery (and should be granted on a first motion without prejudice). A copy of the appellate decision is supplied.

In the Matter of the Adoption of J.C., Case No. FA-02-2012-04, rev'd, A-35472-04T2 (N.J. Super. Ct. App. Div. January 20, 2006): Prospective parents, one of which was the child's biological great aunt, applied to adopt an eight-year-old whose mother had passed away. While the adoption was pending, paternal grandparents petitioned for visitation of the child in a different court. The grandparents did not participate or appear in the adoption proceeding. The court issued a final order of adoption, which severed all rights and relationships between the child and his biological parents. The paternal grandparents subsequently petitioned the court, and the court entered an amended judgment of adoption, adding a provision for the visitation order. Since the visitation order was later reversed, the appellate court also reversed the amendment of the judgment of adoption. A copy of the appellate decision is supplied.

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

Nearly all of my decisions are unpublished, except for orders and opinions submitted by attorneys for publication. To the best of my knowledge, three (less than 1%) of my opinions have been published in the New Jersey Superior Court Reporter. Unpublished opinions are on file with the clerk of the court. All of my decisions and orders in multicounty litigations are available on the judiciary website at <https://www.judiciary.state.nj.us/mass-tort/>.

- 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.

Twp. of Mahwah v. K. Hovnanian at Mahwah VI, Inc., Case No. BER-L-11348-10 (N.J. Super. Ct. Law Div. Nov. 30, 2011). Copy supplied.

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

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

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

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

I have searched the court's archives and my own records and, to the best of my recollection, my recusal has never been requested by motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party. I have never sua sponte recused myself, other than the automatic recusal procedure described below.

I presently recuse myself in any cases in which my prior law firm, Beattie Padovano, LLC, is or represents a party; the Borough of Cliffside Park, New Jersey is a party; I or a family member has a financial interest; and where I have a significantly close relationship with counsel, parties or witnesses (family, business or social). I will continue to so recuse myself were I confirmed as a district court judge.

In addition, I maintain a standing recusal list of attorneys with whom I have a close personal relationship and I am automatically recused whenever such an attorney is or represents a party in a matter.

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.

From January 1982 to August 1986, I served as a Member of the Borough of Cliffside Park Board of Health, after having been appointed by Mayor Gerald Calabrese and the Council of the Borough of Cliffside Park, New Jersey.

From January 1988 to December 1990, I served as the Public Defender for the Borough of Cliffside Park, New Jersey, after having been appointed by Mayor Gerald Calabrese and the Council of the Borough of Cliffside Park, New Jersey.

From January 1991 to December 2001, I served as an elected Councilmember for the Borough of Cliffside Park, New Jersey, after having been elected by the residents of the Borough of Cliffside Park, New Jersey.

From January 1993 to December 1995, I served as the Municipal Prosecutor for the Borough of South Hackensack, New Jersey, after having been appointed by Mayor James Anzevino and the Council of the Borough of South Hackensack, New Jersey.

From January 1993 to December 1995, I served as the Public Defender for the Borough of Bogota, New Jersey, after having been appointed by Mayor Leonard Nicolosi and the Council of the Borough of Bogota, New Jersey.

From January 1995 to February 2002, I served as the Tax Attorney for the Borough of Fairview, New Jersey, after having been appointed by Mayor Vincent Bellucci and the Council of the Borough of Fairview, New Jersey.

From January 1996 to December 2000, I served as the Public Defender for the Borough of Moonachie, New Jersey, after having been appointed by Mayor Frederick Dressel and the Council of the Borough of Moonachie, New Jersey.

From January 1999 to February 2002, I served as a Board Member of the County of Bergen Law & Public Safety Institute, after having been appointed by Bergen County Executive William Pat Schuber.

From January 1999 to February 2002, I served as the Tax Attorney for the Borough of Little Ferry, New Jersey, after having been appointed by Mayor Thomas Quirico and the Council of the Borough of Little Ferry, New Jersey.

- 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.

From June 1992 to December 2001, I served as the elected chairman for the District 38 Democratic County Committee. My responsibilities included coordinating campaign events with the Bergen County Democratic Committee and towns located within District 38. Every two years, I also would notify members of the County Committee about and preside over the District 38 Convention for the selection of Democratic candidates to run for legislative seats in the state senate and state assembly.

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 clerked for the Honorable Roger M. Kahn in the Tax Court of New Jersey from September 1986 to August 1987.

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

I have not practiced alone.

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

1987 – 2002

Beattie Padovano, LLC
50 Chestnut Ridge Road
Montvale, New Jersey 07645
Associate (1987 – 1993)
Partner (1994 – 2002)

1991 – 2002

Borough of Cliffside Park
525 Palisade Avenue
Cliffside Park, New Jersey 07010
Councilmember (1991 – 2002)
Chairman, Public Safety and Legal Affairs (1992 – 2002)
Council President (1993, 1996, 1999)

1999 – 2002

Italian American Police Society
No physical address
Lyndhurst, New Jersey 07071
Legal Counsel (1999 – 2002)

1988 – 1990
Borough of Cliffside Park
525 Palisade Avenue
Cliffside Park, New Jersey 07010
Public Defender

1993 – 1995
Borough of Bogota
375 Larch Avenue
Bogota, New Jersey 07603
Public Defender

1993 – 1995
Borough of South Hackensack
277 Phillips Avenue
South Hackensack, New Jersey 07606
Prosecutor

1995 – 2002
Borough of Fairview
59 Anderson Avenue
Fairview, New Jersey 07022
Tax Attorney

1996 – 2000
Borough of Moonachie
70 Moonachie Road
Moonachie, New Jersey 07074
Public Defender

1999 – 2002
Borough of Little Ferry
215-217 Liberty Street
Little Ferry, New Jersey 07643
Tax Attorney

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

While in private practice, I was an arbitrator with the American Arbitration Association from 1995 to 2002, a member of the National

Arbitration and Mediation Association from 1999 to 2002, and a court-approved mediator from 2000 to 2002. I have searched my files and electronic databases and have been unable to locate specifics of any of the arbitrated matters. However, I have been designated by the assignment judge to serve as Bergen County's settlement judge. As the settlement judge, I have the responsibility of conferencing virtually every case on the civil docket before it goes to trial. However, I am a proactive judge and beyond that responsibility, I will frequently invite counsel to discuss settlement at every stage of the litigation, even before discovery is begun. Indeed, in Stryker, I began the settlement dialogue during an initial conference, and that multicounty litigation subsequently progressed on parallel tracks of settlement and discovery. As a result, cases have been settled early in the litigation. I have termed the concept "bellwether mediation," meaning these settlements can be used throughout the litigation as ranges for the resolution of future claims in much the same way as a bellwether trial.

b. Describe:

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

While in private practice, the general nature of my practice was civil litigation. As an associate, under the supervision of the department chair, I drafted responses to discovery, attended depositions and prepared for and tried cases. After I became partner, my position became more supervisory in nature and I dedicated the majority of my time to supervising associates and managing the litigation department as its co-chair.

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

A significant percentage of my practice was in the area of defense litigation, including general liability and coverage issues for insurance carriers, self-insured companies, rental, and third-party adjustment companies. In addition, I was a member of the South Bergen Joint Insurance Fund Panel of Approved Attorneys and Bergen County Joint Insurance Fund Panel of Approved Attorneys. I represented various towns throughout Bergen County in liability (Title 59) claims. I also represented several companies in product liability matters as well as declaratory judgment lawsuits concerning policy construction and interpretation issues. I also represented plaintiffs in personal injury litigation, ranging from automobile and general negligence cases to medical malpractice matters. Aside from personal injury litigation, I represented companies and individuals in a variety of commercial/contract and labor disputes. I regularly appeared in the municipal courts throughout the county representing defendants in traffic and criminal matters. I devoted a

significant portion of my practice to governmental work and was the tax attorney for the Boroughs of Fairview and Little Ferry, New Jersey, as well as the public defender for the Boroughs of Cliffside Park, Bogota and Moonachie, New Jersey.

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

My practice always focused on civil litigation. While in private practice, including service as a municipal prosecutor and public defender, I regularly appeared in municipal courts across New Jersey and handled all matters over which those courts had jurisdiction; namely, motor vehicle and disorderly persons. As an associate, and later partner, at Beattie Padovano, LLC, I was a member of the firm's litigation department, where I was responsible for a variety of cases. I handled all aspects of litigation, including, but not limited to, initial client interviews, drafting pleadings, preparing, serving and responding to all discovery, drafting and arguing procedural and substantive motions, and trying matters before juries and judges. When I became a partner, I oversaw the day-to-day operation of the litigation department and was responsible for supervising and mentoring associates within the department.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 5% |
| 2. state courts of record: | 70% |
| 3. other courts: | 15% |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 90% |
| 2. criminal proceedings: | 10% |

- 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 250 cases to verdict or judgment. I was the sole or lead counsel in approximately 95% of those cases.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 30% |
| 2. non-jury: | 70% |

- 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.

I have tried to answer this question as accurately as possible, but due to the passage of time since I was in private practice (1987 – 2002), I have been unable to compile a complete list or access the records of most cases that I participated in or tried to verdict.

1. Caldwell v. Kline, Director of the New Jersey Division of Motor Vehicles, Unsatisfied Claim & Judgment Fund, Docket No. Unknown (Law Div. May 4, 1988) (Hon. Thomas Romana, J.S.C.), aff'd, 232 N.J. Super. 406 (App. Div. 1989)

I represented the defendants in this matter. The plaintiff alleged that he sustained injuries when he was struck by a hit and run vehicle. Since the plaintiff did not have any automobile insurance, he sued the New Jersey Director of Motor Vehicles and the Unsatisfied Claim and Judgment Fund. The matter was tried before a jury and the jury returned a verdict in favor of the plaintiff and against the defendants.

Pursuant to the statutory requirements, post-trial, a plaintiff must satisfy certain criteria before he or she can collect from the Unsatisfied Claim and Judgment Fund. One of those criteria was that a plaintiff must show they did not own an uninsured car at the time of the accident. In this case, the plaintiff was the owner of an uninsured car, but alleged the car was inoperable at the time of the accident. At the conclusion of the hearing, the court found plaintiff was not eligible for funds from the Unsatisfied Claim and Judgment Fund and dismissed the complaint. The plaintiff appealed, and the appellate division affirmed the dismissal.

Plaintiff's Counsel: Harry S. Karpen, Esq.
 Solo Practitioner
 1033 Clifton Avenue

Clifton, New Jersey 07013
(973) 777-7766

2. Goodman v. Christian, Docket No. ESX-18805-86 (Law Div. May 10, 1988) (Hon. Carol Ferentz, J.S.C.)

I represented the defendants in a personal injury action brought by a pedestrian who was struck by defendants' vehicle. Following a three-day jury trial, the jury found the plaintiff 30% negligent and rendered a verdict of \$21,000. Thereafter, the plaintiff applied for payments from the New Jersey Unsatisfied Claim and Judgment Fund, which I contested. The judge ruled in favor of the plaintiff, and I appealed. On appeal, the appellate division reversed the trial court.

Plaintiff's Counsel: Mitchell J. Makowicz, Esq.
Blume Donnelly Fried Forte Zerres & Molinari
One Main Street
Chatham Township, New Jersey 07920
(973) 635-5400

3. Kahar v. Wallington, Case No. BER-L-8564-98 (N.J. Super. Ct. Law. Div. 1999), (Hon. Daniel Mecca, J.S.C.), rev'd and remanded, 171 N.J. 3 (2002)

I represented the defendant, Borough of Wallington, in this personal injury action. The plaintiff claimed that she sustained injuries to her left shoulder when she tripped and fell as a result of a hole in the middle of a public street. The plaintiff alleged Wallington was neglectful in the maintenance of the street and she also alleged that her injuries satisfied the New Jersey Tort Claims Act. At the close of discovery I moved for summary judgment, arguing that the plaintiff did not sustain a permanent injury, as defined in the statute and interpreted by the Supreme Court of New Jersey in Brooks v Odom, 150 N.J. 395 (1997). The trial judge granted the motion and, on appeal, the appellate division affirmed the ruling. The Supreme Court of New Jersey granted certification and reversed, finding that the plaintiff's torn rotator cuff was a permanent injury that resulted in a substantial loss of bodily function. The matter was remanded to the trial court, where it was resolved prior to trial.

Plaintiff's Counsel: James H. Cleary, Esq.
James H. Cleary, P.A.
Solo Practitioner
71 Kip Avenue
Rutherford, New Jersey 07070
(201) 939-3444

Co-Counsel: James V. Zarillo, Esq.
Beattie, Padovano, LLC
50 Chestnut Ridge Road
Montvale, New Jersey 07645

(201) 573-1810

4. Maimone v. Liberty Mut. Ins., Case No. BER-L-8032-95 (N.J. Super. Ct. Law Div.) (Hon. Lawrence Smith, J.S.C.), rev'd and remanded, 302 N.J. Super. 299 (App. Div. 1997), cert. denied, 154 N.J. 610 (1998)

This was an automobile personal injury action in which I represented the plaintiff. The plaintiff was a driver involved in an accident with an individual whose vehicle was unregistered. A settlement was reached with passengers in the plaintiff's car and the insurance carrier for the underinsured tortfeasor. A claim was filed against the plaintiff's personal automobile insurance carrier for underinsured motorists benefits (Liberty). Liberty denied the claim and a lawsuit was filed. Liberty brought a third-party complaint against IFA (the carrier insuring the host vehicle). On a motion for summary judgment, the trial court found that the plaintiff's personal policy was primary. Liberty appealed.

The appellate division, after reviewing the appropriate procedural history, cases, and policies, ruled that the other insurance policy in the Liberty policy was controlling and that the Liberty policy was in excess to the IFA policy. Accordingly, the appellate division reversed and remanded the matter back to the trial court. The case was then resolved within the IFA policy limits.

Defense Counsel: The Honorable Walter Skrod, J.S.C.
(Liberty Mutual) Superior Court of New Jersey
(formerly Law Office of Walter Skrod)
Bergen County Justice Complex
Ten Main Street
Hackensack, New Jersey 07601
(201) 527-2700

Defense Counsel: Paul T. Fader, Esq.
(IFA Ins. Co.) Florio, Perrucci, Steinhardt & Fader
218 Route 17 North
Suite 410
Rochelle Park, New Jersey 07662
(201) 843-5858

5. Witzer, Individually and derivatively on behalf of A&W Egg Company, Inc. v. Sodially NA Corp., Case No. HUD-C-221-95 (N.J. Super. Ct. Ch. Div.) (Hon. Martin Greenberg, J.S.C.)

In this chancery court matter, I represented defendant Sodiall NA Corp. The plaintiffs, Mr. Witzer and A&W Egg Company, Inc., were brokers of eggs, and Sodiall was a distributor of certain egg and dairy products. The parties had an ongoing business arrangement whereby customers would place an order for eggs with A&W, who would in turn place the order with Sodiall. Sodiall would then arrange for delivery of the eggs to the customer, billing and receipt of payment from customers, and then forward a commission check to A&W. In or around mid-1995, Sodiall terminated their arrangement

with A&W, and customers began to contact Sodiall directly. A&W brought an action against Sodiall, alleging breach of contract and tortious interference with economic advantage. After several months of discovery, procedural and substantive motion practice, the parties and counsel agreed to participate in mediation with James Boskey (deceased). The matter was resolved in mediation.

Plaintiff's Counsel: Jack Dashosh, Esq.
Solo Practitioner
425 Route Ten
Randolph, New Jersey 07869
(973) 989-2400

6. Zittel v. Tuzzeo, Case No. BER-L-6591-97 (N.J. Super. Ct. Law Div.) (Hon. Charles Walsh, J.S.C. (deceased))

In this matter I represented the plaintiff in a personal injury action arising out of a motor vehicle accident. Plaintiff was a passenger in a car that was involved in a collision when a tow truck struck another car, projecting that car into the plaintiff's car. As a result of the accident, plaintiff suffered injuries to her neck and back and a neurological impairment with reflex sympathetic dystrophy to her left hand. The defendant contested the nature and extent of the plaintiff's injuries and produced a surveillance video purporting to show that plaintiff was able to participate in her usual daily activities. Both parties presented fact and expert witnesses. Following a jury trial, the jury returned a verdict of \$770,000 in favor of plaintiff.

Defense Counsel: Gary J. Chester, Esq.
Solo Practitioner
39 Alize Drive
Kinnelon, New Jersey 07405
(973) 919-4296

Co-Counsel: Robert Miele, Esq.
Burke, Miele & Golden LLP
40 Matthews Street
Suite 209
Goshen, New York 10924
(845) 294-4080

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.)

As a practicing lawyer, I became a partner at Beattie Padovano, LLP and co-chair of the

firm's litigation department. In that capacity, I was able to mentor and assist young lawyers as they began their legal career. When I was appointed as a judge of the superior court and assigned to the family division, I regularly interacted with families in distress, most notably, as I presided over "Children in Court" matters. I attempted to implement creative solutions so the children could maintain their family relationships while keeping them in a safe and comfortable environment.

While in the civil division, as the designated settlement judge of the Bergen Vicinage, I conference virtually every case on the civil docket. In my opinion, this is an opportunity for litigants to have their day in court and, hopefully, resolve their dispute without the monetary and emotional expense of litigation. I have stressed to counsel that these are individuals with real problems that deserve the court's utmost attention and respect. In this capacity, I have resolved approximately 9,000 matters (approximately 3,000 of which were designated mass torts). As a multicounty litigation judge, I feel the interaction with the federal judiciary on multidistrict and multicounty matters has resulted in the resolution of several multi-state/federal cases that otherwise would have otherwise languished in the system for years. In the Stryker litigation, I suggested and implemented a novel procedure that is now known as "Bellwether Mediation." This process permitted the parties to discuss the resolution of individual matters, while still engaging in discovery. Once several matters were resolved, that formed the basis for settlement discussions ultimately leading to a global settlement of all Stryker cases.

In addition to substantive legal activities, my tenure on the building committee and technology committee affords me the opportunity to update the physical plant and implement new technologies for the court system. Most recently, the chief justice of the New Jersey Supreme Court appointed me to the court's metadata committee, which will study and issue a report on discovery and ethical considerations concerning metadata.

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

I have not taught any courses.

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

None.

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

I have no such plans.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I presently recuse myself in any cases in which my prior law firm, Beattie Padovano, LLC, is or represents a party; the Borough of Cliffside Park, New Jersey is a party; and cases in which the following attorneys represent a party: John L. Schettino, Esq.; Scott B. Piekarsky, Esq.; Philip W. Danziger, Esq.; Shane A. Sullivan, Esq.; and Alexandra V. Marghella, Esq.; any case in which I or a family member has a financial interest; and in any case where I have a significantly close relationship with counsel, parties or witnesses (family, business or social). I will continue to so recuse myself were I confirmed as a district court judge.

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

If confirmed as a district court judge, I would resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts. I would recuse myself in any matter in which an individual on my recusal list is or represents a party; where I, my spouse, or immediate family hold a financial interest; or where I have a sufficiently close connection with counsel or the parties (family, business or social). In the event of uncertainty, I would err on the side of disqualification.

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 in private practice, I devoted a significant portion of my time serving on multiple not-for-profit boards and for a variety of causes. Among the charitable organizations to which I have devoted time and resources include: March of Dimes; Bergen County 200 Club; Bergen Community College Foundation; and Palisades Medical Center.

26. Selection Process:

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

On May 29, 2014, I met with Senator Booker and his staff in Newark, New Jersey to discuss my interest in serving as a district court judge. On September 23 and 29, 2014, I met with members of Senator Booker’s judicial selection committee in Newark and then in Hackensack, New Jersey. On October 22, 2014, I met with Senator Booker’s staff in Newark, New Jersey. On December 30, 2014, I met with a newly-appointed member of the judicial selection committee in Tinton Falls, New Jersey. I met again with Senator Booker’s staff on February 13 and March 21, 2015, in Washington, D.C. and then in Newark, New Jersey. On March 23, 2015, I received a call from Senator Booker advising that he was submitting my name to the White House for consideration. Since March 24, 2015, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 7, 2015, I interviewed with attorneys from the White House Counsel’s Office and the Department of Justice in Washington, D.C. On June 11, 2015, 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.