

Matthew F. Leitman  
840 West Long Lake Road, Suite 200  
Troy, MI 48098

January 6, 2014

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire that I previously filed in connection with my nomination on July 25, 2013, to be a United States District Judge for the Eastern District of Michigan. Incorporating the additional information below and any information provided during my hearing, I certify that the information contained in that document is, to the best of my knowledge, true and accurate.

**Questions 6 and 11**

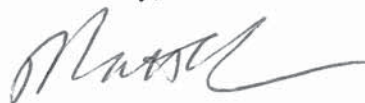
My term as President of the American Constitution Society – Michigan Lawyers Chapter ended on November 14, 2013.

**Question 17**

On September 24, 2013, the United States Court of Appeals for the Sixth Circuit, sitting en banc, issued a decision in *Jackson v. Sedgwick Claims Management Services, Inc.* The decision is reported at 731 F.3d 556 (6th Cir. 2013) (en banc). The en banc court agreed with my argument that the denial of workers compensation benefits under state law does not give rise to a claim under the federal RICO statute.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,



Matthew F. Leitman

cc: The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Matthew Frederick Leitman

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

United States District Judge for the Eastern District of Michigan

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.

Miller, Canfield, Paddock and Stone, P.L.C.  
840 West Long Lake Road, Suite 200  
Troy, Michigan 48098

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

1968; Detroit, Michigan

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.

1990 – 1993, Harvard Law School; J.D. (*magna cum laude*), 1993

1986 – 1990, University of Michigan; B.A. (with highest distinction), 1990

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.

2004 – present

Miller, Canfield, Paddock and Stone, P.L.C.  
840 West Long Lake Road, Suite 200  
Troy, Michigan 48098

Senior Principal (2005 – present)

Senior Counsel (2004 – 2005)

1994 – 2004  
Miro Weiner & Kramer, P.C.  
38500 Woodward Avenue, Suite 100  
Bloomfield Hills, Michigan 48304  
Partner (2000 – 2004)  
Associate (1994 – 1999)

1993 – 1994  
Michigan Supreme Court  
925 West Ottawa Street  
Lansing, Michigan 48915  
Judicial Law Clerk for Justice Charles L. Levin

Summer 1992  
Arnold & Porter  
Thurman Arnold Building  
555 Twelfth Street, NW  
Washington, DC 20004  
Summer Associate

Summer 1991  
Dykema Gossett, P.L.L.C.  
39577 Woodward Avenue, Suite 300  
Bloomfield Hills, Michigan 48304  
Summer Associate

1990 – 1991  
Harvard Law School  
1563 Massachusetts Avenue  
Cambridge, Massachusetts 02138  
Research Assistant for Professor James Vorenberg (deceased)

Summer 1990  
Roeper Summer Day Camp  
41190 Woodward Avenue  
Bloomfield Hills, Michigan 48304  
Camp Counselor

Other Affiliations (uncompensated)

2012 – present  
Federal Bar Association, Eastern District of Michigan Chapter  
P.O. Box 20759  
Ferndale, Michigan 48220  
Executive Board Member

2011 – present  
Birmingham Seaholm High School Baseball Boosters  
Birmingham Seaholm High School  
2436 West Lincoln Street  
Birmingham, Michigan 48009  
Board Member

2010 – present  
American Constitution Society for Law and Policy, Michigan Lawyer Chapter  
1333 H Street, NW, 11th Floor  
Washington, DC 20005  
President (Fall 2012 – present)  
President-Elect (Fall 2011 – Fall 2012)  
Executive Board Member (Fall 2010 – present)

2010 – present  
Harvard Law School Association  
Harvard Law School Alumni Center  
125 Mount Auburn Street  
Cambridge, Massachusetts 02138  
Member of Council  
President of the Michigan Chapter

2008 – present  
Harvard Law School Alumni Association of Michigan  
Harvard Law School Alumni Center  
125 Mount Auburn Street  
Cambridge, Massachusetts 02138  
President

Approximately 2000 – 2001  
Thornwood Homeowners Association  
Thornwood Subdivision  
Troy, Michigan  
President

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 United States Military. I timely registered for selective service.

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

*Michigan Super Lawyers*, Criminal Defense: White Collar, General Litigation, Criminal Defense (2007 – 2013)

*The Best Lawyers in America*, Non-White Collar Criminal Defense and White Collar Criminal Defense sections (2007 – 2013)

*Chambers USA*, America's Leading Lawyers for Business: White-Collar Crime and Government Investigations (2012 – 2013)

*DBusiness Magazine*, Top Lawyer in White-Collar Criminal Defense and Appellate Law (2012)

*The Best Lawyers in America*, Appellate Litigation (2012)

The United States District Court for the Eastern District of Michigan, Certificate of Appreciation for Pro-Bono Service (2008 – 2012)

*DBusiness Magazine*, Top Lawyer in Non-White Collar and White Collar Criminal Defense (2011)

The University of Michigan, Phi Beta Kappa (1989)

The University of Michigan, Mortar Board Honor Society (1989)

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 Bar Association (1995 – present)

Federal Bar Association, Eastern District of Michigan Chapter (1996 – present)

Newsletter Committee Member (1996 – 2000)

Criminal Law and Practice Committee Co-Chair (2008 – present)

Executive Board Member (2012 – present)

National Association of Criminal Defense Lawyers (1995 – present)

Oakland County Bar Association (1994 – present)

Steering Committee, Education Outreach Program (2013 – present)

State Bar of Michigan (1993 – present)

The Fellows of the Michigan State Bar Foundation (2007 – present)

United States District Court for the Eastern District of Michigan Local Rules Advisory Committee (2007 – present)

United States District Court for the Eastern District of Michigan Merit Selection Panel (2009, 2010)

**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.

Michigan (1993)

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.

Saginaw Chippewa Tribal Court (2011)

United States District Court for the Western District of Michigan (2006)

United States Court of Appeals for the Sixth Circuit (1997)

United States District Court for the Eastern District of Michigan (1994)

Michigan State Courts (1993)

There have been no lapses in my admission to practice before these courts.

**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.

American Constitution Society for Law and Policy – Michigan Lawyers Chapter (2010 – present)

President (2012 – present)

President-Elect (2011 – 2012)

Program Chair (2011 – 2012)

Executive Board Member (2010 – present)

Beachwood Recreation Association (2003 – present)

Birmingham Seaholm High School Baseball Boosters  
Board Member (2011 – present)

Harvard Law School Alumni Association of Michigan  
President (2008 – present)

Harvard Law School Association Council (2010 – present)

Thornwood Homeowners Association  
President (approximately 2000 – 2001)

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

To my knowledge, none of the organizations listed above currently 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.

*Federal Government Steps Up Criminal Enforcement of Immigration Laws Against Employers*, MICHIGAN LAWYERS WEEKLY, December 21, 2012 (with Paul D. Hudson). Copy supplied.

*Defending Employers When ICE Puts the Heat On*, THE CHAMPION, January/February 2012 (with Paul D. Hudson). Copy supplied.

*Hot Spot, Michigan One of a Handful of Areas Targeted for HEAT Health Care Fraud Team*, MICHIGAN MEDICAL LAW REPORT, Winter 2010 (with Pamela C. Enslin). Copy supplied.

*Supplier Discounts Offered to Healthcare Providers is Risky Business*, MILLER CANFIELD E-ALERT, June 7, 2010. Copy supplied.

*Health Care Fraud Enforcement*, THE FEDERAL LAWYER, June 2010 (with Pamela C. Enslen). Copy supplied.

*Putting Together a Harvard Law School Association Summer Associates Event* (approximately 2008). Copy supplied.

*A Cautionary Tale for Physicians Who Prescribe Controlled Substances to Treat Pain*, SOUTHWEST MICHIGAN MEDICAL JOURNAL, Spring 2006. Copy supplied.

*Just What the Doctor Ordered? When Criminal Law Invades the Examining Room, Everyone Can Suffer*, MILLER CANFIELD HOT POINTS ARTICLE (approximately Winter 2005). Copy supplied.

*When Criminal Law Intrudes Upon the Examining Room, Everyone Can Suffer*, MICHIGAN MEDICAL LAW REPORT, Winter 2005. Copy supplied.

*Developments in Federal Criminal Law Will Impact Your Company and Your Employees*, MILLER CANFIELD HOT POINTS ARTICLE (Spring 2005). Copy supplied.

*Don't Get Burned: How to Handle the Media in a High-profile Case*, MILLER CANFIELD HOT POINTS ARTICLE (Spring 2005). Copy supplied.

*How the Federal Courts Have Distorted the Double Damages Provision of Michigan's Sales Representative Act*, 2000 L. REV. M.S.U.-D.C.L. 287 (2000). Copy supplied.

*A Clarification of Michigan Law Concerning the Suppression of Evidence Seized in Violation of a State Statute: Exposing the Court of Appeals' Blatant Disregard for Controlling Supreme Court Precedent*, 1998 L. REV. M.S.U.-D.C.L. 225 (1998). Copy supplied.

*A Proposed Standard of Equal Protection Review for Classifications Within the Criminal Justice System That Have a Racially Disparate Impact: a Case Study of the Federal Sentencing Guidelines' Classification Between Crack and Powder Cocaine*, 25 U. TOL. L. REV. 215 (1994). Copy supplied.

Letter to the Editor, *Commencement Cattle Call a Let Down*, HARVARD LAW RECORD, April 16, 1993 (with Wendy R. Davis). 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.



Since 2007, I have served on the United States District Court for the Eastern District of Michigan Local Rules Advisory Committee. From time to time, the Local Rules Advisory Committee has issued memoranda on proposed amendments to the rules, which I have listed here:

Comments and Recommendations on the Court's Proposed Amendment to LR 5.1(a)(3), Type Size, February 4, 2013.

Comments on Proposed Amendments to LR 83.20 and LR 83.30 and New LR 83.25, March 21, 2012.

Comments on Proposed Amendment to LR 83.31, February 19, 2008.

Proposed Amendment to LR 5.1(a), February 19, 2008.

Recommendations for Conforming Local Rules to the 2007 Amendments to the Federal Rules of Civil Procedure, January 25, 2008.

Between 1996 and 2000, I was a member of the Newsletter Committee of the Federal Bar Association for the Eastern District of Michigan. I do not recall being an active member of this Committee and do not have any specific recollection of drafting or reviewing any of the newsletters published during that time frame. However, in an abundance of caution, I have supplied copies of the newsletters published during my time on the Committee that I could locate:

Federal Bar Association, Newsletter (Fall 2000)  
Federal Bar Association, Newsletter (Summer 2000)  
Federal Bar Association, Newsletter (Spring 2000)  
Federal Bar Association, Newsletter (Winter 2000)  
Federal Bar Association, Newsleteer (Fall 1999)  
Federal Bar Association, Newsletter (Summer 1999)  
Federal Bar Association, Newsletter (Spring 1999)  
Federal Bar Association, Newsletter (Winter 1999)  
Federal Bar Association, Newsletter (Summer 1998)  
Federal Bar Association, Newsletter (Spring 1998)  
Federal Bar Association, Newsletter (Winter 1998)  
Federal Bar Association, Newsletter (Fall 1997)  
Federal Bar Association, Newsletter (Summer 1997)  
Federal Bar Association, Newsletter (Spring 1997)  
Federal Bar Association, Newsletter (Winter 1997)  
Federal Bar Association, Newsletter (Winter 1996 – 1997)

- 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.

I have not given any such testimony, official statement, or other communication.

- 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 9, 2013: Speaker, "Using Friend of the Court Briefs to Protect Your Organization," Miller, Canfield, Paddock and Stone, P.L.C., Bloomfield Hills, Michigan. Presentation outline supplied.

December 4, 2012: Panelist, Federal Bar Association New Lawyers Seminar, United States Courthouse, Detroit, Michigan. I offered a broad overview of federal criminal practice to new lawyers. I have no notes, transcripts, or recordings. The address of the Federal Bar Association Eastern District of Michigan Chapter is P.O. Box 20759, Ferndale, Michigan 48220.

November 29, 2012: Master of Ceremonies, Annual Dinner Meeting of the Michigan Chapter of the American Constitution Society for Law and Policy, Detroit, Michigan. I welcomed the audience members, provided biographical information on the keynote speaker, and thanked the audience for attending. I have no notes, transcripts, or recordings. The address of the Michigan Chapter is in care of the national office: 1333 H Street, NW, 11th Floor, Washington, DC 20005.

October 26, 2011: Speaker, Society of Automotive Analysts program, Southfield, Michigan. I discussed recent investigations by the United States Department of Justice Antitrust Division into automotive suppliers. Presentation outline and press coverage supplied.

September 27, 2011: Panelist, Annual Training Program for Criminal Justice Act Panel Members, Office of the Federal Defender for the Eastern District of Michigan at the United States Courthouse, Detroit, Michigan. I discussed how criminal defense attorneys can utilize social media to enhance pre-trial factual investigations. I have no notes, transcripts, or recordings. The address of the Office of the Federal Defender is 613 Abbott, Fifth Floor, Detroit, Michigan 48226.

February 18, 2011: Moderator, "Death Penalty Litigation in Michigan," Federal Bar Association Eastern District of Michigan Chapter at the United States Courthouse, Detroit, Michigan. As moderator, I welcomed the audience and introduced the panelists. I have no notes, transcripts, or recordings. The address of the Federal Bar Association is P.O. Box 20759, Ferndale, Michigan 48220.

November 8, 2010: Speaker, "What Every Corporate Counsel Should Know About Federal Corporate Criminal Liability," co-hosted by the Michigan Chapter of the Association of Corporate Counsel and by Miller, Canfield, Paddock and Stone, P.L.C., Bloomfield Hills, Birmingham, Michigan. I discussed corporate criminal liability issues. I have no notes, transcripts, or recordings. The Michigan Chapter of the Association of Corporate Counsel may be contacted in care of its Executive Director, Mitzy Sharp Futro, Detroit Metropolitan Bar Association, 645 Griswold Street, Detroit, Michigan 48226.

November 3, 2010: Speaker, Michigan Association of Certified Public Accountants' 2010 Financial Planning & Advanced Federal Tax Conference, Livonia, Michigan. Outline supplied.

January 30, 2010: Speaker, "The Latest in Aggressive Healthcare Fraud Investigation and Law Enforcement," Detroit Medical Center, Detroit, Michigan. PowerPoint supplied.

November 12, 2009: Panelist, Illinois Certified Public Accountants Society's Fraud Awareness Symposium, Chicago, Illinois. The panel generally addressed how to detect and prevent fraud. I have no notes, transcripts, or recordings. The address of the Education Center of the Illinois Certified Public Accountants Society is 550 West Jackson Street, Suite 900, Chicago, Illinois 60661.

November 3, 2009: Speaker, "The Latest in Aggressive Healthcare Fraud Investigation and Law Enforcement," Miller, Canfield, Paddock and Stone, P.L.C., Kalamazoo, Michigan. PowerPoint supplied.

November 3, 2009: Speaker, "The Latest in Aggressive Healthcare Fraud Investigation and Law Enforcement," Miller, Canfield, Paddock and Stone, P.L.C., Grand Rapids, Michigan. I used the same PowerPoint and included the same press coverage supplied for the November 3, 2009 event listed above.

August 5, 2009: Speaker, "The Latest in Aggressive Healthcare Fraud Investigation and Law Enforcement," Miller, Canfield, Paddock and Stone, P.L.C., Bloomfield Hills, Michigan. PowerPoint supplied.

July 9, 2009: Speaker, "Hot Topics in White Collar Criminal Prosecutions," Miller, Canfield, Paddock and Stone, P.L.C., Bloomfield Hills, Michigan. PowerPoint and outline supplied.

May 13, 2009: Speaker, "Hot Topics in White Collar Criminal Prosecutions," Michigan Association of Certified Public Accountants' Anti-Fraud Issues Conference, Livonia, Michigan. PowerPoint supplied.

March 19, 2009: Speaker, "Brokers Breakfast Before the Bell," Miller, Canfield, Paddock and Stone, P.L.C., Birmingham, Michigan. I discussed legal issues related to Ponzi schemes. I have no notes, transcripts, or recordings. The address of Miller, Canfield, Paddock and Stone, P.L.C. is 840 West Long Lake Road, Suite 200, Troy, Michigan 48098.

Winter 2009: Moderator, "Improving Sentencing Advocacy" Panel, Federal Bar Association Eastern District of Michigan Chapter, Detroit, Michigan. As the moderator, I introduced the panel members and asked discussion questions. I have no notes, transcripts, or recordings, but press coverage is supplied. The address of the Federal Bar Association is P.O. Box 20759, Ferndale, Michigan 48220.

November 11, 2008: Speaker, "Protect Your Company from Federal Criminal Liability," Miller, Canfield, Paddock and Stone, P.L.C., Birmingham, Michigan. Outline supplied.

June 2008: Speaker, "Expert Witness Evidence Essentials, Hot Topics, and New Developments," Federal Bar Association Eastern District of Michigan Chapter, Detroit, Michigan. I have no notes, transcripts, or recordings. The address of the Federal Bar Association is P.O. Box 20759, Ferndale, Michigan 48220.

April 30, 2008: Speaker, "Daubert: The Challenge in 2008 and Beyond," American Bar Association Criminal Justice Section, White Collar Crime Committee, Criminal Practice Subcommittee, Detroit, Michigan. I addressed expert witness "hot topics." I have no notes, transcripts, or recordings, but press coverage is supplied. The address of the ABA Criminal Justice Section is 1050 Connecticut Avenue, NW, Suite 400, Washington, DC 20036.

March 4, 2008: Speaker, "Criminal Law Essentials for the Business Lawyer," Miller, Canfield, Paddock and Stone, P.L.C., Birmingham, Michigan. Outline and press coverage supplied.

October 9, 2006: Speaker, Iosco-Arenac County Medical Society meeting, East Tawas, Michigan. I discussed the criminal investigation and prosecution of physicians for writing controlled substances prescriptions. Outline supplied.

Spring 2006: Speaker, Federal Bar Association Pro Bono Seminar, Detroit, Michigan. I addressed pro bono litigation issues. I have no notes, transcripts, or recordings, but press coverage is supplied. The address of the Federal Bar Association, Eastern District of Michigan is P.O. Box 20759, Ferndale, Michigan 48220.

November 16, 2005: Panelist, Pro Bono Training Seminar sponsored by the United States District Court for the Eastern District of Michigan and the Federal Bar Association Eastern District of Michigan Chapter at the United States Courthouse, Detroit, Michigan. I discussed the handling of pro bono cases. I have no notes, transcripts, or recordings. The address of the Federal Bar Association is P.O. Box 20759, Ferndale, Michigan 48220.

July 14, 2005: Speaker, "Brokers Breakfast Before the Bell," Miller, Canfield, Paddock and Stone, P.L.C., Birmingham, Michigan. Outline supplied.

April 19, 2005: Speaker, "Protect Your Company: An Executive Update on Recent Changes in Corporate Criminal Law," Miller, Canfield, Paddock and Stone, P.L.C., Birmingham, Michigan. I have no notes, transcripts, or recordings. The address of Miller, Canfield, Paddock and Stone, P.L.C. is 840 West Long Lake Road, Suite 200, Troy, Michigan 48098.

October 1997: Speaker, "Defending Against Claims Under the Michigan Religious Freedom Restoration Act," Fall Institute of the Michigan Association of Municipal Attorneys, Frankenmuth, Michigan. I discussed litigation under the Religious Freedom Restoration Act. I have no notes, transcripts, or recordings. The address of the Michigan Association of Municipal Attorneys is 1675 Green Road, Ann Arbor, Michigan 48105.

- 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.

After carefully reviewing my records and searching the Internet, I have identified the following interviews:

Aaron Aupperlee, *Baltimore Man to Be Arraigned in Fatal Crash*, JACKSON CITIZEN PATRIOT, October 5, 2012. Copy supplied.

Joe Swickard, *Jasubhai Desai Will Be Freed on Bond, Again, While Fighting Charges in 1983 Killing*, DETROIT FREE PRESS, August 30, 2012. Copy supplied. (Reprinted in multiple outlets).

Joe Swickard, *Federal Judge Overturns Doctor's Conviction in 1983 Murder of Business Partner*, DETROIT FREE PRESS, August 2, 2012. Copy supplied.

Sheila Pursglove, *Back and Forth, Attorney Goes the Distance in Long-running County Case*, DETROIT LEGAL NEWS, May 9, 2012. Copy supplied.

Nate Reens, *David Duyst Will 'Keep Fighting Fight' to Prove Innocence of*

*Murder Conviction, Lawyer Says*, MLIVE.COM, February 8, 2011. Copy supplied.

John P. Kamin, *Judge Dismisses Cassens RICO Case, Parties Watch Sister Case*, LEX AND VERUM, November 2010. Copy Supplied.

Elaine Meyer, *Health Cases to Watch in 2010*, LAW360, January 2, 2010. Copy supplied.

*Former UConn Manager Not Talking to NCAA*, CHARLESTON DAILY MAIL, December 17, 2009. Copy supplied.

Daniel Duggan and Gabe Nelson, *Fund's Failure a Family Affair; Many BBC Equities Agents Invested, Recruited Relatives*, CRAIN'S DETROIT BUSINESS, August 24, 2009. Copy supplied.

Editorial: *Donor Blitz Better Art Than Science*, CRAIN'S DETROIT BUSINESS, August 23, 2009. Copy supplied.

Carol Lundberg, *Frauds, Friends and Families*, MICHIGAN LAWYERS WEEKLY, July 27, 2009. Copy supplied.

Douglas J. Levy, *Maximum Defense, No. 1 Ranked Largest Law Firm Touts Criminal Defense As One of Its Strengths*, MICHIGAN LAWYERS WEEKLY, May 26, 2008. Copy supplied.

Andrew Green and Jordan Kristopik, *While Most Parents Keep Grad Parties Dry, a Noticeable Few Are Ignoring the Law and Serving Teens*, SEAHOLM HIGHLANDER, May 22, 2008. Copy supplied.

Joe LaPoint, *They Are Lions, Hear Them Roar*, DESERET MORNING NEWS, November 11, 2007. Copy supplied.

Local News, *Pair Suspected in Ponzi Scam*, THE OAKLAND PRESS, November 8, 2007. Copy supplied.

Scott Baranik, *Fallout from Flimflam*, ST. PETERSBURG TIMES, October 25, 2007. Copy supplied.

Bruce Kelly, *Top-producing B-D Under Scrutiny by Michigan Regulator Broker Allegedly Placed Clients in Partnerships That Stopped Paying Dividends*, INVESTMENT NEWS, October 15, 2007. Copy supplied.

Michigan Lawyers Weekly Staff, *Detroit Terror Trial Prosecutor Indicted*, MICHIGAN LAWYERS WEEKLY, April 3, 2006. Copy supplied.

Dan Eggen, *Prosecutor, Agent Indicted in Detroit Misconduct Alleged in Detroit*

*Terror Trial*, THE WASHINGTON POST, March 30, 2006. Copy supplied.  
(Reprinted in multiple outlets).

Greta Guest, *Barden to Get Part of Payout, Casino Owner Is Owed \$33 Million*, DETROIT FREE PRESS, October 7, 2005. Copy supplied.

Miller Canfield In The News, *Safeguard Your Company: Understand the Recent Changes in Corporate Criminal Law*. April 7, 2005. Copy Supplied.

Robert Ankeny, *Judges Get More Sentencing Leeway; May Mean Leniency For White-Collar Defendants*, CRAIN'S DETROIT BUSINESS, March 28, 2005. Copy supplied.

C. Jesse Green, *Question Loom Over Terms in Sales Comm'n Act*, MICHIGAN LAWYERS WEEKLY, October 29, 2001. Copy supplied.

Rene Wisely, *Taubman Sues Puck Over Broken Leases*, THE DETROIT NEWS, October 8, 1999. Copy supplied.

Liz Cobbs, *Prosecutors Drop Alcohol Charges*, THE ANN ARBOR NEWS, October 2, 1999. Copy Supplied.

Lynn Patrick Ingram, Esq., *Cross-Exam Right Applies to Suppression Hearings*, MICHIGAN LAWYERS WEEKLY, August 24, 1998. Copy supplied.

Marcia M. McBrien, *Police Must Tell Suspects Attorneys*, MICHIGAN LAWYERS WEEKLY, July 29, 1996. Copy supplied.

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

I have not served as a judge.

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

- i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]
civil proceedings:	_____%
criminal proceedings:	_____% [total 100%]

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

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
  - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
  - e. Provide a list of all cases in which certiorari was requested or granted.
  - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
  - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
  - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
  - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- 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.

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

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

I have not held any public office, either elected or appointed, nor have I ever been an unsuccessful candidate or nominee.

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

I have been a volunteer for the following campaigns: Bill Clinton for President (1992), Debbie Stabenow for Congress (1996), James Blanchard for Governor (2002), Rudy Hobbs for State Representative (2010), and Organizing for America (2012). I was also a fundraiser co-host for Debbie Stabenow for Senate in 2012.

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

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

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

From 1993 to 1994, I was a law clerk for Justice Charles L. Levin, Michigan Supreme Court.

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

I have never practiced law 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.

1994 – 2004

Miro Weiner & Kramer, P.C.  
38500 Woodward Avenue, Suite 100  
Bloomfield Hills, Michigan 48304  
Associate (1994 – 1999)  
Partner (2000 – 2004)

2004 – present

Miller, Canfield, Paddock and Stone, P.L.C.  
840 West Long Lake Road, Suite 200  
Troy, Michigan 48098  
Senior Counsel (2004 – 2005)  
Senior Principal (2005 – present)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

Since I entered practice in 1994, my trial and appellate practice has focused on two areas: criminal defense litigation and complex commercial litigation. Roughly 75 percent of my current practice is in the United States District Court for the Eastern District of Michigan and the United States Court of Appeals for the Sixth Circuit. The remaining 25 percent is in the trial and appellate courts for the State of Michigan.

My criminal defense practice has involved a wide variety of matters at different stages in the process and in varying jurisdictions. By way of example, I have done a substantial amount of federal white collar criminal defense work, which has included representing witnesses testifying before federal grand juries; counseling corporations that have received federal grand jury subpoenas; representing corporations and individuals suspected of violating criminal antitrust and health care fraud statutes; negotiating pleas for defendants charged with fraud offenses and immigration violations; and representing a former State Department employee in a weeks-long trial on perjury and conspiracy charges. My federal practice has also included substantial habeas corpus cases at both the district court

and circuit court level. In the state courts, my criminal defense practice has involved primarily non-white collar matters and has included criminal trials and significant criminal appeals in the Michigan Court of Appeals and Michigan Supreme Court.

My civil practice has been primarily in federal court and has involved a wide array of cases and clients. My federal civil cases have included representing companies in contract actions and business tort disputes; defending claims under the False Claims Act; defending securities fraud actions; representing plaintiffs in civil rights actions and in an appeal of the denial of ERISA benefits; defending civil RICO actions; representing a shopping center developer in a hostile takeover action; and representing an auto manufacturer in a multi-million dollar dispute with United States Customs. I have handled several federal civil trials and have briefed and argued many civil appeals in the United States Court of Appeals for the Sixth Circuit.

While the types of cases I have handled has remained largely the same since I first began practicing, my role on those cases changed as I advanced from associate to partner. As an associate from 1994 to 1999, I often performed supporting roles on litigation teams, including conducting legal research, writing legal memoranda, and assisting with discovery responses. As a partner, I assumed increased and often ultimate responsibility for litigation matters. I have been the primary representative of the client in court appearances, arguments, hearings, and at trials.

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

Many of my clients have been individuals and corporations accused of violating federal and state criminal laws. I have also represented numerous individuals and businesses in complex commercial disputes. Finally, I have been appointed to represent several prisoners pursuing civil rights claims against State officials. The types of clients I have represented have remained essentially the same throughout my career. I have specialized in criminal defense, complex commercial litigation, and appellate litigation.

- 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 has always been 100% litigation. I have appeared in court frequently throughout the time that I have been practicing.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 75% |
| 2. state courts of record:  | 23% |
| 3. other courts:            | 1%  |
| 4. administrative agencies: | 1%  |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 50% |
| 2. criminal proceedings: | 50% |

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

I have tried 11 cases to verdict. In six of these trials, I was chief counsel. In the remainder of the cases, I was co-counsel.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 82% |
| 2. non-jury: | 18% |

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:

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

The cases are listed in alphabetical order.

1. *Care Continuum, Inc. v. The Grand Court of Farmington Hills, Brookdale Living Communities-GC, LLC, and Brookdale Living Communities of Michigan, Inc.*, 2009 WL 4730459 (E.D. Mich. 2009)

I represented Care Continuum, Inc., a locally-owned in-home personal services company, in a civil action against a large retirement community operator from 2008 to 2009. The community owner was attempting to evict Care Continuum from certain office space within the community and to prevent Care Continuum from providing services to its senior citizen clients who lived in the community. At the commencement of the action, I filed a motion for preliminary injunction to prevent the eviction pending trial. Thereafter, the parties reached an agreement allowing Care Continuum to remain in its office space pending trial. The action was tried to United States District Judge Steeh. I was lead trial counsel for Care Continuum. Judge Steeh ruled in favor of the owner on some counts, in favor of Care Continuum on one count, and allowed the owner to evict Care Continuum. Judge Steeh reserved ruling on whether Care Continuum had a continuing right to enter the community to provide services to its clients following eviction. Thereafter, the parties reached an agreement that allowed Care Continuum to continue to serve its clients in the community.

Court and Judge:

United States District Court for the Eastern District of Michigan  
The Honorable George Caram Steeh

Opposing Counsel:  
Henry L. Gordon  
2000 Town Center, Suite 700  
Southfield, MI 48075  
(248) 945-3827

2. *Duyst v. Rapelje*, 2011 WL 528768 (E.D. Mich. 2011); *Duyst v. Rapelje*, 483 Fed. Appx. 36 (6th Cir. 2012).

I represented Mr. Duyst in this habeas corpus case from 2008 to 2012. In 2001, Mr. Duyst was convicted of first-degree murder. I was retained as co-counsel for Mr. Duyst after he exhausted his direct appeals. I assisted in the drafting of a petition for a writ of habeas corpus and a supporting brief. The petition argued that trial counsel failed to adequately investigate the prosecution's key expert witness, failed to obtain available contrary expert testimony, and failed to object to unfairly prejudicial evidence. Upon review of the petition and brief, United States District Judge Victoria Roberts decided to hold an evidentiary hearing on the ineffective assistance claim.

Judge Roberts conducted the two-day hearing as the functional equivalent of a bench trial. I gave the opening statement, cross-examined lay and expert

witnesses, conducted the direct examination of a ballistics expert, and gave one-half of the closing argument. Following the hearing, I took the lead in drafting a comprehensive supplemental brief in support of the petition. Judge Roberts ultimately denied the petition, but she granted a Certificate of Appealability. I drafted the appeal brief and argued the appeal to a panel of the Sixth Circuit. That court affirmed the conviction.

Courts and Judges:

United States District Court for the Eastern District of Michigan  
The Honorable Victoria Roberts

United States Court of Appeals for the Sixth Circuit  
The Honorable David McKeague  
The Honorable Boyce Martin  
The Honorable Sarah Caldwell

Co-Counsel:  
F. Martin Tieber  
Law Office of F. Martin Tieber  
215 South Washington Square, Suite C  
Lansing, MI 48913  
(517) 339-0454

Opposing Counsel:  
Laura L. Moody  
Chief Criminal Appellate Division  
P.O. Box 30217  
Lansing, MI 48909  
(517) 373-4875

*3. E-Z Color Corporation, et al. v. Rhe-Tech and Thermocolor, LLC, et al.*, Civil Action No. 3:00-cv-07442 (N.D. Ohio).

I represented Rhe-Tech and Thermocolor, LLC as co-counsel in this federal civil action from 1999 to 2001. The action involved a dispute arising out of an asset purchase agreement. My clients purchased the assets of E-Z Color Corporation. Following the purchase, Rhe-Tech and Thermocolor determined that the nature and value of the assets had been misrepresented, and they withheld payments still owing under the terms of the agreement. E-Z Color sued for the additional payments, and Rhe-Tech and Thermocolor counter-claimed for payments already made.

The case was tried before a jury for approximately two weeks in the United States District Court for the Northern District of Ohio. Prior to trial, I conducted much of the discovery. At trial, I conducted the direct examination of the defense

damages expert, cross-examined the plaintiffs' damages expert, and argued the trial motions and jury instruction issues. The case was tried to a verdict, but the jury's answers to interrogatories were inconsistent. The parties settled before entry of a judgment.

Court and Judge:

United States District Court for the Northern District of Ohio (Toledo)  
The Honorable David Katz

Co-Counsel:

Daniel J. Buckley  
Mary Henkel  
Vorys, Sater, Seymour & Pease  
3500 Great American Tower  
301 East Fourth Street  
Cincinnati, OH 45202  
(513) 723-4000

Opposing Counsel:

Richard M. Kerger  
Kerger & Hartman  
33 South Michigan Street, Suite 100  
Toledo, OH 43604  
(419) 255-5990

4. *Glancy v. Taubman Centers, Inc.*, 373 F.3d 656 (6th Cir.2004).

I represented Taubman Centers, Inc. and its directors as co-counsel before the United States Court of Appeals for the Sixth Circuit from 2003 to 2004. This action arose out of an attempted hostile takeover of Taubman Centers, Inc. ("TCI") by the Simon Property Group ("SPG"). After the directors of TCI rejected a tender offer by SPG, Mr. Glancy, a TCI shareholder, filed suit against TCI and the directors. He filed in federal court and asserted that the court had diversity jurisdiction over the action. Mr. Glancy alleged, among other things, that the directors breached their fiduciary duties in declining the offer. He also sought a declaration that a certain class of TCI stock did not have any voting rights and could not be voted by its owners. He did not name all of the owners of that stock as defendants in the action. Had he named all of the relevant shareholders, there would not have been complete diversity, and the federal court would have lacked jurisdiction. The district court dismissed the action based upon lack of subject matter jurisdiction. Glancy challenged that ruling on appeal.

The appeal presented a significant and complex legal issue: are the holders of a class of shares indispensable parties in action seeking to strip the shares of voting rights? I was the primary drafter of TCI's appeal brief, and I argued the case to

the United States Court of Appeals for the Sixth Circuit. The court agreed with my arguments that the absent shareholders were necessary parties, that the absent shareholders could not be joined in the action, and that the named TCI board members did not adequately represent the interests of the absent shareholders. These rulings provided important guidance for future federal actions seeking to enjoin stock voting rights. The court ultimately remanded for further factual development on the issue of whether a particular non-party could be added to the action as a defendant and, if so, whether he would adequately protect the interests of the absent shareholders. The matter was resolved prior to any proceedings on remand.

Courts and Judges:

United States District Court for the Eastern District of Michigan  
The Honorable Victoria Roberts

United States Court of Appeals for the Sixth Circuit  
The Honorable Karen Nelson Moore  
The Honorable John Rogers  
The Honorable James Ryan

Co-Counsel:  
Joseph Aviv  
Bruce Segal  
I. William Winsten  
Raymond Henney  
Honigman Miller Schwartz and Cohn LLP  
39400 Woodward Avenue, Suite 100  
Bloomfield Hills, MI 48304  
(248) 566-8300

Opposing Counsel:  
Steven G. Schulman  
C/O Milberg LLP  
One Pennsylvania Plaza, 49th Floor  
New York, NY 10119  
(212) 594-5300  
(Last Known Address)

*5. Jackson v. Sedgwick Claims Management Services, Inc., et. al.*, 2010 WL 931864 (E.D. Mich. 2010); *Jackson v. Sedgwick Claims Management Services, Inc., et. al.*, 699 F.3d 466 (6th Cir. 2012).

I have represented Coca-Cola Enterprises, Inc. ("CCE") in this case since 2009. The case began when two CCE employees brought a RICO claim arising out of the denial of their claim for workers' compensation disability benefits. The



employees asserted their claim against CCE, Sedgwick Claims Management Services, Inc. (the claims adjuster for CCE), and Dr. Drouillard (a physician who examined the employees). I drafted and argued a motion to dismiss on the ground that RICO did not provide a cause of action for an alleged violation of Michigan's workers' compensation laws. United States District Judge Nancy Edmunds agreed and dismissed the action.

Plaintiffs then appealed to the United States Court of Appeals for the Sixth Circuit. I drafted CCE's appeal brief and argued the appeal on behalf of CCE. The Sixth Circuit reversed in a split decision, with two of the judges on the panel indicating that they would have affirmed if not bound by a prior published decision. I drafted and filed a petition for rehearing en banc. By order dated January 18, 2013, the Sixth Circuit granted rehearing en banc and vacated its adverse ruling against CCE. I presented argument to the en banc Sixth Circuit in June of this year.

Courts and Judges:

United States District Court for the Eastern District of Michigan  
The Honorable Nancy G. Edmunds  
United States Court of Appeals for the Sixth Circuit  
The Honorable Alice Batchelder  
The Honorable Jeffrey Sutton  
The Honorable Ralph Guy

Opposing Counsel:  
Jeffrey Stewart  
Seikally and Stewart  
30300 Northwestern Highway  
Farmington Hills, MI 48334  
(248) 785-0102

Marshall D. Lasser  
Marshall D. Lasser P.C.  
30075 Greenfield Road  
P.O. Box 2579  
Southfield, MI 48037  
(248) 647-7722

Counsel for Co-Defendant Sedgwick Claims Management Services  
Kathleen H. Klaus  
Maddin Hauser Wartell Roth & Heller  
28400 Northwestern Highway, Third Floor  
Southfield, MI 48034  
(248) 359-7520

Counsel for Co-Defendant Dr. Drouillard  
Daniel Tukel  
Butzel Long  
150 West Jefferson Avenue, Suite 100  
Detroit, MI 48226  
(313) 225-7000

Counsel for Co-Defendant Dr. Drouillard  
Michael Smith  
The Smith Appellate Law Firm  
1747 Pennsylvania Avenue, NW, Suite 300  
Washington, DC 20006  
(202) 454-2860

6. *People v. Bender*, 452 Mich. 594, 551 N.W.2d 71 (1996).

I represented Mr. Bender before the Michigan Supreme Court from 1995 to 1996. The issue before that court was whether under Michigan law the police must notify a suspect that an attorney has asked to speak with him even if the suspect has not requested counsel. The Court agreed with my argument that the police should be required to so notify a suspect. The Court held that such a rule was necessary in order to protect the right counsel and the right against self-incrimination as guaranteed by the Michigan Constitution.

Court and Judges:

Michigan Supreme Court  
The Honorable Michael Cavanagh  
The Honorable Charles Levin  
The Honorable James Brickley  
The Honorable Conrad Mallett  
The Honorable Patricia Boyle  
The Honorable Dorothy Riley  
The Honorable Elizabeth Weaver

Opposing Counsel:  
Kathryn G. Barnes  
Oakland County Prosecuting Attorney's Office  
1200 North Telegraph Road  
Pontiac, MI 48341  
(248) 858-0656

7. *People v. Desai*, 2003 WL 22515292 (Mich. App. 2003), *leave to appeal denied* 471 Mich. 872, 685 N.W.2d 669 (Mich. 2004); *Desai v. Booker*, 2007 WL 1343718 (E.D. Mich. 2007), *rev'd* 538 F.3d 424 (6th Cir. 2008); *People v. Desai*,

2012 WL 3385988 (Mich. App. 2012), *leave to appeal denied* 490 Mich. 872, 803 N.W.2d 323 (2012); *Desai v. Booker*, 882 F.Supp.2d 926 (E.D. Mich. 2012).

I have worked on the various iterations of this case from 2002 to the present. In 2001, a jury convicted Dr. Desai of first-degree murder. I was retained to handle the appeal. In the state appellate courts, I argued that the admission of a co-defendant's alleged confession violated Dr. Desai's rights under the Confrontation Clause. The state appellate courts denied relief.

I then filed a petition for a writ of habeas corpus and presented oral argument in support of the petition in the United States District Court for the Eastern District of Michigan. I argued that the state courts had unreasonably rejected the Confrontation Clause claim. The district court agreed and granted the writ. The United States Court of Appeals for the Sixth Circuit later reversed on the ground that the Confrontation Clause no longer applies to non-testimonial statements like the alleged confession. The Sixth Circuit remanded to allow Dr. Desai to exhaust in state court a claim that the admission of the confession violated the Due Process Clause.

I then returned to the state trial court and argued that the admission of the confession violated Dr. Desai's rights under the Due Process Clause. The state trial court agreed and vacated Dr. Desai's conviction. The Michigan Court of Appeals then reversed and reinstated the conviction, and the Michigan Supreme Court denied leave to appeal.

Thereafter, I returned to federal court and asserted the due process claim in an amended petition for a writ of habeas corpus. I argued that the state appellate court unreasonably rejected the due process claim. The district court agreed and again granted habeas relief. The case is now once again on appeal to the United States Court of Appeals for the Sixth Circuit.

Courts and Judges:

United States District Court for the Eastern District of Michigan  
The Honorable Marianne Battani

United States Court of Appeals for the Sixth Circuit  
The Honorable Jeffrey Sutton  
The Honorable Deborah Cook  
The Honorable Thomas Rose

Wayne County Circuit Court  
The Honorable David Allen

Michigan Court of Appeals (first appeal)  
The Honorable Henry Saad

The Honorable Marc Cavanagh  
The Honorable Kurtis Wilder

Michigan Court of Appeals (second appeal)  
The Honorable Henry Saad  
The Honorable Marc Cavanagh  
The Honorable Jane Markey

Michigan Supreme Court (first appeal)  
The Honorable Maura Corrigan  
The Honorable Michael Cavanagh  
The Honorable Marilyn Kelly  
The Honorable Clifford Taylor  
The Honorable Robert Young  
The Honorable Stephen Markman  
The Honorable Elizabeth Weaver

Michigan Supreme Court (second appeal)  
The Honorable Robert Young  
The Honorable Michael Cavanagh  
The Honorable Marilyn Kelly  
The Honorable Diane Hathaway  
The Honorable Stephen Markman  
The Honorable Brian Zahra  
The Honorable Mary Beth Kelly

Co-Counsel:  
F. Martin Tieber  
Law Office of F. Martin Tieber  
215 South Washington Square, Suite C  
Lansing, MI 48933  
(517) 339-0454

Opposing Counsel (federal court):  
Laura L. Moody  
Chief Criminal Appellate Division  
P.O. Box 30217  
Lansing, MI 48909  
(517) 373-4875

Opposing Counsel (state court):  
Jason W. Williams  
Wayne County Prosecutor's Office  
1441 Saint Antoine Street, Floor 12  
Detroit, MI 48226  
(313) 224-5777

8. *Smith v. Burt, et al.*, Case No. 95-CV-70717 (E.D. Mich.).

From 1997 to 1998, I represented Plaintiff Smith in this prisoner civil rights action. I deposed several of the defendants and briefed post-discovery dispositive motions. I was then lead counsel for Mr. Smith at a jury trial. I conducted the jury voir dire, gave the opening statement and closing argument, conducted the direct examination of Mr. Smith, and conducted the cross-examination of all of the defense witnesses. The jury returned a verdict in favor of the defendants.

Court and Judge:

United States District Court for the Eastern District of Michigan  
The Honorable Avern Cohn

Opposing Counsel:

Barbara A. Schmidt  
Michigan Department of Attorney General  
Environment, Natural Resources, and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909-8255  
(517) 373-7540

Co-Counsel:

Thomas W. Cranmer  
Miller, Canfield, Paddock and Stone, P.L.C.  
840 West Long Lake Road, Suite 200  
Troy, MI 48098  
(248) 267-3381

9. *United States v. Convertino and Smith*, Case No. 06-cr-20173 (E.D. Mich.).

I represented Mr. Smith as co-counsel in this criminal case from 2006 to 2007. The charges against Mr. Smith grew out of a 2003 federal prosecution of several foreign nationals on charges of conspiring to commit terrorism. Mr. Convertino was the lead prosecutor. Mr. Smith, a State Department employee, was a government witness. The defendants were convicted. After the trial, the government conducted an investigation and determined that, in its opinion, Mr. Convertino had failed to provide exculpatory information to the defendants and that Mr. Convertino and Mr. Smith conspired to present false testimony by Mr. Smith. In 2006, a grand jury indicted Mr. Convertino and Mr. Smith on charges of conspiracy and obstruction of justice. The case was tried over several weeks in October 2007. Along with my partner, Thomas Cranmer, I developed the defense strategy and directed the pre-trial investigation into the facts and the law. I handled essentially all pre-trial motions, conducted two pre-trial evidentiary

hearings, examined a key witness at trial, argued the motion for judgment of acquittal, and argued the jury instruction issues. The jury acquitted on all charges.

Court and Judge:

United States District Court for the Eastern District of Michigan  
The Honorable Arthur J. Tarnow

Co-Counsel:

Thomas W. Cranmer  
Miller, Canfield, Paddock and Stone, P.L.C.  
840 West Long Lake Road, Suite 200  
Troy, MI 48098-6358  
(248) 267-3381

Counsel for Co-Defendant Convertino:

William M. Sullivan, Jr.  
Pillsbury Winthrop Shaw Pittman  
2300 N Street, NW  
Washington, DC 20037-1122  
(202) 663-8027

Opposing Counsel:

Eileen Gleason  
(formerly U.S. Department of Justice, Public Integrity Section)  
United States Attorney's Office, Eastern District of Louisiana  
650 Poydras Street, Suite 1600  
New Orleans, LA 70130  
(504) 680-3154

10. *United States v. Ford Motor Company*, 422 F.Supp.2d 429 (E.D. Mich. 2006).

I represented Ford Motor Company as co-counsel in this case from 2004 to 2008. The federal government sought from Ford Motor Company a penalty of roughly \$13 million for Ford's alleged violation of a customs statute. The case involved difficult issues of statutory construction related to the Automotive Products Trade Act of 1965. I argued Ford's motion for summary judgment to United States District Judge Patrick Duggan. I contended that Ford did not violate the statute in question and, even if Ford had violated the statute, imposition of the penalty would have violated the Excessive Fines Clause of the Eighth Amendment. Judge Duggan agreed on both points and granted summary judgment in favor of Ford.

The government appealed to the United States Court of Appeals for the Sixth Circuit. I drafted Ford's appeal brief and argued the appeal on Ford's behalf. Prior to a decision by the Sixth Circuit, the case settled on favorable terms for Ford.

Courts and Judges:

United States District Court for the Eastern District of Michigan  
The Honorable Patrick Duggan

United States Court of Appeals for the Sixth Circuit  
The Honorable Richard Suhrheinrich  
The Honorable Ralph Guy  
The Honorable Julia Smith Gibbons

Co-Counsel:  
Paulsen K. Vandever  
Ford Motor Company  
One American Road, Suite 1033  
Dearborn, MI 48126  
(313) 337-5082

Robert B. Silverman  
Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP  
399 Park Avenue, 25th Floor  
New York, NY 10022  
(212) 557-4415

Thomas W. Cranmer  
Miller, Canfield, Paddock and Stone, P.L.C.  
840 W. Long Lake Road, Suite 200  
Troy, MI 48098  
(248) 267-3381

Opposing Counsel:  
Julia C. Pidgeon  
United States Attorney's Office, Eastern District of Michigan  
211 West Fort Street, Suite 2300  
Detroit, MI 48226  
(313) 226-9772

Sarang Vijay Damle  
U.S. Department of Justice  
Civil Division, Appellate Section  
950 Pennsylvania Avenue, NW, Room 7256  
Washington, DC 20530-00001  
(202) 514-5735

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.)

In addition to representing clients in state and federal courts, I have also represented clients in arbitration. For example, I currently serve as lead counsel for Respondent Elk Automotive Components, L.L.C. in the *In Re E-Merging Market Technologies, L.L.C. v. Elk Automotive Components, L.L.C* arbitration proceeding (American Arbitration Association Case Number 50 150 T 00221 10). The claimant is seeking millions of dollars in allegedly-unpaid sales commissions. As lead counsel, I coordinated all discovery, deposed the primary witnesses for the claimant, gave the opening statement at the arbitration hearing, and cross-examined the claimant's primary witnesses. I will soon be giving the closing argument. A decision is expected later this year.

I have also served the legal community through my committee work. For example, I have been appointed by the United States District Court for the Eastern District of Michigan to serve two terms on its Local Rules Advisory Committee. The committee has advised the Court on proposed amendments to the Local Rules.

The United States District Court for the Eastern District of Michigan has also appointed me to two Merit Selection Committees that have advised the Court concerning the selection of magistrate judges. The first committee evaluated the performance of a sitting magistrate judge and recommended his re-appointment. The second committee reviewed more than 50 applications for an open position, interviewed roughly 15 candidates and recommended that the Court consider five applicants for the open position. The Court ultimately selected one of the candidates recommended by the committee.

Finally, for several years, I have served as the Co-Chair of the Criminal Practice Committee of the Federal Bar Association, Eastern District of Michigan Chapter. In that capacity, I have assisted in organizing and presenting several legal education programs intended to assist both federal prosecutors and criminal defense attorneys in their practices.

I have not performed any lobbying activities nor registered as a lobbyist.

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.

I do not have any deferred income or other future benefits. If I am confirmed, upon resignation from my law firm, I will receive a refund of my capital contribution to the firm and may be eligible for a final distribution of firm profits.

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 do not have any plans, commitments, or agreement to pursue any outside employment during my service with the court if I am confirmed.

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).

Please see Financial Disclosure Report.

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

Please see Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I would recuse from any case in which I participated as an attorney. For a period of time, I also anticipate recusing in all cases that involve my current firm or major clients if they were to appear as parties to a case. With respect to any actual or potential conflicts issues that may arise, if confirmed I would act in conformity with the Code of Conduct for United States Judges and any other relevant, statutes, ethical canons, and rules.

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

If confirmed, I would act in conformity with 28 U.S.C. section 455, Canon 3 of

the Code of Conduct for United States Judges and any other relevant, statutes, ethical canons, and rules. In addition, upon becoming aware of any circumstances that may reasonably be perceived as an actual or potential conflict of interest, I would advise the parties and counsel and seek their views. I would also seek advice and guidance from other judges on conflicts issues.

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.

Over the years, my pro-bono activities have fallen into three primary categories: representing Michigan prisoners who are suing the Department of Corrections for civil rights violations; representing criminal defendants who cannot afford representation; and advising pro-se litigants. Details on my pro-bono activities are set forth below.

I have been involved in five pro-bono prisoner civil rights cases in the United States District Court for the Eastern District of Michigan. These cases have involved hundreds of hours of work. Three have gone all the way through jury trial. The case of *Stafford v. Pickford*, 95-cv-75354 (E.D. Mich.), is one example of these cases. In that case, my client alleged that a prison guard had violated his constitutional rights. I conducted all of the discovery and handled all aspects of the jury trial before United States District Judge Patrick Duggan.

I have handled a number of criminal defense matters on a pro bono basis. The habeas corpus appeal in *Neal v. Booker*, United States Court of Appeals for the Sixth Circuit Case No. 10-1021, is one such matter. I was originally retained to file a supplemental brief in support of a petition for a writ of habeas corpus that was pending in federal district court. The client and his family ran out of money before completion of the district court proceedings. I completed the district court proceedings on a pro-bono basis and then handled the appeal to the Sixth Circuit – including all briefing and argument – on a pro-bono basis.

For at least the past five years, I also have volunteered at the Federal Bar Association's annual Law Day program. In this capacity, I have counseled pro-se litigants concerning basic procedural rules and strategies for reaching a positive resolution of their disputes.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or

communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In December 2012, Senators Carl Levin and Debbie Stabenow announced the formation of a Judicial Advisory Committee to consider applicants for possible nomination to the United States District Court for the Eastern District of Michigan. In January 2013, I submitted my application to the committee. On March 21, 2013, I interviewed with the committee in Detroit, Michigan. By letter dated March 29, 2013, Senators Levin and Stabenow informed me that in accordance with the recommendation of the committee, they would be forwarding my name to the White House for further consideration. Since April 8, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 10, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On July 25, 2013, the President submitted my nomination to the Senate.

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

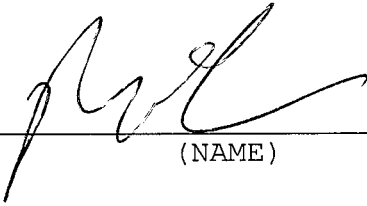
No.

AFFIDAVIT

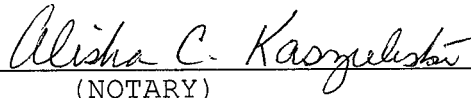
I, Matthew Frederick Leitman, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

July 25, 2013

(DATE)



(NAME)



(NOTARY)

**ALISHA C KASZUBSKI**  
NOTARY PUBLIC-STATE OF MICHIGAN  
COUNTY OF OAKLAND  
My Commission Expires November 2, 2017