

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Robert Joshua Luck

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

United States Court of Appeals Judge for the Eleventh Circuit

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.

Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399

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

1979; South Miami, Florida

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.

2001 – 2004, University of Florida Levin College of Law; J.D. (*magna cum laude*), 2004

1999 – 2000, University of Florida; B.A. (highest honors), 2000

1998, Broward College; no degree received

1997 – 1998, George Washington University; no degree received

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

2019 – Present

Justice
Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399

2017 – 2019
Judge
District Court of Appeal of Florida, Third District
2001 Southwest 117th Avenue
Miami, Florida 33175

2013 – 2017
Judge
Eleventh Judicial Circuit Court of Florida
175 Northwest First Avenue
Miami, Florida 33128

2008 – 2013
Assistant United States Attorney and Deputy Chief, Major Crimes Section
United States Attorney's Office, Southern District of Florida
James Lawrence King Federal Justice Building
99 Northeast Fourth Street
Miami, Florida 33132

2006 – 2008
Staff Attorney and Law Clerk
Judge Ed Carnes
United States Court of Appeals for the Eleventh Circuit
Frank M. Johnson Federal Courthouse
One Church Street
Montgomery, Alabama 36104

2007 – 2008
Adjunct Professor
Alabama State University
915 South Jackson Street
Montgomery, Alabama 36104

2005 – 2006
Law Clerk/JD
Greenberg Traurig, P.A.
333 Southeast Second Avenue, Suite 4400
Miami, Florida 33131

2004 – 2005
Law Clerk

Judge Ed Carnes
United States Court of Appeal for the Eleventh Circuit
Frank M. Johnson Federal Courthouse
One Church Street
Montgomery, Alabama 36104

2003

Summer Associate
Boies, Schiller & Flexner, LLP
401 East Las Olas Boulevard, Suite 1200
Fort Lauderdale, Florida 33301

2002

Summer Associate
Kluger, Peretz, Kaplan & Berlin, LLP
201 South Biscayne Boulevard, Suite 1700
Miami, Florida 33131

2000 – 2001

Legislative Correspondent
Senators Paul Coverdell and Jon Kyl
730 Hart Senate Office Building
Washington, District of Columbia 20510

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

I have not served in the military. I registered for the selective service upon turning 18.

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.

Civility Award, Project Nuremberg, Lynn University and Temple Beth-El of Boca Raton (2019)

2017 – 2018 Justice Award, League of Prosecutors (2018)

President's Outstanding Community Leader Award, Dade County Bar Association (2017)

"Rodef Sholem" Pursuer of Peace Award, Miami Jewish Legal Society (2016)

Justice Harry Lee Anstead Professionalism Award, Miami-Dade Trial Lawyers Association (2016)

Outstanding Young Alumnus, University of Florida Alumni Association (2015)

Award for Truly Exceptional Achievement & Merit (A-TEAM), United States Attorney's Office (2013)

Integrity Award, United States Department of Health and Human Services, Office of Inspector General (2012)

Director's Recognition, Federal Bureau of Investigation (2011)

Order of the Coif, University of Florida Levin College of Law (2004)

Editor-in-Chief, *Florida Law Review* (2004)

Book Award in White Collar Crime, University of Florida Levin College of Law (2004)

Florida Blue Key Honor Society, University of Florida (2003)

Frank J. Maloney Award, *Florida Law Review* (2003)

Book Award in Florida Administrative Law, University of Florida Levin College of Law (2003)

Cypen & Cypen Scholarship, University of Florida Levin College of Law (2002)

Book Award in Constitutional Law, University of Florida Levin College of Law (2002)

Book Award in Criminal Law, University of Florida Levin College of Law (2001)

Florida Bright Futures Scholarship, State of Florida (1997)

Presidential Academic Scholarship, George Washington University (1997)

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.

Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance, United States District Court for the Southern District of Florida (2013)

Ad Hoc Committee to Organize the Bench and Bar Conference, United States District Court for the Southern District of Florida (2011 – 2012)

Alabama State Bar (2008 – 2012)

Cuban American Bar Association (2013 – present)

Dade County Bar Association (2013 – present)

Federal Bar Association, Montgomery, Alabama Chapter (2006 – 2008)

Federalist Society for Law & Public Policy Studies (2014 – present)

Florida Association of Women Lawyers, Miami-Dade Chapter (2013 – present)

Florida Bar (2006 – present)

Florida Bar Appellate Court Rules Committee (2015 – present)

Florida Supreme Court Liaison (2019)

Vice Chair, Appellate Court Rules Committee (2018)

Chair, Criminal Rules Subcommittee (2017)

Vice Chair, Criminal Rules Subcommittee (2016)

Florida Children's and Youth Cabinet, Ex Officio Member (2019 – present)

Florida Supreme Court Committee on Standard Jury Instructions in Civil Cases, Florida Supreme Court Liaison (2019 – present)

Florida Supreme Court Committee on Standard Jury Instructions in Contract and Business Cases, Supreme Court Liaison (2019 – present)

Haitian Lawyers Association (2015 – 2017)

Hugh Maddox Inn of Court (2006 – 2008)

Monroe County Bar Association (2017 – present)

10. **Bar and Court Admission:**

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

Alabama, 2008

Florida, 2006

There has been no lapse in my Florida Bar membership. I allowed my membership in the Alabama State Bar to lapse in 2008 because I moved back home to Miami in 2008 with no intention of going back to, or practicing in, Alabama.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse

in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Eleventh Circuit, 2007

I allowed my membership in the United States Court of Appeals for the Eleventh Circuit to lapse in 2013 because I was appointed as a state trial court judge in 2013 and was no longer practicing before that court.

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.

I have not belonged to any professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 and 10.

- 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.

Michael L. Seigel & James L. Kelley, *Lawyers Crossing Lines: Ten Stories*, xii (Carolina Academic Press, 2d ed. 2010). Copy supplied. Although I was not an editor on this book, I did provide copy-editing and proofreading services, for

which the authors thanked me in their authors' note. I have included this volume out of an abundance of caution.

Robert J. Luck & Michael L. Seigel, *The Facts and Only the Facts*, in *Race to Injustice: Lessons Learned from the Duke Lacrosse Rape Case*, 3 – 26 (Carolina Academic Press, Michael L. Seigel ed., 2009). Copy supplied.

Robert J. Luck, *The Bad Habits of Legal Writers, and Why Young Lawyers Should Avoid Them*, Young Lawyer, August 2008. Copy supplied.

Robert Luck, *Hospital welcomes full slate of residents*, GW Hatchet, April 23, 1998. Copy supplied.

Robert Luck, *Gelman strives to spruce up services*, GW Hatchet, April 9, 1998. Copy supplied.

Robert Luck, *Few voters turn out for forum*, GW Hatchet, February 26, 1998. Copy supplied.

Robert Luck, *RHA auctions lottery picks*, GW Hatchet, February 9, 1998. Copy supplied.

Robert Luck, *Grad student wins car with a "lucky" shot*, GW Hatchet, January 22, 1998. 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.

Florida Bar Appellate Court Rules Committee, Criminal Practice Subcommittee, Pre-vote Subcommittee Report, *Proposed Amendment re Rule 9.140(f)(6)(A)*, November 10, 2017. Copy supplied.

Florida Bar Appellate Court Rules Committee, Criminal Practice Subcommittee Pre-vote Subcommittee Report, *Proposed Amendment re Stays Pending Appeal*, August 17, 2017. 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.

Letter to Sens. Grassley and Feinstein, Committee on the Judiciary, United States

Senate, Nomination of Judge Rodolfo A. Ruiz to Be District Judge, United States District Court for the Southern District of Florida, May 8, 2018. Copy supplied.

Letter to Sens. Grassley and Feinstein, Committee on the Judiciary, United States Senate, Nomination of Roy K. Altman to Be District Judge, United States District Court for the Southern District of Florida, May 8, 2018. Copy supplied.

Oral Argument, *In re Amendments to the Florida Rules of Appellate Procedure - 2017 Regular-Cycle Report*, Florida Supreme Court Case No. SC17-152, June 6, 2017. Available at <https://wfsu.org/gavel2gavel/viewcase.php?eid=2444>.

- 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.

September 13, 2019: Speaker, "Swearing in of U.S. Attorney Ariana Fajardo Orshan," United States Attorney's Office for the Southern District of Florida, Miami, Florida. Remarks supplied.

August 15, 2019: Speaker, "Investiture of Judge Rodolfo Ruiz," United States District Court for the Southern District of Florida, Miami, Florida. Remarks supplied.

July 26, 2019: Panelist, "A Fireside Chat with One of Our Newest Florida Supreme Court Justices, Justice Robert Luck: Reflections on Law, Life, and the Court," State Convention, American Board of Trial Advocates, Orlando, Florida. Outline supplied.

June 28, 2019: Speaker, "Ethical Considerations in the Practice of Law: Alcohol & Substance Abuse," Florida Registered Paralegals, Boca Raton, Florida. I have no notes, transcripts, or recordings. I gave the introductory remarks at the continuing legal education program for registered paralegals at the state bar convention. The address for Florida Registered Paralegals is 651 East Jefferson Street, Tallahassee, Florida 32399.

June 24, 2019: Speaker, SideBar Series, Young Lawyers Division, Palm Beach County Bar Association, West Palm Beach, Florida. Outline supplied.

May 17, 2019: Speaker, Annual Banquet, Vassar B. Carlton Inn of Court, Melbourne, Florida. Remarks supplied.

May 3, 2019: Administered Oath, "Investiture of Judge Hendon," Third District Court of Appeal, Miami, Florida. Oath supplied.

May 3, 2019: Award Recipient, "Civility Award," Tenth Annual Project Nuremberg Lawyers' Luncheon, Temple Beth El, Boca Raton, Florida. Remarks supplied.

April 10, 2019: Speaker, "Welcoming Florida Blue Key to the Florida Supreme Court," Florida Supreme Court, Tallahassee, Florida. I have no notes, transcripts, or recordings. I spoke to student leaders at the University of Florida about the judicial branch and the role of the Florida Supreme Court. The address for the Florida Supreme Court is 500 South Duval Street, Tallahassee, Florida 32399.

April 9, 2019: Speaker, "Welcoming Leadership Ocala to the Florida Supreme Court," Florida Supreme Court, Tallahassee, Florida. I have no notes, transcripts, or recordings. I spoke to community leaders visiting the court about the judicial branch and the role of the Florida Supreme Court. The address for the Florida Supreme Court is 500 South Duval Street, Tallahassee, Florida 32399.

April 5, 2019: Panelist, "Appellate Judges and Practitioners," Bench and Bar Conference, Dade County Bar Association, Miami, Florida. Outline supplied.

March 21, 2019: Guest Lecturer, "Law and Risk Management Seminar," Florida State University School of Law, Tallahassee, Florida. Outline supplied.

March 18, 2019: Speaker, "The First 100 Days on the Florida Supreme Court and Why It Matters to You," Aventura Marketing Council, Aventura, Florida. Outline supplied.

March 13, 2019: Speaker, "Invocation," Women Making History and Scholarship Awards Reception, Florida Association of Women Lawyers, Miami-Dade Chapter, Miami, Florida. Remarks supplied.

March 4, 2019: Speaker, "Welcoming the House Page Program to the Florida Supreme Court," Florida Supreme Court, Tallahassee, Florida. I have no notes, transcripts, or recordings. I spoke to students participating in the state House of Representative's page program about the judicial branch and the role of the Florida Supreme Court. The address for the Florida Supreme Court is 500 South Duval Street, Tallahassee, Florida 32399.

March 1, 2019: Panelist, "Opening Session: Conversation with Chief Judges and Supreme Court Justices" and "What Do Appellate Judges Want Practitioners & Trial Court Judges to Know," Bench and Bar Conference, Spellman-Hoeveler American Inn of Court, Miami, Florida. I have no notes, transcripts, or recordings. I spoke on two panels about how the Florida Supreme Court operates

and about practicing before the court. The address for the American Inns of Court is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

February 28, 2019: Speaker, "Welcoming Leadership Florida to the Florida Supreme Court," Florida Supreme Court, Miami, Florida. I have no notes, transcripts, or recordings. I spoke to community leaders visiting the court about the judicial branch and the role of the Florida Supreme Court. The address for the Florida Supreme Court is 500 South Duval Street, Tallahassee, Florida 32399.

February 22, 2019: Speaker, "That's Supreme! Rules and Laws," Hillel Day School, North Miami Beach, Florida. Notes supplied.

February 21, 2019: Speaker, "Florida Courts Scavenger Hunt: The Courts and the Constitution of the State of Florida," Florida Supreme Court Teaching Institute, Tallahassee, Florida. Notes supplied.

February 19, 2019: Panelist, "Disposition of Appeal/Remand Instructions," Florida Court Personnel Institute, Orlando, Florida. Notes supplied.

January 26, 2019: Speaker, "Invocation," Annual Gala, Cuban American Bar Association, Miami, Florida. Remarks supplied.

January 14, 2019: Speaker, "Speech Accepting Appointment to the Supreme Court of Florida," Scheck Hillel Community School, Miami, Florida. Remarks supplied.

December 7, 2018: Speaker, "Invocation," Judicial Retirement Ceremony, Eleventh Judicial Circuit of Florida, Miami, Florida. Remarks supplied.

November 29, 2018: Panelist, Continuing Legal Education Luncheon, Monroe County Bar Association, Key West, Florida. Outline supplied.

October 25, 2018: Speaker, Reception, Legal Services of Greater Miami, Coral Gables, Florida. Remarks supplied.

October 11, 2018: Speaker, "What to Expect for the Upcoming Term of the Florida Supreme Court," North Dade Bar Association, Aventura, Florida. Outline supplied.

July 17, 2018: Speaker, "Florida Supreme Court Mid-Year Review," Miami Beach Bar Association, Miami Beach, Florida. Outline supplied.

June 23, 2018: Presenter, "Installation of Young Lawyers Section President and Officers and Directors," Annual Installation Gala, Dade County Bar Association, Miami, Florida. Outline supplied.

June 20, 2018: Presenter, "Appellate Jurisdiction for Trial Lawyers," June Continuing Legal Education Luncheon, Coral Gables Bar Association, Coral Gables, Florida. Outline supplied.

May 31, 2018: Panelist, "Legal Writing: The 'Write' Way to Avoid Reversal: Factual Findings and Standard of Review," Florida Advanced Judicial College, Orlando, Florida. Notes supplied.

March 20 – 22, 2018: Panelist, "Sentencing Departures and Enhancements," "Stand Your Ground & Self-Defense," "Williams Rule Evidence," "Interrogatory Verdict Forms & Jury Instructions," "Case Management," and "Post-Conviction Proceedings," Fundamentals – Criminal Circuit & Criminal County Tracks, Florida Judicial College – Phase II, Orlando, Florida. Notes supplied.

February 27, 2018: Speaker, "Breakfast with the Appellate Court Committee," Dade County Bar Association, Miami, Florida. Outline supplied.

February 24, 2018: Award Recipient, "Justice Awards Dinner," Miami-Dade League of Prosecutors, Miami, Florida. Remarks supplied.

February 2, 2018: Moderator, "Departures from the American Rule on Attorney's Fees," Florida Chapters Conference, The Federalist Society for Law & Public Policy Studies, Orlando, Florida. Notes supplied. Recording available at: <https://www.youtube.com/watch?v=JXCcpamvPgY>.

November 16, 2018: Panelist, "Ask the Third DCA Judges," Continuing Education Luncheon, Monroe County Bar Association, Key West, Florida. Outline supplied.

November 15, 2017: Speaker, "Swearing in of Mayor Francis Suarez," City of Miami, Miami, Florida. Oath supplied.

November 2, 2017: Panelist, "The Do's and Don'ts of Motions for New Trial Based on Closing Argument in the Trial Court and on Appeal," Third District Court of Appeal Fall Seminar, Dade County Bar Association, Miami, Florida. Outline supplied.

October 25, 2017: Panelist, "What Appellate Judges Want Trial Lawyers (& Judges) to Know," Dade County Bar Association, Miami, Florida. Outline supplied.

August 10, 2017: Speaker, "General Provisions: Article II, Sections 1 through 9 of the Florida Constitution," Constitution Revision Commission, Miami, Florida. Notes supplied.

May 22, 2017: Panelist, "Common Insurance Disputes in Florida, and How to

Handle Them,” Advanced Topics in Insurance Law: Everything the Florida Judge Would Want to Know, Florida Advanced Judicial College, Orlando, Florida. Notes supplied.

April 21, 2017: Speaker, “Investiture of Judge Robert J. Luck,” Third District Court of Appeal, Miami, Florida. Remarks supplied.

March 14 – 16, 2017: Panelist, “Sentencing Departures,” “Williams Rule Evidence,” “Interrogatory Verdict Forms & Jury Instructions,” “Stand Your Ground & Self Defense,” Fundamentals – Criminal Circuit & Criminal County Tracks, Florida Judicial College, Phase II, Orlando, Florida. Notes supplied.

February 10, 2017: Panelist, “Judicial Ethics,” Bench and Bar Conference, Dade County Bar Association, Coral Gables, Florida. Outline supplied.

January 6, 2017: Panelist, “Practicing with Professionalism,” Young Lawyers Division, Florida Bar, Fort Lauderdale, Florida. Outline supplied.

November 16, 2016: Award Recipient, “Rodef Sholem” Pursuer of Peace Award, Miami Jewish Legal Society, Miami, Florida. Remarks supplied.

October 16, 2016: Panelist, “Table for Eight with Judge Luck,” Florida Association for Women Lawyers, Miami-Dade Chapter, Coral Gables, Florida. I have no notes, transcripts, or recordings. I had an informal question-and-answer session over dinner with eight members of the local women lawyers association about my background and the trial court. The address for the Florida Association for Women Lawyers is Post Office Box 731685, Ormond Beach, Florida 32173.

September 23, 2016: Speaker, Career Day, Hillel Day School, North Miami Beach, Florida. Outline supplied.

September 15, 2016: Speaker, “The 50th Anniversary of Miranda,” James Otis Lecture, American Board of Trial Advocates, Miami-Dade Chapter, Miami, Florida. Notes supplied.

August 25, 2016: Award Recipient, Justice Harry Lee Anstead Award, Miami-Dade Trial Lawyers Association, Miami, Florida. Remarks supplied.

August 20, 2016: Speaker, “Domestic Violence,” Domestic Violence Awareness Day, Pilgrim’s Seventh Day Adventist Church, Hialeah, Florida. I have no notes, transcripts, or recordings. I spoke to church members about the problem of domestic violence and the impact it has on families and children. The address for Pilgrim’s Seventh Day Adventist Church is 110 Eucalyptus Drive, Hialeah, Florida 33010.

August 1, 2016: Speaker, Judicial Candidates Forum, Gwen S. Cherry Black

Women Lawyers Association, Miami, Florida. I have no notes, transcripts, or recordings. I spoke to community members at a candidates' forum for judicial candidates during the 2016 primary election cycle. The address for the Gwen S. Cherry Black Women Lawyers Association is Post Office Box 12631, Miami, Florida 33101.

May 24, 2016: Panelist, "The One-Sided Conversation: Reinitiation of Interrogation After Invocation" and "The Hamlet Defendant: Equivocal vs. Unequivocal Invocations of the Right to Remain Silent," I'll Never Tell: Fifth Amendment Issues in Criminal Proceedings, Florida Advanced Judicial College, Orlando, Florida. Notes supplied.

May 13, 2016: Speaker, "Introduction of North Miami Beach Mayor George Vallejo and Indian Creek Village Mayor Bernard Klepach," Law Day 2016: Miranda: More Than Words, North Dade Justice Center, Eleventh Judicial Circuit Court of Florida, North Miami Beach, Florida. Outline supplied.

May 6, 2016: Speaker, "Introduction of Public Defender Carlos Martinez," Law Day 2016: Miranda: More Than Words, Hialeah Branch Courthouse, Eleventh Judicial Circuit Court of Florida, Hialeah, Florida. Outline supplied.

March 24, 2016: Speaker, "Practicing with Professionalism," Young Lawyers Division, Florida Bar, Miami, Florida. Outline supplied.

March 16, 2016: Guest Lecturer, "Plea Bargaining," Criminal Prosecution and Defense Lawyering Workshop: Zealous Advocacy and Situational Ethics in the Adversarial System of Justice, University of Miami School of Law, Coral Gables, Florida. Outline supplied.

March 15, 2016: Speaker, "Professionalism in the Civil Practice of Law: Recent Developments and Case Law Update," Miami Beach Bar Association, Miami Beach, Florida. Outline supplied.

February 26, 2016: Panelist, "Dynamic Depositions" and "Pathways to the Bench," Bench & Bar Conference, Dade County Bar Association, Miami, Florida. I have no notes, transcripts, or recordings. As part of the local bar association's bench and bar conference, I spoke to local lawyers and judges about deposition practice and the judicial application process. The address for the Dade County Bar Association is 123 NW First Avenue, Suite 214, Miami, Florida 33128.

February 21, 2016: Panelist, "Legal Issues in Jury Selection," View from the Bench: SuperStars Mock Trial, Spellman-Hoeveler Chapter of the American Inns of Court, Coral Gables, Florida. I have no notes, transcripts, or recordings. I spoke at a continuing legal education seminar hosted by the local Inn of Court about jury selection. The address for the American Inns of Court is 225 Reineckers Lane, Suite 770, Alexandria, Virginia 22314.

November 21, 2015: Speaker, "Introducing Authors Karen Abbot, T.J. Stiles, James Swanson and Martha Hodes," Miami Book Fair International, Miami-Dade College, Miami, Florida. Outline supplied.

November 10, 2015: Panelist, "Partnership for Professionalism," Spellman-Hoeveler Chapter of the American Inns of Court, Miami, Florida. Outline supplied.

September 17, 2015: Panelist, "Sentencing," Criminal Law Boot Camp for the Civil or Newer Criminal Attorney, Pincus Professional Education, Miami, Florida. Outline supplied.

August 19, 2015: Speaker, "Winning the Appeal," Coral Gables Bar Association, Coral Gables, Florida. Outline supplied.

August 3, 2015: Speaker, "*Hurst v. Florida*, and the Latest Challenge to Florida's Capital Punishment Scheme," Florida Circuit Court Judges Conference, Orlando, Florida. Outline supplied.

April 15, 2015: Panelist, "Table for Eight with Judge Luck," Florida Association for Women Lawyers, Miami-Dade Chapter, Miami, Florida. I have no notes, transcripts, or recordings. I had an informal question-and-answer session over dinner with eight members of the local women lawyers association about my background and the trial court. The address for the Florida Association for Women Lawyers is Post Office Box 731685, Ormond Beach, Florida 32173.

April 15, 2015: Panelist, "Motions for Summary Judgment," Fifth Annual Circuit Court Boot Camp, Pincus Professional Education, Fort Lauderdale, Florida. Outline supplied.

February 20, 2015: Panelist, "Perfecting Your Legal Argument," Bench and Bar Conference, Dade County Bar Association, Miami, Florida. I have no notes, transcripts, or recordings. I spoke at the local bar association's conference for lawyers and judges about argument preservation on appeal. The address for the Dade County Bar Association is 123 NW First Avenue, Suite 214, Miami, Florida 33128.

November 14, 2014: Panelist, "Professionalism Roundtable," Wilkie D. Ferguson, Jr. Bar Association, November 2014, Miami, Florida. Outline supplied.

October 29, 2014: Speaker, "Ethical Governance Day 2014," Miami-Dade Commission on Ethics & Public Trust, North Miami Beach, Florida. Outline supplied.

March 21, 2014: Panelist, "Does Your Ethics and Compliance Program Stand Up

to the Test," Corporate Counsel Conference, Hispanic National Bar Association, Orlando, Florida. Outline supplied.

February 28, 2014: Panelist, "Appellate Advocacy," Bench and Bar Conference, Dade County Bar Association, Coral Gables, Florida. I have no notes, transcripts, or recordings. I served on a panel at the local bar association's bench and bar conference discussing effective techniques for appellate advocacy. The address for the Dade County Bar Association is 123 NW First Avenue, Suite 214, Miami, Florida 33128.

February 18, 2014: Panelist, "Sixth Annual Judicial Forum," Wilkie D. Ferguson, Jr. Bar Association, Miami, Florida. Outline supplied.

November 8, 2013: Speaker, "Investiture of Judge Robert J. Luck," Eleventh Judicial Circuit Court of Florida, Miami, Florida. Remarks supplied.

October 12, 2012: Panelist, "Emerging Fraud Trends and Recent Enforcement Actions," Southeast Regional Investor Fraud Summit, United States Attorney's Office for the Southern District of Florida, Miami, Florida. I have no notes, transcripts, or recordings. The summit was attended by regional stakeholders who investigate, prosecute, and are affected by investor fraud. I spoke on a panel discussing issues with the investigation and prosecution of investor fraud cases. The address for the United States Department of Justice is 950 Pennsylvania Avenue NW, Washington, DC 20530.

May 23, 2012: Panelist, "Identity Theft Seminar: The Who, What, Where, Why, and How of Health Care Identity Theft," National Advocacy Center, United States Department of Justice, Columbia, South Carolina. Notes supplied.

April 27, 2012: Panelist, "Health Care Fraud Issues," Bench and Bar Conference, United States District Court for the Southern District of Florida, West Palm Beach, Florida. I have no notes, transcripts, or recordings. I was on a panel at the federal district court's bench and bar conference discussing with local lawyers and judges recent issues in health care fraud prosecutions. The address for the United States District Court for the Southern District of Florida is 701 Clematis Street, West Palm Beach, Florida 33401.

May 29, 2009: Speaker, Fifth Annual Career Day, Key Largo School, Monroe County Public Schools, Key Largo, Florida. I have no notes, transcripts, or records. I spoke at the elementary school career day about being a lawyer. The address for Key Largo School is 104801 Overseas Hwy, Key Largo, Florida 33037.

- 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.

Kristin A. Norse, *An Interview with Justice Robert J. Luck*, The Record, August 26, 2019. Copy supplied.

Nathan Molina, *The Leadership of Justice Luck*, Florida Supreme Court Historical Society Magazine, Summer/Fall 2019. Copy supplied.

Press Conference, Announcement of Appointment of Judge Robert J. Luck to the Supreme Court of Florida, Miami, Florida, January 14, 2019. Partial recording available at: <https://www.facebook.com/tampabaynews/videos/major-announcement-governor-ron-desantis-has-appointed-judge-robert-luck-to-the-/2019437454806857/>.

Thomas S. Ward, *Judicial Profile – Judge Robert J. Luck*, The Record, August 3, 2018. Copy supplied.

Jason Silver, *Judge Robert J. Luck Appointed to the Third District Court of Appeal*, CABA Briefs, Summer/Fall 2017. Copy supplied.

Celia Ampel, *Miami-Dade Circuit Judge Named to Third DCA*, Daily Business Review, February 9, 2017. Copy supplied.

David Ovalle, *Miami Judicial Races Include Some Intrigue and a Lawsuit*, Miami Herald, August 23, 2016. Copy supplied.

The Herald Recommends in Circuit Court Groups 52, 66 & 74, Miami Herald, July 18, 2016. Copy supplied.

Carlos Harrison, *Judicial Profile: For Robert Luck, 'Process' Happened Quickly*, Daily Business Review, August 15, 2014. Copy supplied.

I was interviewed for the Coronel Matias Farias Radio Show, 1080 AM Miami, Miami, Florida, on February 11, 2014 I have been unable to locate a transcript or recording.

Jay Weaver, *Gov. Rick Scott Appoints Miami Federal Prosecutor to Circuit Court Bench*, Miami Herald, June 30, 2013. Copy supplied.

Governor Selects Federal Prosecutor For Miami-Dade Circuit Judge, Daily Business Review, June 27, 2013. Copy supplied.

Television Interview, *The case of Miami CPA Juan Carlos Rodriguez who scammed his clients out of \$1.9 million*, "American Greed," CNBC, April 16, 2013. Available at <https://www.youtube.com/watch?v=I0rxJ10BGf8>.

Alyson M. Palmer, *Smarts and zingers; Lawyers laud Carnes' intelligence, but are wary of his tough questioning and sharp retorts in opinions*, Daily Report, February 12, 2009. Copy supplied.

MaryJo Sylvester et al., *It's Election Time. Do You Know Where Our Young Voters Are?*, St. Louis Post-Dispatch, November 6, 2000. 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.

Circuit Judge, Eleventh Judicial Circuit of Florida, 2013 – 2017. I was appointed by then-Florida Governor Rick Scott to this position in 2013 and, following a retention election, was retained in 2016. The Eleventh Judicial Circuit has jurisdiction over felony cases and civil cases in which the amount in controversy exceeds \$15,000. I served in the criminal (2013 – 2015; 2016 – 2017) and civil (2015 – 2016) divisions.

District Judge, District Court of Appeal of Florida, Third District, 2017 – 2019. I was appointed by then-Florida Governor Rick Scott to this position in 2017 and, following a retention election, was retained in 2018. The Third District Court of Appeal is the intermediate appellate court for Miami-Dade and Monroe Counties, Florida, with jurisdiction over appeals of final orders and judgments, some interlocutory appeals, and extraordinary writs.

Justice, Supreme Court of Florida, 2019 – present. I was appointed by Governor Ron DeSantis to this position in 2019. The Supreme Court of Florida has jurisdiction to hear appeals from final judgments of trial courts imposing the death penalty; appeals involving issues of constitutional validity; appeals involving questions, orders, or judgments certified by intermediate appellate courts to be of great public importance; appeals from intermediate appellate court decisions that directly conflict with a decision of another intermediate appellate court or of the Florida Supreme Court; and certain other matters specified in the Florida Constitution.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 300

- i. Of these, approximately what percent were:

jury trials:	25 %
bench trials:	75 % [total 100%]
civil proceedings:	80 %
criminal proceedings:	20 % [total 100%]

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

In re Amends. to Fla. Evid. Code, No. SC19-107, 2019 WL 2219714 (Fla. May 23, 2019) (Luck, J., dissenting)

Long v. State, 271 So. 3d 938 (Fla. 2019) (Luck, J., concurring in part and concurring in the judgment)

DePrince v. Starboard Cruise Servs., Inc., 271 So. 3d 11 (Fla. 3d DCA 2018) (en banc)

Gables Ins. Recovery, Inc. v. Citizens Prop. Ins. Corp., 261 So. 3d 613 (Fla. 3d DCA 2018)

Dep't of Children & Families v. Feliciano, 259 So. 3d 957 (Fla. 3d DCA 2018) (Luck, J., concurring in result)

Credo LLC v. Speyside Investments Corp., 259 So. 3d 893 (Fla. 3d DCA 2018) (Luck, J., dissenting)

Santos v. HSBC Bank USA, 258 So. 3d 535 (Fla. 3d DCA 2018)

Matheson v. Miami-Dade Cty., 258 So. 3d 516 (Fla. 3d DCA 2018)

P&S & Co., LLC v. SJ Mak, LLC, 254 So. 3d 535 (Fla. 3d DCA 2018)

Dimitri v. Commerical Ctr. of Miami Master Assoc., Inc., 253 So. 3d 715 (Fla. 3d DCA 2018)

Villafane v. Maradona, 253 So. 3d 708 (Fla. 3d DCA 2018)

Jahangiri v. 1830 N. Bayshore, LLC, 253 So. 3d 699 (Fla. 3d DCA 2018)

Bean v. Univ. of Miami, 252 So. 3d 810 (Fla. 3d DCA 2018)

Rahimi v. Global Discoveries, Ltd., 252 So. 3d 804 (Fla. 3d DCA 2018)

Sayao v. Knightsbridge Bus. Network, Inc., 250 So. 3d 842 (Fla. 3d DCA 2018) (Luck, J., dissenting)

State v. Pena, 247 So. 3d 61 (Fla. 3d DCA 2018)

Diocese of Palm Beach, Inc. v. Gallagher, 249 So. 3d 657 (Fla. 4th DCA 2018) (sitting by designation)

Sosataquechel v. State, 246 So. 3d 497 (Fla. 3d DCA 2018) (Luck, J., concurring in part and dissenting in part)

Leon v. Carollo, 246 So. 3d 490 (Fla. 3d DCA 2018)

Muchnick v. Goihman, 245 So. 3d 978 (Fla. 3d DCA 2018)

OneWest Bank, FSB v. Palmero, No. 3D14-3114, 2018 WL 1832326 (Fla. 3d DCA Apr. 18, 2018)

Liork, LLC v. BH 150 Second Ave., LLC, 241 So. 3d 920 (Fla. 3d DCA 2018)

Schlesinger v. Jacob, 240 So. 3d 75 (Fla. 3d DCA 2018) (Luck, J., concurring)

Nationstar Mortg., LLC v. Silva, 239 So. 3d 782 (Fla. 3d DCA 2018)

Siegel v. Cross Senior Care, Inc., 239 So. 3d 738 (Fla. 3d DCA 2018) (Luck, J., dissenting)

Westberry v. State, 239 So. 3d 186 (Fla. 3d DCA 2018)

McGrath v. Martin, 238 So. 3d 361 (Fla. 3d DCA 2017) (Luck, J., concurring in result)

Burton v. State, 237 So. 3d 1138 (Fla. 3d DCA 2018)

DePrince v. Starboard Cruise Servs., Inc., No. 3D16-1149, 2018 WL 443153 (Fla. 3d DCA Jan. 17, 2018)

Garcia v. State, 237 So. 3d 1080 (Fla. 3d DCA 2017)

Lago v. Costco Wholesale Corp., 233 So. 3d 1248 (Fla. 3d DCA 2017)

Moreno v. State, 232 So. 3d 1133 (Fla. 3d DCA 2017)

Martin v. Sowers, 231 So. 3d 559 (Fla. 3d DCA 2017) (Luck, J., dissenting)

Montesino v. State, 231 So. 3d 514 (Fla. 3d DCA 2017)

Arko Plumbing Corp. v. Rudd, 230 So. 3d 520 (Fla. 3d DCA 2017)

Bennett v. Mortg. Elec. Registration Sys., Inc., 230 So. 3d 100 (Fla. 3d DCA 2017)

Ward v. State, 229 So. 3d 860 (Fla. 3d DCA 2017)

Noriega v. State, 228 So. 3d 170 (Fla. 3d DCA 2017)

Ortiz v. Ortiz, 227 So. 3d 730 (Fla. 3d DCA 2017) (Luck, J., concurring in part and dissenting in part)

Adkins v. Sotolongo, 227 So. 3d 717 (Fla. 3d DCA 2017) (Luck, J., concurring)

Ortiz v. State, 227 So. 3d 682 (Fla. 3d DCA 2017)

Miccosukee Tribe of Indians v. Lewis Tein, P.L., 227 So. 3d 656 (Fla. 3d DCA 2017)

Simon v. State, 225 So. 3d 934 (Fla. 3d DCA 2017)

Cardona v. Casas, 225 So. 3d 384 (Fla. 3d DCA 2017)

Williams v. State, 225 So. 3d 349 (Fla. 3d DCA 2017)

Montero v. State, 225 So. 3d 340 (Fla. 3d DCA 2017)

S.C. v. State, 224 So. 3d 249 (Fla. 3d DCA 2017)

Mukamal v. Marcum LLP, 223 So. 3d 422 (Fla. 3d DCA 2017)

Faddis v. Luddy, 221 So. 3d 758 (Fla. 3d DCA 2017)

Ordonez-Medina v. State, 221 So. 3d 744 (Fla. 3d DCA 2017)

Leal v. Rodriguez, 220 So. 3d 543 (Fla. 3d DCA 2017)

Gomez v. S&I Properties, LLC, 220 So. 3d 539 (Fla. 3d DCA 2017)

Castro v. Pullmantur, S.A., 220 So. 3d 531 (Fla. 3d DCA 2017)

Reid v. State, No. 3D16-1051, 2017 WL 2348615 (Fla. 3d DCA May 31, 2017)

Krieger v. Fla. Fish & Wildlife Conservation Comm'n, 220 So. 3d 511 (Fla. 3d DCA 2017)

J.H. v. State, 220 So. 3d 508 (Fla. 3d DCA 2017)

Deauville Hotel Mgmt., LLC v. Ward, 219 So. 3d 949 (Fla. 3d DCA 2017)

Gilchrease v. State, 219 So. 3d 264 (Fla. 3d DCA 2017)

Knight v. State, 217 So. 3d 1194 (Fla. 3d DCA 2017)

Flanders v. State, 217 So. 3d 160 (Fla. 3d DCA 2017)

Yergin v. Georgopolos, 217 So. 3d 155 (Fla. 3d DCA 2017)

UV Cite III, LLC v. Deutsche Bank Nat'l Tr. Co., 215 So. 3d 1280 (Fla. 3d DCA 2017)

United Auto. Ins. Co. v. Affiliated Healthcare Ctrs., Inc., 21 Fla. L. Weekly Supp. 871a (Fla. 11th Cir. Ct. May 9, 2014)

Sepulveda v. Westport Recovery Corp., 21 Fla. L. Weekly Supp. 391a (Fla. 11th Cir. Ct. Dec. 31, 2013)

Rubio v. State, 21 Fla. L. Weekly Supp. 389a (Fla. 11th Cir. Ct. Dec. 30, 2013) (Luck, J., concurring)

- 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. *State of Florida v. Ricardo Garganelly*, Eleventh Judicial Circuit Case No. F14-6023

Mr. Garganelly had been charged with battering a person over the age of sixty-five. Mr. Garganelly had been found incompetent to proceed to trial, and on February 12, 2015, I held a hearing to decide where Mr. Garganelly should be placed until he was restored to competence. During the hearing, as I was making my findings, Mr. Garganelly rushed up from his seat and jumped at me. He and I tumbled down the steps of the bench, and as I was lying on the floor, Mr. Garganelly was on top of me, punching my head. My bailiff eventually lifted Mr. Garganelly off of me. I got up, dusted off my robe, fixed my chair (which had been knocked down), took my place on the bench, and dictated what had happened into the record. I then entered an order recusing myself from the case. Despite the bleeding and bruising, I declined medical attention and refused to file a worker's compensation claim. Having heard about the incident in Tallahassee, Chief Justice Jorge Labarga wrote in a letter to me: "I want to commend you for the professionalism you displayed in handling what must have been a very disturbing situation. Your coolness and understanding was exemplary." A copy of the judgment is attached.

Counsel for the State:

Joanna M. Sandstrom (former Assistant State Attorney)
Just Mental Health Solutions, PA
280 Southwest Twentieth Road, Apartment 905
Miami, Florida 33129-1434
(786) 556-3634

Counsel for the Defendant:

Jennifer Elin Rodrigue
Public Defender's Office
1500 Northeast Twelfth Avenue, Suite 900
Miami, Florida 33136-1038
(305) 545-3348

2. *State of Florida v. Steven C. Bateman*, Eleventh Judicial Circuit Case No. F13-20190

Mr. Bateman, the former mayor of Homestead, was charged in 2013 with unlawful compensation, self-dealing, and illegal lobbying. The case went to trial within a year (September 2014), and lasted one week. There were a number of high-profile witnesses and community leaders who testified, including Miami-Dade County Mayor Carlos Gimenez, and the media recorded every moment of the trial. The jury convicted Mr. Bateman on three counts, and after post-trial motions, I granted a judgment of acquittal on one count and issued a judgment of conviction on the two others. After he was found guilty, Mr. Bateman wrote in a letter to the probation office: "The court process was extremely professional. I cannot say enough about the professionalism of Judge Luck. He was extremely kind and honorable to everyone. He is an outstanding judge." A copy of the judgment is attached. The conviction and sentence were affirmed on appeal, *Bateman v. State*, 240 So. 3d 36 (Fla. 3d DCA 2017), and the Supreme Court of Florida denied review, No. SC18-229, 2018 WL 1273063 (Fla. Mar. 9, 2018).

Counsel for the State:

Isis Perez
Assistant State Attorney
1350 Northwest Twelfth Avenue
Miami, Florida 33136-2102
(305) 547-0664

Counsel for the Defendant:

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 Southeast Second Street, Suite 3550
Miami, Florida 33131-2112
(305) 789-5989

Michael T. Davis.
Kuehne Davis Law, P.A.

100 Southeast Second Street, Suite 3550
Miami, Florida 33131-2112
(305) 789-5989

3. *State of Florida v. Yan Arana Castillo*, Eleventh Judicial Circuit Case No. F10-5619D

Mr. Arana Castillo, a seventeen-year-old gang member, stabbed to death a student associated with a rival gang outside of Miami Beach Senior High School. Mr. Arana Castillo pleaded guilty on the eve of trial. In Miami, this was one of the first sentencing hearings of a juvenile following the United States Supreme Court's decision in *Miller v. Alabama*, 132 S. Ct. 2455 (2012). Following the *Miller* decision, the Florida Legislature had enacted a new sentencing law for those who committed murder before the age of eighteen. There was an open question, however, about whether the new law applied retroactively to those juveniles, like Mr. Arana Castillo, who had committed their crimes before the effective date of the new law. I held a two-day sentencing hearing, and in an order, I applied the new law to sentence Mr. Arana Castillo. A copy of the order is attached. The Florida Supreme Court ultimately agreed that the new law applied retroactively, and Mr. Arana Castillo's sentence was affirmed by the Third District Court of Appeal, *Castillo v. State*, 173 So. 3d 979 (Fla. 3d DCA 2015).

Counsel for the State:

Alejandra Lopez (former Assistant State Attorney)
United States Attorney's Office, Southern District of Florida
99 Northeast Fourth Street
Miami, Florida 33132-2131
(305) 961-9241

Counsel for the Defendant

Roderick Vereen
Law Office of Roderick D. Vereen, P.A.
610 Northwest 183rd Street, Suite 103
Miami Gardens, Florida 33169-4472
(786) 391-1751

4. *7213 Fisher LLC v. American Leisure Resorts, Inc.*, Eleventh Judicial Circuit Case No. 2010-43000-CA-32

This was a complicated foreclosure case involving a multi-million dollar condominium on Fisher Island. Billionaire investor Manny Medina bought the note and mortgage to the condo and sought to foreclose on it after the owners, who were imprisoned in federal court for tax fraud, stopped paying.

A French company, CDR Creances, had been awarded a constructive trust on the property, and responded with a counterclaim based on fraud and invalid title. The case had been pending since 2010. I ruled on summary judgment motions, held hearings on motions in limine, and presided over the three-day bench trial in October 2015. After the trial, I wrote findings of fact and conclusions of law finding that Fisher had established by a preponderance of the evidence that it was entitled to foreclose on the property, and CDR Creances had not proven by a preponderance of the evidence its fraud and invalid title claims. I then held a two-day hearing on Fisher's attorneys' fees motion, and wrote an order ruling on the objections to the fee request. The orders are attached. The Third District Court of Appeal affirmed, *CDR Creances S.A.S. v. 7213 Fisher, LLC*, 224 So. 3d 227 (Fla. 3d DCA 2017).

Counsel for the Plaintiff:

Melanie E. Damian
Damian & Valori LLP
1000 Brickell Avenue, Suite 1020
Miami, Florida 33131-3014
(305) 371-3960

Jeffrey C. Schneider
Levine Kellogg Lehman Schneider + Grossman LLP
201 South Biscayne Boulevard, Floor 22
Miami, Florida 33131-4338
(305) 403-8788

Counsel for the Defendants:

Scott B. Cosgrove
Leon Cosgrove, LLP
255 Alhambra Circle, Suite 800
Coral Gables, Florida 33134-7412
(305) 740-1975

5. *Cristina Lancella v. Citizens Property Insurance Company*, Eleventh Judicial Circuit Case No. 2012-13705-CA-32

This was a first-party property insurance case. Ms. Lancella dropped a salad bowl and chipped a porcelain tile in her kitchen. Citizens Property proposed to repair the tile pursuant to the homeowners' insurance policy, but Ms. Lancella claimed that the repair was not of like kind and quality to her tile, and sued for declaratory relief. By September 2015, the case had been pending for more than three years. On my first day in the civil division, the parties reported ready for trial on the issue of whether the proposed repair was of like kind and quality. I ordered a venire panel brought to the courtroom,

ruled on the pending motions in limine, and started the trial. This was the first of fourteen jury trial trials over which I presided during my year-long stint in the civil division. The jury found that the proposed repair was not of like kind and quality; I entered judgment consistent with the jury's verdict. A copy of the judgment is attached. The defendant dismissed its appeal.

Counsel for the Plaintiff:

Timothy H. Crutchfield
Mintz Truppman, P.A.
1700 Sans Souci Boulevard
North Miami, Florida 33181-3206
(305) 893-5506

Counsel for the Defendant:

Max Messinger
Kanner & Pinaluga
925 South Federal Highway, Floor 6
Boca Raton, Florida 33432-6122
(561) 892-9939

Robert Swift
Cole, Scott & Kissane, PA
1900 Summit Tower Boulevard, Suite 400
Orlando, Florida 32810-5912
(321) 972-0010

6. *State of Florida v. Felix Antonio Silva Martinez*, Eleventh Judicial Circuit
Case No. F12-20826

Mr. Silva Martinez was charged with lewd and lascivious molestation for sexually assaulting his niece. Prior to trial, the state moved to admit the victim's statements to her mother and her interview with members of the state's child protection team about the molestation. The state also moved to allow the victim to testify through a closed-circuit television feed. I held evidentiary hearings on the motions, and ultimately granted in part and denied in part the motion to admit the victim's out-of-court statements and granted the motion to allow the victim to testify via CCTV. Following trial, the jury found the defendant guilty. My orders and the judgment are attached. The Third District Court of Appeal affirmed the judgment and sentence, *Martinez v. State*, 197 So. 3d 52 (Fla. 3d DCA 2016).

Counsel for the State:

Heather Griffin Guarch (former Assistant State Attorney)

Florida Department of Law Enforcement
500 West Robinson Street
Orlando, Florida 32801-1722
(407) 245-0888

Counsel for the Defendant:

Theodore Mastos
Law Office of Theodore G. Mastos
999 Ponce de Leon Boulevard, Suite 500
Coral Gables, Florida 33134-3053
(305) 443-2225

7. *State of Florida v. Michael Hester*, Eleventh Judicial Circuit Case No. F13-20145

Mr. Hester was charged with attempted second-degree murder for shooting an acquaintance while the two were arguing on the streets of Miami. Mr. Hester claimed that he shot the victim in self-defense and relied on Florida's Stand Your Ground law, which does not require retreat if faced with an imminent threat of deadly force. Based on the testimony during the trial, I instructed the jury on Florida's self-defense law. The jury rejected the defense and convicted Mr. Hester as charged. A copy of the judgment is attached. The Third District Court of Appeal affirmed Mr. Hester's conviction and sentence, *Hester v. State*, 190 So. 3d 199 (Fla. 3d DCA 2016).

Counsel for the State:

Scott L. Thaler (former Assistant State Attorney)
Grossman Attorneys at Law
1098 Northwest Second Avenue
Boca Raton, Florida 33432-2620
(561) 368-8048

Counsel for the Defendant:

Brian A. Kirlew
The Kirlew Law Firm, PLLC
2103 Coral Way, Suite 306
Miami, Florida 33145-2630
(305) 521-0484

8. *Victor Herrera-Zenil et al. v. Carlos Luis Vasallo Tome et al.*, Eleventh Judicial Circuit Court Case No. 2014-1021-CA-32

Mr. Herrera-Zenil and Mr. Vasallo Tome were business partners in

distributing classic Mexican movies. Mr. Vasallo Tome owned the distribution rights to the movies and Mr. Herrera-Zenil had connections to the satellite and cable companies in the United States. Mr. Herrera-Zenil alleged that Mr. Vasallo Tome reneged on their business arrangement and breached his fiduciary duties to Mr. Herrera-Zenil, and that other defendants interfered with the business relationship between the two partners. The defendants moved to dismiss the complaint based on Florida's forum non conveniens doctrine. After an evidentiary hearing, I analyzed the forum non conveniens factors and granted the motion to dismiss. A copy of my order is attached. The Third District Court of Appeal affirmed my order, *Herrera-Zenil v. Tome*, 232 So. 3d 1124 (Fla. 3d DCA 2017).

Counsel for the Plaintiffs:

Jorge L. Fors, Jr.
Fors, Attorneys at Law
1108 Ponce de Leon Blvd
Coral Gables, FL 33134-3322
(305) 448-5977

Counsel for the Defendants:

Omar Ortega
Dorta and Ortega, P.A.
3860 Southwest Eighth Street, Penthouse
Coral Gables, Florida 33134-3072
(305) 461-5454

9. *Francisco E. Rodriguez v. Kendall 1 Plaza, Ltd.*, Eleventh Judicial Circuit Court Case No. 2011-43450-CA-32

Ms. Rodriguez was leaving a shopping plaza and walking towards her parked car when a car driving around the plaza ran her over. She died a few hours later from head injuries. Ms. Rodriguez's family brought a wrongful death lawsuit against the shopping plaza for premises liability based on the faulty design and maintenance of the parking lot. The family's theory was that if the parking lot had been properly designed and maintained, the driver would not have killed the victim. I tried the five-year-old case in 2016. After an extensive jury selection process and a five-day trial, the jury found no negligence on the part of the shopping plaza. A copy of the judgment is attached. The Third District Court of Appeal affirmed the judgment, *Rodriguez v. Kendall 1 Plaza, Ltd.*, 225 So. 3d 821 (Fla. 3d DCA 2017).

Counsel for the Plaintiff:

Joseph Kalbac, Jr.

Colson Hicks & Eidson
255 Alhambra Circle, Suite Penthouse
Coral Gables, Florida 33134-7414
(305) 476-7400

Counsel for the Defendant:

Sheila Gonzales Jonasz
Cole Scott & Kissane
9150 South Dadeland Boulevard, Floor 14
Miami, Florida 33156
(305) 350-5330

Michael E. Brand
Cole Scott & Kissane
9150 South Dadeland Boulevard, Floor 1400
Miami, Florida 33156
(305) 350-5300

10. *Signature Group, LLC v. Young Money Entertainment, LLC et al.*, Eleventh
Judicial Circuit Court Case No. 2014-19871-CA-32

Signature Group obtained a \$1.8 million judgment against Young Money Entertainment and Dwayne Michael Carter, Jr. (also known by the stage name, Lil Wayne). Signature Group sought to collect on the judgment by moving for a break order authorizing the company to enter Mr. Carter's home and take any of his non-protected assets in satisfaction of the judgment. Florida law authorized Signature Group to seek the break order in an ex parte hearing, but imposed certain requirements for the issuance of such an order. After two days of hearings, I denied the ex parte motion without prejudice because Signature Group had not met its burden under Florida law. The company filed an amended motion addressing the deficiencies identified in the first order. The second motion was granted. Copies of both orders are attached.

Counsel for the Plaintiff:

David M. Goldstein
Marcos Rothman Valdes & Goldstein, P.L.
15951 Southwest 41st Street, Suite 800
Davie, Florida 33331-1521
(954) 334-2002

Counsel for the Defendants:

The defendants did not appear at the ex parte hearing.

- 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. *DePrince v. Starboard Cruise Services, Inc.*, 271 So. 3d 11 (Fla. 3d DCA 2018)

Counsel for Appellant:

Mario M. Ruiz
McDonald Hopkins LLC
200 South Biscayne Boulevard, Suite 2600
Miami, Florida 33131-5340
(305) 704-3990

Counsel for Appellee:

Eric D. Isicoff
Isicoff Ragatz
601 Brickell Key Drive, Suite 750
Miami, Florida 33131-4030
(305) 373-3232

2. *Arko Plumbing Corp. v. Rudd*, 230 So. 3d 520 (Fla. 3d DCA 2017)

Counsel for Appellant:

John Quaranta
Quaranta P.A.
255 Alhambra Circle, Suite 1150
Coral Gables, Florida 33134-7415
(305) 930-6077

Counsel for Appellee:

M. Stephen Smith
Rumberger Kirk & Caldwell
Brickell City Tower, Suite 3000
80 Southwest Eighth Street
Miami, Florida 33130-3037
(305) 358-5577

Michael R. Holt
Rumberger Kirk & Caldwell

Brickell City Tower, Suite 3000
80 Southwest Eighth Street
Miami, Florida 33130-3037
(305) 358-5577

3. *Lago v. Costco Wholesale Corp.*, 233 So. 3d 1248 (Fla. 3d DCA 2017)

Counsel for Appellant:

Elliot B. Kula
Kula & Associates, P.A.
11900 Biscayne Boulevard, Suite 310
Miami, Florida 33181-2754
(305) 354-3858

Counsel for Appellee:

Harold S. Stevens
9572 Phipps Lane
Wellington, Florida 33414-3402
(954) 290-1835

James R. Hardin, Jr.
JRHJ Law
2588 58th Terrace South
St Petersburg, Florida 33712-5212
(727) 232-1891

4. *Department of Children & Families v. Feliciano*, 259 So. 3d 957 (Fla. 3d DCA 2018) (Luck, J., concurring in the result)

Counsel for Appellant:

Oscar E. Marrero
Marrero & Wydler
2600 South Douglas Road, Penthouse-4
Coral Gables, FL 33134-6127
(305) 446-5528

Counsel for Appellee:

Alan D. Sackrin
Law Office of Alan D. Sackrin
2100 East Hallandale Beach Boulevard, Suite 200
Hallandale Beach, Florida 33009-3770
(954) 455-0800

5. *Leon v. Carollo*, 246 So. 3d 490 (Fla. 3d DCA 2018)

Counsel for Appellant:

Juan-Carlos Planas
Law Firm of Juan-Carlos Planas, P.A.
8500 West Flagler Street, Suite 204B
Miami, Florida 33144-2044
(305) 207-0877

Counsel for Appellee:

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 Southeast Second Street, Suite 3550
Miami, Florida 33131-2112
(305) 789-5989

6. *Villafane v. Maradona*, 253 So. 3d 708 (Fla. 3d DCA 2018)

Counsel for the Appellant:

Brian J. Barakat
Barakat Law, P.A.
2701 Ponce de Leon Boulevard, Suite 202
Coral Gables, Florida 33134-6020
(305) 444-3114

Counsel for the Appellee:

Eduardo F. Rodriguez
EFR Law Firm
7825 Southwest 179th Terrace
Palmetto Bay, Florida 33157
(305) 978-9340

7. *Adkins v. Sotolongo*, 227 So. 3d 717 (Fla. 3d DCA 2017) (Luck, J., concurring)

Counsel for Appellant:

Appellant was pro se and not represented by counsel.

Counsel for Appellee:

Evan L. Abramowitz
3211 Ponce De Leon Boulevard, Suite 202
Coral Gables, Florida 33134-7274
(305) 254-4500

Counsel for the Guardian Ad Litem:

Emily J. Phillips
Phillips Lanier
2 South Biscayne Boulevard, Suite 2300
Miami, Florida 33131-1803
(305) 350-5299

8. *State v. Pena*, 247 So. 3d 61 (Fla. 3d DCA 2018)

Counsel for Appellant:

Christina L. Dominguez
Assistant Attorney General
Office of the Attorney General
Suntrust International Center
1 Southeast Third Avenue, Suite 900
Miami, Florida 33131-1706
(305) 377-5441

Counsel for Appellee:

Manuel F. Herrera
Gonzalez & Herrera, P.A.
Post Office Box 830217
Ocala, Florida 34483-0217
(305) 506-8001

Dennis Gonzalez Jr.
11401 Southwest 40th Street, Suite 204
Miami, Florida 33165-3338
(305) 209-0384

9. *Montero v. State*, 225 So. 3d 340 (Fla. 3d DCA 2017)

Counsel for Appellant:

Jonathan Greenberg
Assistant Public Defender
Miami Public Defender's Office
1320 Northwest Fourteenth Street

Miami, Florida 33125-1609
(305) 545-1960

Bradley Horenstein
The Horenstein Firm, P.A.
40 Northwest Third Street, Penthouse 1
Miami, Florida 33128-1838
(786) 444-2723

Counsel for Appellee:

Joanne Diez
Assistant Attorney General
Office of the Attorney General
1 Southeast Third Avenue, Suite 900
Miami, Florida 33131-1706
(786) 792-6207

10. *Leal v. Rodriguez*, 220 So. 3d 543 (Fla. 3d DCA 2017)

Counsel for Appellant:

Cristobal D. Padron
Cristobal D. Padron & Associates, P.A.
357 Almeria Avenue, Suite 103
Miami, Florida 33134-5801
(786) 332-6340

Counsel for Appellee:

Appellee appeared pro se and was not represented by counsel.

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

Diocese of Palm Beach, Inc. v. Gallagher, 249 So. 3d 657 (Fla. 4th DCA 2018),
cert. denied, 139 S. Ct. 1601 (2019)

Miccosukee Tribe of Indians v. Lewis Tein, P.L., 227 So. 3d 656 (Fla. 3d DCA
2017), *cert. denied*, 138 S. Ct. 741 (2018)

State v. Reid, No. 3D16-1051, 2017 WL 2348615 (Fla. 3d DCA May 31, 2017),
cert. pending, No. 18-9152 (U.S. May 1, 2019)

Long v. State, 271 So. 3d 938 (Fla.) (Luck, J., concurring in part and concurring in
the judgment), *cert. denied sub nom.*, *Long v. Florida*, 139 S. Ct. 2635 (2019)

- 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.

Cases Reversed/Vacated as a District Judge:

OneWest Bank, FSB v. Palmero, No. 3D14-3114, 2018 WL 1832326 (Fla. 3d DCA Apr. 18, 2018), rev'd 2019 WL 1783727 (Fla. 3d DCA Apr. 24, 2019) (en banc). Writing for a majority of the Third District Court of Appeal, I applied the well-established rule of construction that all contemporaneously executed agreements should be read together where the court is asked to interpret the meaning of the agreement. In a divided opinion, the en banc court vacated the earlier opinion and concluded that where a mortgage is unambiguous, as the en banc court found this mortgage to be, the court could not look at other contemporaneously executed agreements, including the note and loan agreement, to interpret the meaning of language in the mortgage.

DePrince v. Starboard Cruise Services, No. 3D16-1149, 2018 WL 443153 (Fla. 3d DCA Jan. 17, 2018), rev'd 271 So. 3d 11 (Fla. 3d DCA 2018) (en banc). Writing for the majority of a three-judge panel of the Third District Court of Appeal, I applied the court's precedent establishing a four-part test for the affirmative defense of unilateral mistake. While I was bound by the court's precedent, I was careful to note that our case law was confusing and inconsistent and hinted that the court should do something about it. This is how I concluded the panel opinion: "We end on this note. The principle of unilateral mistake, as the *DePrince I* court explained, 'appears to be a confusing area of the law with inconsistent application among Florida's district courts of appeal.' 'The existence of three different tests has caused a great deal of confusion in the case law and to litigants and trial courts.' The record shows the trial court struggling to address this confusion. Despite its good faith efforts to reconcile the cases, we, ultimately, conclude that the trial court strayed too far from *DePrince I*. We look forward to one day having less confusion and inconsistency in the application of unilateral mistake, but until then, *DePrince I* controls our decision in this case." The defendant successfully moved for rehearing en banc. I wrote the unanimous opinion for the en banc court receding from *DePrince I* because it was inconsistent with decisions from the Florida Supreme Court, earlier cases from the Third District Court of Appeal, and cases from the other four district courts.

Reid v. State, No. 3D16-1051, 2017 WL 2348615 (Fla. 3d DCA May 31, 2017), rev'd *State v. Reid*, No. SC17-1377, 2019 WL 102322 (Fla. 2019). The defendant was sentenced to life in prison with parole eligibility after twenty-five years after pleading guilty to first-degree murder, attempted armed robbery, and possession of a firearm while engaged in a criminal offense. The defendant was seventeen when he murdered his victim. Following the United States Supreme Court's

decisions in *Graham v. Florida*, 560 U.S. 48 (2010) and *Miller v. Alabama*, 567 U.S. 460 (2012), the defendant moved for a new sentencing hearing that would give him the opportunity for release after considering the individual circumstances of his crime and background. The trial court denied the motion because the defendant was eligible for parole, and parole was an opportunity for release contemplated by the United States Supreme Court in *Graham* and *Miller*. In *Atwell v. State*, 197 So. 3d 1040 (Fla. 2016), the Florida Supreme Court held that “Florida’s existing parole system, as set forth by statute, does not provide for individualized consideration of [the defendant’s] juvenile status at the time of the murder, as required by *Miller*.” Following *Atwell*, I wrote for a unanimous Third District Court of Appeal reversing the trial court’s order and remanding for a new sentencing hearing. The state sought review in the Florida Supreme Court. While the case was pending in the Florida Supreme Court, that court receded from its decision in *Atwell*, and held in *Franklin v. State*, 258 So. 3d 1239 (Fla. 2018), that “sentences with the possibility of parole do not violate *Graham*” and do not require a resentencing. After *Franklin*, the Florida Supreme Court granted review of *Reid*, quashed the Third District’s opinion, and remanded for reconsidering in light of *Franklin*.

Decisions Reversed/Quashed as a Circuit Judge:

Deutsche Bank National Trust Co. v. SFL Property Holding LLC, Eleventh Judicial Circuit Case No. 15-8326, *rev’d* 237 So. 3d 1125 (Fla. 3d DCA 2018). In *Deutsche Bank Trust Co. Americas v. Beauvais*, 40 Fla. L. Weekly D1c (Fla. 3d DCA Dec. 17, 2014), the Third District Court of Appeal answered the question, “Where a lender files a foreclosure action upon a borrower’s default, and expressly exercises its contractual right to accelerate all payments, does an involuntary dismissal of that action without prejudice in and of itself negate, invalidate or otherwise ‘decelerate’ the lender’s acceleration of the payments, thereby permitting a new cause of action to be filed based upon a new and subsequent default?” The court answered: “We answer that question in the negative, and hold that the involuntary dismissal without prejudice of the foreclosure action did not by itself negate, invalidate or otherwise decelerate the lender’s acceleration of the debt in the initial action. The lender’s acceleration of the debt triggered the commencement of the statute of limitations, and because the installment nature of the loan payments was never reinstated following the acceleration, there were no ‘new’ payments due and thus there could be no ‘new’ default following the dismissal without prejudice of the initial action. The filing of the subsequent action, after expiration of the statute of limitations, was therefore barred.” Following *Beauvais*, and with the same facts, I granted the defendant’s motion for summary judgment based on the expiration of the statute of limitations. While the case was on appeal, the en banc Third District Court of Appeal reversed itself in *Beauvais* and concluded that “after the 2010 dismissal without prejudice of the predecessor mortgagee’s foreclosure action, the parties returned to the status quo that existed prior to the filing of the dismissed complaint. As a matter of law, the bank’s 2012 foreclosure action, based on

breaches that occurred after the breach that triggered the first complaint, was not barred by the statute of limitations.” *Deutsche Bank Tr. Co. Americas v. Beauvais*, 188 So. 3d 938 (Fla. 3d DCA 2016) (en banc) (*Beauvais II*). Based on *Beauvais II*, the Third District Court of Appeal reversed my summary judgment for the defendant. In reversing, the court noted “that the trial court did not have the benefit of *Bartram* or this Court’s en banc opinion, *Beauvais II*, when it entered final judgment in favor of SFL Property.”

Wells Fargo Bank, N.A. v. BH-NV Investments I, LLC, Eleventh Judicial Circuit Case No. 15-15951, rev’d 230 So. 3d 60 (Fla. 3d DCA 2017). In *Deutsche Bank Trust Co. Americas v. Beauvais*, 40 Fla. L. Weekly D1c (Fla. 3d DCA Dec. 17, 2014), the Third District Court of Appeal answered the question, “Where a lender files a foreclosure action upon a borrower’s default, and expressly exercises its contractual right to accelerate all payments, does an involuntary dismissal of that action without prejudice in and of itself negate, invalidate or otherwise ‘decelerate’ the lender’s acceleration of the payments, thereby permitting a new cause of action to be filed based upon a new and subsequent default?” The court answered: “We answer that question in the negative, and hold that the involuntary dismissal without prejudice of the foreclosure action did not by itself negate, invalidate or otherwise decelerate the lender’s acceleration of the debt in the initial action. The lender’s acceleration of the debt triggered the commencement of the statute of limitations, and because the installment nature of the loan payments was never reinstated following the acceleration, there were no ‘new’ payments due and thus there could be no ‘new’ default following the dismissal without prejudice of the initial action. The filing of the subsequent action, after expiration of the statute of limitations, was therefore barred.” Following *Beauvais*, and with the same facts, I granted the defendant’s motion for summary judgment based on the expiration of the statute of limitations. While the case was on appeal, the en banc Third District Court of Appeal reversed itself in *Beauvais* and concluded that “after the 2010 dismissal without prejudice of the predecessor mortgagee’s foreclosure action, the parties returned to the status quo that existed prior to the filing of the dismissed complaint. As a matter of law, the bank’s 2012 foreclosure action, based on breaches that occurred after the breach that triggered the first complaint, was not barred by the statute of limitations.” *Deutsche Bank Tr. Co. Americas v. Beauvais*, 188 So. 3d 938 (Fla. 3d DCA 2016) (en banc) (*Beauvais II*). Based on *Beauvais II*, the Third District Court of Appeal reversed my summary judgment for the defendant. The court noted that “the trial court did not have the benefit of [*Beauvais II*] when it rendered the final judgment in favor of BH-NV.”

Rivero v. Howard, Eleventh Judicial Circuit Case No. 09-42627, rev’d 218 So. 3d 992 (Fla. 3d DCA 2017). The plaintiff sued defendant for two counts of legal malpractice. I granted summary judgment for the defendant, finding that there was no genuine of material fact that the attorney did not cause the plaintiff to lose his false arrest and malicious prosecution claims against the Miami-Dade Police Department. Those claims would have been unsuccessful even without his

attorney's negligence. The Third District Court of Appeal reversed as to one count, concluding that I erred in finding no genuine issue of material fact. The court affirmed summary judgment as to the other legal malpractice claim.

Brugal v. State, Eleventh Judicial Circuit Case No. 12-28472, *rev'd* 217 So. 3d 134 (Fla. 3d DCA 2017). The defendant was convicted of four counts of lewd and lascivious molestation and four counts of lewd and lascivious battery. Based on binding precedent from the Third District Court of Appeal, I granted the defendant's motion for judgment of acquittal on three of the molestation counts and three of the battery counts because they violated the defendant's double jeopardy rights. The Third District reversed as to five of the six dismissed counts, distinguishing its precedent and concluding that the convictions did not violate the defendant's double jeopardy rights. The court affirmed my judgment of acquittal as to the sixth dismissed count, but on other grounds. A year later, after the Third District's *Brugal* opinion was final, the Florida Supreme Court unanimously agreed with my analysis of the double jeopardy issue and rejected the Third District's approach in *Lee v. State*, 258 So. 3d 1297 (Fla. 2018) ("We hold that, . . . to determine whether multiple convictions of solicitation of a minor, unlawful use of a two-way communications device, and traveling after solicitation of a minor are based upon the same conduct for purposes of double jeopardy, the reviewing court should consider only the charging document.").

Calixte v. Federal National Mortgage Association, Eleventh Judicial Circuit Case No. 14-28843, *rev'd* 211 So. 3d 1084 (Fla. 3d DCA 2017). After a bench trial, I entered judgment for the plaintiff on its foreclosure complaint and found that the plaintiff had reestablished the lost note under Florida law. On appeal, the Third District Court of Appeal "uph[e]ld the judgment in all respects except for one point." The court found that I "failed to determine whether Appellants were 'adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument,' as required by section 673.3091(2), Florida Statutes (2015)." The court reversed and remanded "for further proceedings, 'at which the court must address the means by which the Bank must satisfy this post-proof condition.'"

Sepulveda v. Westport Recovery Corp., Eleventh Judicial Circuit Case No. 13-152 AP, *rev'd* 145 So. 3d 162 (Fla. 3d DCA 2014). Writing for a unanimous panel of the circuit court appellate division, I concluded that under the unique facts of the case, and based on long-standing Florida Supreme Court precedent, the county court had jurisdiction to determine Mr. Sepulveda's homestead exemption claim. The Third District Court of Appeal disagreed and concluded that only the circuit court had jurisdiction to determine homestead exemption claims.

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

As a judge on the circuit court appellate division, a judge on the Third District Court of Appeal, and a justice on the Supreme Court of Florida, all of my decisions have been published.

As a trial court judge, I have issued in excess of one hundred written decisions. None of them have been published because the state trial court does not publish trial court orders. All of my trial court orders are stored as part of the court files maintained by the Miami-Dade Clerk of Courts.

- 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.

Bean v. University of Miami, 252 So. 3d 810 (Fla. 3d DCA 2018), rev. denied, SC18-1476, 2019 WL 1498810 (Fla. Apr. 5, 2019)

State v. Pena, 247 So. 3d 61 (Fla. 3d DCA 2018)

Diocese of Palm Beach, Inc. v. Gallagher, 249 So. 3d 657 (Fla. 4th DCA), rev. denied, SC18-865, 2018 WL 4050485 (Fla. Aug. 23, 2018), cert. denied, 139 S. Ct. 1601 (2019)

In re Amendments to the Florida Evidence Code, No. SC19-107, 2019 WL 2219714 (Fla. May 23, 2019) (Luck, J., dissenting)

State of Florida v. Shericka Williams, Eleventh Judicial Circuit Case No. F14-1793 (October 2, 2014) (copy supplied), *aff'd*, 208 So. 3d 196 (Fla. 3d DCA 2016), rev. denied, SC17-125, 2017 WL 1366132 (Fla. Apr. 13, 2017)

State of Florida v. Felix Antonio Silva Martinez, Eleventh Circuit Case No. F12-20826 (December 27, 2013) (copy supplied), *affirmed*, 197 So. 3d 52 (Fla. 3d DCA 2016)

- 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.

In determining the necessity or propriety of recusal, I thoroughly review each case assigned to me in order to determine whether the matter presents potential recusal-related issues. In doing so, I have been consistently guided by: (i) Florida Rule of Judicial Administration 2.330; (ii) the Florida Code of Judicial Conduct; and (iii) Opinions of the Florida Judicial Ethics Advisory Committee ("JEAC").

The Third District Court of Appeal had, and the Florida Supreme Court has, an automatic recusal policy whereby I am automatically recused without my knowledge from any cases in which I served as a trial or appellate judge in the same case. *See* Fla. Code of Jud. Conduct, Canon 3(E)(1)(b).

In addition, the Florida Code of Judicial Conduct requires that a judge disqualify himself or herself where "a person within the third degree of relationship to" the judge "is acting as a lawyer in the proceeding." Fla. Code. Jud. Conduct, Canon 3(E)(1)(d)(ii). My first cousin (the son of my father's sister) is a criminal defense lawyer in Miami-Dade County and represents felony defendants in the Eleventh Judicial Circuit. Pursuant to this rule, I sua sponte recused in the following cases:

State of Florida v. Clarence McPherson, Eleventh Judicial Circuit Case No. F16-22272

State of Florida v. Mark Edward Penaredondo, Eleventh Judicial Circuit Case No. F17-472

State of Florida v. Rashad Xavier Raye, Eleventh Judicial Circuit Case Nos. F12-21130, F12-21187, and F13-10968

State of Florida v. Rafael Jean-Baptiste, Eleventh Judicial Circuit Case Nos. F16-13846A and F16-22257

State of Florida v. Marlene Castillo, Eleventh Judicial Circuit Case No. F16-18788

State of Florida v. Rashaad Andrew Welcome and Kelsey Freitas, F15-2868A-B

State of Florida v. Christian Josue Vasquez, Eleventh Judicial Circuit Case No. F15-2664

State of Florida v. Antione Gabriel Curington, Adrian Bridges, and Thadis Lumar Milbry, Eleventh Judicial Circuit Case Nos. F14-27779A-C

State of Florida v. Robert Butler, Eleventh Judicial Circuit Case No. F13-14066

State of Florida v. Kevin Neance, Eleventh Judicial Circuit Case Nos. F12-6781 and F13-17610

State of Florida v. Evelyne Gedeusma, Eleventh Judicial Circuit Case Nos. F12-11003B

In addition, “where a judge selects an attorney to serve in [a] special role . . . in an election campaign, and the campaign is not remote in time from the date the relationship is revealed to the opposing party, disqualification is warranted.” *Neiman-Marcus Grp., Inc. v. Robinson*, 829 So. 2d 967, 968 (Fla. 4th DCA 2002). Five attorneys served in a special role in my retention campaign. I sua sponte recused myself in the following cases where one of the five attorneys appeared as counsel:

Moishe Mana v. Tony Cho, Eleventh Judicial Circuit Case No. 2014-5040-CA-32.

R.K./FL Management, Inc. v. Irina Chevaldina, Eleventh Judicial Circuit Case No. 2011-17842-CA-32

I also have recused in the following additional cases:

The Rama Fund, LLC v. Medley Plaza, Inc., Eleventh Judicial Circuit Case No. 2012-41663-CA-32. The former receiver moved to disqualify the former trial judge assigned to the case because the former trial judge and the new receiver were friends. I found the motion to be legally insufficient. However, I exercised my discretion to sua sponte recuse and have the case reassigned to another judge. See Fla. R. Jud. Admin. 2.330(i); *State v. Oliu*, 183 So. 3d 1161, 1163 (Fla. 3d DCA 2016).

Bayshore Yacht & Tennis Club Condominium Association, Inc. v. City of North Bay Village, Eleventh Judicial Circuit Case No. 2015-28965-CA-32. I recused myself on my own motion because I received a threatening ex parte communication from one of the parties. See Fla. R. Jud. Admin. 2.330(i); *State v.*

Oliu, 183 So. 3d 1161, 1163 (Fla. 3d DCA 2016).

Anthony Diaz v. BP Products North America, Inc., Eleventh Judicial Circuit Case No. 2009-59029-CA-32. In his motion, the defendant alleged that statements I purportedly made in open court had given him cause to believe he would be treated unfairly. Taking the allegations as true, as I was required to do, *see* Fla. R. Jud. Admin. 2.330(f), I granted the motion, given that it satisfied the procedural requirements of Rule 2.330.

State of Florida v. Ricardo Garganelly, Eleventh Judicial Circuit Case No. F14-6023. I sua sponte recused myself after the defendant physically attacked me on the bench during an evidentiary hearing. *See* Fla. R. Jud. Admin. 2.330(i); *State v. Oliu*, 183 So. 3d 1161, 1163 (Fla. 3d DCA 2016).

State of Florida v. Oscar Vega, Eleventh Judicial Circuit Case Nos. F11-9016 and F13-18576. The defendant moved to recuse me because I questioned his counsel's credibility, admonished counsel for the length of her cross examination and for asking improper questions, did not allow counsel to approach witnesses, seemed disinterested in counsel's closing argument, credited the testimony of a police officer, and relied on a statute in rendering my decision that had not been cited by the parties. I found the motion to be legally insufficient. However, I exercised my discretion to sua sponte recuse and have the case reassigned to another judge. *See* Fla. R. Jud. Admin. 2.330(i); *State v. Oliu*, 183 So. 3d 1161, 1163 (Fla. 3d DCA 2016).

State of Florida v. Erica Tapia, Eleventh Judicial Circuit Case No. F14-7963. The defendant moved to recuse me because I was a material witness in her probation violation case and I ordered a transcript of a hearing. I found the motion to be legally insufficient. However, I exercised my discretion to sua sponte recuse and have the case reassigned to another judge. *See* Fla. R. Jud. Admin. 2.330(i); *State v. Oliu*, 183 So. 3d 1161, 1163 (Fla. 3d DCA 2016).

State of Florida v. Rafael DeJesus Guzman, Eleventh Judicial Circuit Case No. F13-26686. I sua sponte recused myself after receiving an inappropriate ex parte communication from defense counsel. *See* Fla. R. Jud. Admin. 2.330(i); *State v. Oliu*, 183 So. 3d 1161, 1163 (Fla. 3d DCA 2016).

15. Public Office, Political Activities and Affiliations:

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

I have not held public office other than judicial office.

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

I have not rendered any services to any political party or election commission.

In the November 2012 general election, my childhood friend, John Couriel, ran to represent district 35 in the Florida state senate. I spent the last two weeks before election day as an unpaid campaign volunteer. I helped as a runner, picking up and dropping off campaign materials and supplies, and food and drinks for other volunteers.

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

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

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

I served as a law clerk and staff attorney to Judge Ed Carnes on the United States Court of Appeals for the Eleventh Circuit from 2004 to 2005, and then again from 2006 to 2008.

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

I have never practiced alone.

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

2005 – 2006

Law Clerk/JD

Greenberg Traurig, P.A.

333 Southeast 2nd Avenue, Suite 4400

Miami, Florida 33131

2008 – 2013

Assistant United States Attorney and Deputy Chief, Major Crimes Section

United States Attorney's Office, Southern District of Florida

James Lawrence King Federal Justice Building

99 Northeast Fourth Street

Miami, Florida 33132

- 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 never 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.

Following my first clerkship with Judge Carnes in 2005, I worked as a Law Clerk/JD at Greenberg Traurig, P.A. in Miami from 2005 to 2006. I worked in the appellate and litigation support division of the firm, helping with federal and state appeals and helping the litigators with potential appellate issues.

Following my second clerkship with Judge Carnes, I worked at the United States Attorney's Office for the Southern District of Florida in Miami from 2008 to 2013. In 2008, I started in the Office's appellate section. From 2008 to 2010, I was assigned to the major crimes section. From 2010 to 2012, I was assigned to the economic crimes section. From 2012 to 2013, when I left the Office to join the state trial court, I was appointed as a deputy chief in the major crimes section.

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

At Greenberg Traurig, the firm's appellate clients typically were developers and landowners appealing local government zoning decisions, and businesses that were defending a judgment or appealing a judgment following complex civil litigation. I only worked on appellate and litigation support matters while I was at the firm.

At the United States Attorney's Office, I represented the government in federal criminal prosecutions before the United States District Court for the Southern District of Florida and the United States Court of Appeals for the Eleventh Circuit. From 2008 to 2010, in the major crimes section, I typically handled cases involving gun violence, arson, drug trafficking, and immigration fraud. From 2010 to 2012, in the economic crimes section, I typically handled cases involving health care, investor, and tax fraud. From 2012 to 2013, as a deputy chief of the major crimes section, I helped supervise and train new attorneys in the Office in their gun violence, drug trafficking, and immigration fraud prosecutions.

- 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.

At Greenberg Traurig, from 2005 to 2006, one hundred percent of my work was in litigation, but because I was not yet a member of the Florida Bar, and most of our work was appellate and litigation support, I was in court infrequently.

At the United States Attorney's Office, from 2008 to 2013, one hundred percent of my work was in appellate and trial litigation, and I was in court on average at least once a week, and often more than that.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 95% |
| 2. state courts of record: | 5% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 5% |
| 2. criminal proceedings: | 95% |

- 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.

Excluding appeals and cases that concluded with a plea of guilty to the court, I have tried nineteen cases to verdict as an Assistant United States Attorney. Half were as chief counsel and half were as associate counsel.

- i. What percentage of these trials were:

- | | |
|--------------|------|
| 1. jury: | 100% |
| 2. non-jury: | 0% |

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

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

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of

the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

1. *United States v. Crecencio Hernandez*, Southern District of Florida Case No. 08-21054 CR-Zloch

Mr. Hernandez, as the captain of an old, rickety fishing boat, attempted to smuggle dozens of foreign nationals into the United States. As the boat approached Miami, Mr. Hernandez ran it aground on a sand bar and the boat tipped over. Six of the passengers couldn't swim and drowned as a result. At the time, this was one of the worst human smuggling tragedies in the Southern District. There was no trial; Mr. Hernandez pleaded guilty.

Dates of Representation: 2008 – 2009

Judges/Courts: Judge William J. Zloch, United States District Court for the Southern District of Florida

Counsel for the Defendant:

Judge Patrick M. Hunt (former Assistant Federal Public Defender)
United States Federal Building and Courthouse
299 East Broward Boulevard, Room 205E
Fort Lauderdale, Florida 33301
(954) 769-5470

2. *United States v. Lydia Menocal and Ofelia Macia*, Southern District of Florida Case No. 10-20116-CR-Ungaro

Ms. Menocal and Ms. Macia owned and operated Florida Language Institute, a language school in Miami authorized to approve student visas for foreign nationals studying in the United States. Ms. Menocal signed off on hundreds of forms approving student visas for foreign nationals without requiring that they attend class, subverting post-September 11 rules that were put in place to prevent manipulation of the student visa program by terrorists. At the time of the indictment, this was the largest student visa fraud case ever prosecuted, and was mentioned by the Assistant Secretary for Homeland Security in testimony before a congressional subcommittee. There was no trial; Ms. Menocal and

Ms. Macia pleaded guilty.

Dates of Representation: 2010

Judge/Court: Judge Ursula Ungaro, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was co-chief counsel with:

Judge Roy K. Altman (former Assistant United States Attorney)
United States Federal Building and Courthouse
299 East Broward Boulevard
Courtroom 207A, Chambers 207B
Fort Lauderdale, Florida 33301
(954) 769-5680

Counsel for the Defendants:

Manuel Gonzalez
2000 Ponce De Leon Boulevard, Suite 618
Coral Gables, Florida 33134-4422
(305) 444-1400

Juan M. Carrera
Carrera & Amador, P.A.
221 Southwest 42nd Avenue, Floor 3
Miami, Florida 33134-1751
(305) 441-1544

3. *United States v. Junior Sylvain, Emmanuel Othello, Niko Thompson, Ziv Bythol, Tarvus Daniels, Frantz Sterlin, Chris Victor, Eric Taylor, and Gordon Louis*, Southern District of Florida Case No. 09-20264-CR-King, *aff'd*, *United States v. Sterlin*, 466 F. App'x 792 (11th Cir. 2012), and *United States v. Niko Thopson*, 466 F. App'x 838 (11th Cir. 2012)

Junior Sylvain was the head of a gang that terrorized the Little Haiti neighborhood for years. Mr. Sylvain and three of his gang members were convicted at trial in May 2010 for running a drug trafficking organization, and sentenced to decades in federal prison. Another three pleaded guilty before trial. One was acquitted and another remains a fugitive.

Dates of Representation: 2009 – 2010

Judge/Court: Judge James Lawrence King, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was associate counsel with:

Russell Koonin (former Assistant United States Attorney)
United States Securities and Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, Florida 33131-4901
(305) 982-6385

Counsel for the Defendants:

Robyn Blake
The Law Office of Robyn M. Blake, P.A.
20295 Northwest Second Avenue, Suite 215
Miami, Florida 33169-2511
(305) 651-5505

Michael Smith
633 South Andrews Avenue, Suite 500
Fort Lauderdale, Florida 33301-2858
(954) 761-7201

Gregory A. Samms
The Law Office of Gregory A. Samms, P.A.
113 Almeria Avenue
Coral Gables, Florida 33134-6008
(786) 953-5802

David Donet
Donet, McMillan & Trontz, P.A.
3250 Mary Street, Suite 406
Coconut Grove, Florida 33133-5232
(305) 444-0030

Jeffrey D. Weinkle
Florida Criminal Defense, PA
1481 Northwest North River Dr
Miami, Florida 33125-2601
(305) 373-4445

Scott W. Sakin
Scott W. Sakin, P.A.
2883 Executive Park Drive, Suite 200
Weston, Florida 33331-3662

(954) 779-7879

Jan C. Smith II
Federal Public Defender's Office
1 East Broward Boulevard, Suite 1100
Fort Lauderdale, Florida 33301-1842
(954) 356-7436

Barry S. Greff
Law Office of Barry S. Greff, P.A.
1870 North Corporate Lakes Boulevard, No. 266735
Weston, Florida 33326-3280
(305) 576-8400

4. *United States v. Rene De Los Rios*, Southern District of Florida Case No. 10-20527-CR-Lenard, *aff'd*, *United States v. De Los Rios*, 489 F. App'x 320 (11th Cir. 2012)

Dr. De Los Rios was the medical director at two HIV infusion clinics that billed Medicare. Dr. De Los Rios prescribed expensive medications that he knew his patients did not need and were not receiving. As a result, Medicare was fraudulently billed approximately \$50 million. Dr. De Los Rios was convicted at trial in April 2011. He was sentenced to twenty years in prison—at the time, the second-longest sentence for a doctor committing Medicare fraud in Miami.

Dates of Representation: 2011

Judge/Court: Judge Joan A. Lenard, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was associate counsel with:

Joe Beemsterboer
Senior Deputy Chief, Fraud Section
United States Department of Justice
950 Constitution Avenue, Northwest
Washington, DC 20530

Counsel for the Defendant:

Jose M. Quinon
2333 Brickell Avenue, Suite A1
Miami, Florida 33129-2497
(305) 858-5700

Kristina G. Maranges
Envision Physician Services
7700 West Sunrise Boulevard, Suite PL-6
Plantation, Florida 33322-4113
(954) 939-7751

5. *United States v. Raul Diaz-Perera and Yenky Sanchez*, Southern District of Florida Case No. 11-20049-CR-Altonaga, *aff'd*, *United States v. Sanchez*, Eleventh Circuit Case No. 11-15707 (11th Cir. December 17, 2012)

Mr. Diaz-Perera was a former manager at the Department of Children and Families, and supervised Mr. Sanchez. The two of them stole and sold the Medicare numbers of hundreds of DCF clients in order to facilitate a Medicare fraud scheme. Mr. Diaz-Perera pleaded guilty. Mr. Sanchez was convicted at trial in September 2011.

Date of Representation: 2011

Judge/Court: Judge Cecilia M. Altonaga, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was chief counsel with:

Adam L. Schwartz (former Assistant United States Attorney)
Homer Bonner Jacobs
1441 Brickell Avenue, Suite 1200
Miami, Florida 33131-3445
(305) 350-5116

Counsel for the Defendants:

Roberto E. Abreu
Abreu Law, PLLC
201 Alhambra Circle, Suite 504
Coral Gables, Florida 33134-5105
(786) 558-9646

Martin A. Feigenbaum
Law Office of Martin A. Feigenbaum, Esq.
Post Office Box 545960
Surfside, Florida 33154-5960
(305) 323-4595

6. *United States v. Juan Carlos Rodriguez*, Southern District of Florida Case No. 12-20148-CR-Dimitrouleas, *aff'd*, *United States v. Rodriguez*, 537 F. App'x 840 (11th Cir.

2013)

Mr. Rodriguez was an accountant who set up an investment company, MDN Financial. Mr. Rodriguez solicited his accounting clients, and their friends and family members, to give him money to invest in stocks and bonds. Instead of investing the money, Mr. Rodriguez operated MDN Financial as a Ponzi scheme, using the money from new clients to pay back older clients, and pocketing the rest for himself. More than forty of his clients lost money—many, their life savings—and were devastated when the scheme fell apart. Mr. Rodriguez pleaded guilty and was sentenced above the sentencing guidelines to 84 months imprisonment. The case was profiled by the CNBC television program, “American Greed.”

Date of Representation: 2012

Judge/Court: Judge William P. Dimitrouleas, United States District Court for the Southern District of Florida

Counsel for the Defendant:

Lane S. Abraham
999 Ponce de Leon Boulevard, Suite 750
Coral Gables, Florida 33134-3057
(305) 285-8822

7. *United States v. Odalys Fernandez and Kelvin Soto*, Southern District of Florida Case No. 12-20230-CR-Ungaro, *aff’d*, *United States v. Fernandez*, 553 F. App’x 927 (11th Cir. 2014)

A federal grand jury returned an indictment that charged Odalys Fernandez and Kelvin Soto with one count each of conspiracy to defraud Medicare from August 17, 2007, to March 19, 2009, 18 U.S.C. § 1349, and with five counts of healthcare fraud for Fernandez and four counts for Soto, § 1347. Ms. Fernandez was charged with submitting false records that recorded purported visits to Klebe de la Cruz, Eulalia Garcia, Rolando Arece, and Caridad Pizzorno. And Mr. Soto was charged with submitting false records that recorded purported visits to Epifano Diaz, Leonida Barrios, Franklin Barnes, and Rosa Diaz.

The evidence at trial established that from 2007 to 2009, Ms. Fernandez and Mr. Soto, nurses in the home-health field, signed nursing notes and records that falsely stated that they provided nursing services to diabetic patients who were homebound and insulin-dependent. Ms. Fernandez and Ms. Soto submitted the records to a home health care agency, Ideal Home Health, which in turn sought reimbursement from the Medicare program and then paid the nurses a portion of that reimbursement as a kickback. Ideal paid its nurses \$25 for each nursing note that recorded a visit to a patient and an additional \$25 if the nurse had recruited the patient. Many of the patients of Ideal were not diabetic and did not require insulin injections in their home, and Ideal did not require

its nurses to visit the patients or provide nursing services to them.

A jury convicted Ms. Fernandez and Mr. Soto on all counts. The district court sentenced Ms. Fernandez to concurrent terms of 41 months of imprisonment, followed by concurrent periods of three years of supervised release, and ordered restitution in the amount of \$240,369. The district court sentenced Mr. Soto to concurrent terms of 72 months of imprisonment, followed by concurrent periods of three years of supervised release, and ordered restitution in the amount of \$727,418.

Date of Representation: 2012

Judge/Court: Judge Ursula Ungaro, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was associate counsel with:

Daniel J. Bernstein
United States Attorney's Office
99 Northeast Fourth Street
Miami, Florida 33132-2131
(305) 961-9169

Counsel for the Defendants:

Clayton R. Kaeiser
330 Alhambra Circle, Suite 200
Coral Gables, Florida 33134-5004
(305) 548-4888

Silvia T. Burgoa
330 Alhambra Circle, Suite 200
Coral Gables, Florida 33134-5004
(305) 858-3221

Charles T. White
1031 Ives Dairy Road, Suite 228
Miami, Florida 33179-2538
(305) 914-0160

8. *United States v. Isachi Gil*, Southern District of Florida Case No. 10-20766-CR-Cooke, *aff'd*, *United States v. Gil*, 497 F. App'x 940 (11th Cir. 2012)

Ms. Gil, a nurse, was charged with falsely representing in nursing notes, patient records, or other documents that she was visiting home-bound patients and administering insulin

injections to those home-bound, diabetic patients, when in actuality, the patients either were not diabetic or did not receive those services because they either did not require them or the visits never occurred. Ms. Gil was charged with health care fraud and making false statements in connection with health care matters, in violation of 18 U.S.C. §§ 1347, 1035(a)(2). A jury convicted Ms. Gil following a two-week trial, and the trial court sentenced her to 43 months of imprisonment.

Date of Representation: 2010 – 2011

Judge/Court: Judge Marcia G. Cooke, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was associate counsel with:

Daniel J. Bernstein
United States Attorney's Office
99 Northeast Fourth Street
Miami, Florida 33132-2131
(305) 961-9169

I also briefed and argued the appeal before the United States Court of Appeals for the Eleventh Circuit.

Counsel for the Defendant:

Frank Quintero Jr.
Quintero Broche P.A.
75 Valencia Avenue, Suite 800
Coral Gables, Florida 33134-6135
(305) 446-0303

Juan Pablo Broche
Quintero Broche P.A.
75 Valencia Avenue, Suite 800
Coral Gables, FL 33134-6135
(305) 446-0303

9. *United States v. Juan Gonzalez and Wilmer Quesada-Ramos*, Southern District of Florida Case No. 09-20492-CR-Gold, *aff'd*, *United States v. Quesada-Ramos*, 429 F. App'x 909 (11th Cir. 2011)

Officers arrived around 11:00 p.m. on February 4, 2009, to investigate an alarm activated in a carpet warehouse located in downtown Hialeah, Florida, and discovered a fire that had been started by pouring gasoline through a window onto rolls of carpet. The first two

officers on the scene saw Mr. Ramos in his red truck with its dim headlights drive out of a nearby alley. Mr. Ramos fled and led one officer on a high-speed chase through four traffic lights before the officer stopped the truck at a crowded intersection. Inside the truck, the officer discovered Mr. Ramos's cellular telephone and a wallet containing Mr. Gonzalez's driver's license and receipts from two gas stations where Mr. Gonzalez had purchased \$60 in gasoline within three hours of the fire. Although Mr. Ramos denied that he knew Mr. Gonzalez, investigators later discovered that Mr. Gonzalez was Mr. Ramos's uncle. Mr. Gonzalez had worked for years as a subcontractor for the owner of the warehouse, Mr. Gonzalez had fought with the owner about salary deductions in the two months preceding the fire, and Mr. Ramos had helped Mr. Gonzalez install storage racks inside the warehouse. Mr. Gonzalez, who lived many miles away, also was seen by police officers near the warehouse at the time of the fire, fled when officers at two different locations attempted to question him, and, when apprehended, was "really dusty," coughed incessantly, had soot on his face and singed hair in his nose, and spit up "blackish mucus." Mr. Gonzalez gave vague explanations for his symptoms and for his presence near the warehouse, and a fragment of DNA on a t-shirt found at the scene shared 20 characteristics with Mr. Gonzalez's DNA. A police officer seized from Mr. Gonzalez a cigarette lighter and a cell phone, which Mr. Gonzalez had used "pretty close" to the warehouse at 10:22 p.m. and at 11:19 p.m. Records for Mr. Ramos's cellular telephone established that he had driven to Hialeah the night of the fire, where he had made calls between 10:30 p.m. and 11:20 p.m. Although investigators did not discover any accelerant on Ramos's clothing or on any objects in his truck, a trained dog alerted to the presence of an accelerant in the bed of his truck. Mr. Gonzalez and Mr. Ramos were charged with conspiring to destroy, 18 U.S.C. § 844(n), and destroying by fire a building used in interstate commerce, §§ 2, 844(i). After a two-week trial, the jury convicted Mr. Gonzalez and Mr. Ramos of all charges.

Dates of Representation: 2009 – 2010

Judge/Court: Judge Alan S. Gold, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

I was chief counsel with:

Jared E. Dwyer (former Assistant United States Attorney)
Greenberg Traurig, P.A.
333 Southeast Second Avenue
Miami, Florida 33131-2176
(305) 579-0564

Counsel for the Defendants:

Vincent P. Farina (former Assistant Federal Public Defender)
8218 Southwest 193rd Street

Miami, Florida 33157-8006
(305) 772-7120

Kashyap P. Patel (former Assistant Federal Public Defender)
White House
1650 Pennsylvania Avenue, Northwest
Washington, DC 20502-0001
(202) 227-4000

John A. Weekes, Jr.
Weekes Law, P.L.
633 Southeast Third Avenue, Suite 203
Fort Lauderdale, Florida 33301-3263
(954) 463-1211

10. *United States v. Douglas Newton*, Southern District of Florida Case No. 11-60150-CR-Cooke, *aff'd*, *United States v. Newton*, 559 F. App'x 902 (11th Cir. 2014)

Mr. Newton was the President, Secretary, and sole Director of Real American Brands, Inc. ("RLAB"). He agreed to pay kickbacks to induce a pension fund to buy restricted shares of RLAB's penny stock. When informed that the pension fund would no longer purchase any more of RLAB stock, Mr. Newton conspired with a friend, Yan Skwara, to pay the same kickbacks for the purchase of stock in Skwara's company. Mr. Newton was charged with mail fraud, securities fraud, and conspiracy to commit securities fraud. The jury convicted Mr. Newton of all counts and he was sentenced to 30 months' imprisonment followed by one year of supervised release.

Dates of Representation: 2011 – 2012

Judge/Court: Judge Marcia G. Cooke, United States District Court for the Southern District of Florida

Co-Counsel for the Government:

H. Ron Davidson
United States Attorney's Office
99 Northeast Fourth Street
Miami, Florida 33132
(305) 961-9001

Counsel for the Defendant:

Miguel Caridad (former Assistant Federal Public Defender)
1012 Castile Avenue
Coral Gables, Florida 33134-4740
(305) 530-7000

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.)

Florida Judicial Education, 2014 – Present: I have served as faculty at Florida Judicial College (for new judges), the Florida Conference of Circuit Judges, Advanced Judicial College, and the Florida Court Personnel Institute. I have taught classes to my judicial colleagues regarding numerous criminal and civil topics, including sentencing, case management, insurance law, and legal writing.

Florida Bar Appellate Court Rules Committee, 2015 – Present: Appointed to consecutive terms on the committee by Presidents of the Florida Bar, I have served as chair and vice-chair of the criminal rules subcommittee, and vice chair of the entire committee, helping the chair oversee all committee activities. The committee is responsible for analyzing proposals concerning new rules of appellate procedure, as well as existing rules. On behalf of the committee, I orally argued in the front of the Florida Supreme Court in favor of a rule requiring that all appeals throughout the state be heard by three-judge panels instead of by a single judge. *See In re Amendments to Fla. Rules of Appellate Procedure-2017 Regular-Cycle Report*, 256 So. 3d 1218 (Fla. 2018).

I have never acted or 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.

In 2007 and 2008, I taught a Business Law course at Alabama State University in Montgomery, Alabama. This was an introductory but required course for all business majors at the university. The course covered the American court system and Constitution, and basic torts, contracts, and criminal law. The syllabuses are supplied.

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

The only future benefits I expect to receive are from my federal and state retirement plans and from investments in individual retirement accounts.

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 agreements to pursue outside employment.

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).

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and will supply a copy to this Committee.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse myself from any case where I have ever played any role. Otherwise, I will evaluate any other real or potential conflict of interest, or relationship that could give rise to the appearance of a conflict of interest, on a case-by-case basis and determine appropriate action, including recusal, with the input of parties and after consulting the applicable canons of judicial ethics.

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

If confirmed, I will carefully review and address any real or potential conflicts of interest by reference to section 455 of Title 28 of the United States Code and all applicable canons of the Code of Conduct for United States Judges, as well as any and all other laws, rules, practices, and procedures governing such circumstances.

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.

Because I have worked for the courts and federal government for most of my career, I've been limited in the pro bono legal work that I could do. But in 2006 I, along with many others, helped research for and edit the Cuban American Bar Association's amicus curiae brief submitted to the en banc Eleventh Circuit Court of Appeals in *United States v. Campa*.

In 2011 and 2012, I was appointed by the Chief Judge of the Southern District of Florida to serve on the committee to organize the bench and bar conference, and the ad hoc committee on attorney admissions, peer review, and attorney grievances.

In 2013, as part of Dade Legal Aid's Put Something Back program, I represented a victim of domestic violence seeking an injunction against an ex-boyfriend.

Since being appointed to the bench in 2013, I have served on the Florida Bar's Appellate Court Rules Committee and as a volunteer judge for local high schools and law schools.

Every year since 2013, I have judged the mock oral argument for the University of Miami Law School's appellate advocacy class.

Every year since 2013, I have judged the mock trial for the University of Miami Law School and Florida International University Law School's trial advocacy class.

Every year since 2013, I have judged practice rounds for the University of Miami Law School's moot court team.

In 2016, I reviewed and graded briefs for the Hispanic National Bar Association's annual moot court competition.

In 2017, 2018, and 2019, I judged the Florida Law Related Education Association's high school moot court competition.

And from 2013 to 2016, I was a Big Brother in the Big Brothers/Big Sisters program. I saw my Little Brother, Wadney, graduate from Booker T. Washington High School in Miami's Overtown neighborhood, and start Miami-Dade College.

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.

There is no selection commission in my jurisdiction for circuit court appointments. I was contacted by the White House Counsel's Office about an interview on July 31, 2019. I interviewed with attorneys from the White House and the Department of Justice's Office of Legal Policy on August 5, 2019, in Washington, DC. On August 26, 2019, I was informed that I was a potential nominee for a vacancy on the United States Court of Appeals for the Eleventh Circuit, and on September 12, 2019, the President announced his intent to nominate me. Since then I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

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

No.

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		204	126	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		221	345	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – see schedule		786	536	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		86	000	Tuition		15	705
Cash value-life insurance							
Other assets itemize:							
Management Trust		185	417				
Irrevocable Trust	6	126	669				
				Total Liabilities		68	305
				Net Worth	7	541	788
Total Assets	7	610	093	Total Liabilities and Net Worth	7	610	093
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No.		
On leases or contracts				Are you defendant in any suits or legal actions?	No.		
Legal Claims				Have you ever taken bankruptcy?	No.		
Provision for Federal Income Tax		52	600				
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Vanguard 500 Index Fund Investment	11,993.22
Exxon Mobil	6,917.62
Disney	6,900.00
American Electric Power	11,490.58
Fidelity Dividend Growth Fund	26,157.12
Fidelity Small Cap Stock Fund	30,912.08
Fidelity Index Premium Class Fund	24,682.81
Coca Cola	1,205.80
Voya Vanguard Target Retire 2050 Fund	22,148.84
Thrift Savings Plan L 2040 Fund	40,751.04
Florida Prepaid Educational Savings Plan	38,186.58
Total Listed Securities	<u>221,345.69</u>

Real Estate Owned

Personal Residence	<u>786,536.00</u>
Total Real Estate Owned	<u>786,536.00</u>

AFFIDAVIT

I, Robert J. Luck,
do swear that the information provided in this statement is, to
the best of my knowledge, true and accurate.

September 10, 2019
(DATE)


(NAME)


(NOTARY)

