

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Thomas James Marcelle

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

United States District Court Judge for the Northern District of New York

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

Cohoes City Court
97 Mohawk Street
Cohoes, New York 12047

Residence: Slingerlands, New York.

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

1962; Albany, New York

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

Cornell Law School, 1985 – 1988; Juris Doctor (magna cum laude) 1988

Bowdoin College, 1980 – 1984; Bachelor of Arts, 1984

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

2016 – Present
Cohoes City Court
97 Mohawk Street

Cohoes, New York 12047
Judge

2016 – Present
Albany County Sheriff's Office
16 Eagle Street
Albany, New York 12207
Policy Analyst

2015 – Present
LaSalle Institute
164 Williams Road
Troy, New York 12180
Board Chair/Trustee

2014 – Present
Capital District Lacrosse Officials Association
No Physical Address
Referee/Umpire

1991 – Present
Capital City Rescue Mission
259 South Pearl Street
Albany, New York 12202
Counsel (2004 – 2016)
President of the Board of Trustees (2001 – 2004)
Vice President of the Board of Trustees (1998 – 2001)
Trustee (1996 – 2004)
Volunteer (1991 – Present)

1989 – 1990; 1990 – Present
Lawyer
Private Practice, Solo Practitioner
61 Devonshire Drive
Slingerlands, New York 12159
Law Office of Thomas Marcelle

2016
Albany County Sheriff's Office
16 Eagle Street
Albany, New York 12207
Chief Counsel

2012 – 2015
Albany County Attorney's Office
112 State Street

Albany, New York 12207
Albany County Attorney

2002 – 2012
Minority Caucus Albany County Legislature
112 State Street
Albany, New York 12207
Minority Counsel

2010 – 2012
Alliance Defending Freedom
15100 North 90th Street
Scottsdale, Arizona 85260
Allied Attorney Coordinator

2002 – 2005
Bethlehem Town Board
445 Delaware Ave.
Delmar, New York 12054
Town Councilman

1994
Troy Corporation Counsel's Office
City of Troy
Troy City Hall
Troy, New York 12180
Assistant Corporation Counsel

1990
Special Litigation Section
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

1988 – 1989; 1992 – 1993
Albany County Public Defender's Office
112 State Street
Albany, New York 12207
Assistant Albany County Public Defender

1988 – 1989
Rutnik and Rutnik
112 State Street
Albany, New York 12207
Lawyer

Summer 1987
Foley, Hoag and Elloit
One Post Office Square
Boston, Massachusetts 02109
Summer Law Clerk

Fall 1987
Cornell Law School
Myron-Taylor Hall
Ithaca, New York 14853
Writing Instructor

Summer 1985
Sonnenreich and Roccograndi
600 New Hampshire Avenue, NW
Washington, DC 20037
Summer Law Clerk

1984 – 1985
The Albany Academy
Academy Road
Albany, New York 12208
Freshman Wrestling and Football Coach

1984 – 1985
Assistant Albany County Public Defender
Albany County Public Defender's Office
112 State Street
Albany, New York 12207
Intern

Summer 1980; Summer 1981; Summer 1982; Summer 1983; Summer 1984
Callanan Industries
1245 King Road
Schenectady, New York 12303
Laborer

1981 – 1984
Bowdoin College Physics Department
Searles Hall
Brunswick, Maine 04011
Head Physics Tutor (1983 – 1984)
Optics Lab Instructor (1981, 1982)

Other affiliations (uncompensated)

1993 – 2011

Albany County Republican Committee

No Physical Address

Counsel (2004 – 2011)

Committee member (1993 – 2011)

Judicial Delegate (2004 – 2010)

Bethlehem Town Chair (2004)

2005 – 2007

Bethlehem Pop Warner Football

No Physical Address

Board Member

1990 – 1997

College of Saint Rose

432 Western Avenue

Albany, New York 12203

Trustee

Fall 1996

Albany County Committee to Re-elect President Bush

No Physical Address

Campaign Chair

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 never served in the U.S. 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.

Northern District of New York (2010)

Pro Bono Honor Roll

American Bar Association Standing Committee on the Federal Judiciary (2008)

Rated well qualified to fill vacancy in the Northern District of New York

United States Court of Appeals for the Second Circuit

Appointed Amicus Curiae Counsel in *Orange County Water District v. Unocal Corp.*, 584 F.3d 43 (2nd Cir. 2009)

The Albany Chapter of the Federalist Society (2004)
James Madison Award

Cornell Law School (1985 – 1988)
Juris Doctor, *Magna Cum Laude* (1988)
Editor, *Cornell Law Review* (1987 – 1988)
American Jurisprudence Award in Criminal Procedure (highest grade) (1987)
American Jurisprudence Award in Freedom of Expression (highest grade) (1987)
Semifinalist, Moot Court, Spring 1987 and Fall 1988

Bowdoin College (1980 – 1984)
James Bowdoin Scholar Award (1980 – 1981)
Dean's List (1980 – 1984, intermittently)
Head Tutor Physics Department (1983 – 1984)

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.

Albany County Bar Association (2002 – Present)
Judicial Screening Committee (2010 – 2015)

County Attorney Association of New York (2012 – 2015)

Northern District of New York Bar Association (2003 – Present)

10. **Bar and Court Admission:**

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

New York, 1989

There has been no lapse in membership.

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

United States Supreme Court, 1998

United States Court of Appeals for First Circuit, 2004

United States Court of Appeals for Second Circuit, 1990

United States Court of Appeals for District of Columbia Circuit, 2015

Northern District of New York, 1989

Southern District of New York, 2003

Western District of New York, 2009

Eastern District of Wisconsin, 2010

There have been no lapses in membership.

11. **Memberships:**

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

Albany County Republican Committee

Counsel (2004 – 2011)

Committee member (1993 – 2011)

Judicial Delegate (2004 – 2010)

Bethlehem Town Chair (2004)

Bethlehem Lacrosse Club, Board Member (2007 – 2011)

Bethlehem Pop Warner Football, Board Member (2005 – 2007)

Bethlehem YMCA, Member (2006 – Present)

Capital City Rescue Mission (1991 – Present)

Counsel (2004 – 2016)

President of the Board of Trustees (2001 – 2004)

Vice President of the Board of Trustees (1998 – 2001)

Trustee (1996 – 2004)

Volunteer (1991 – present)

Capital District Lacrosse Officials Association, Referee/Umpire (2014 – Present)

College of Saint Rose, Trustee (1990 – 1997)

Colonie Country Club, Member (approximately 2000 – 2006)

Federalist Society for Law and Public Policy Studies, Member (1990 – Present)

Albany Chapter, Member (2000 – 2006)

Kiwanis Club of Bethlehem, NY (1999 – 2004)

LaSalle Institute, Board Chair/Trustee (2015 – Present)

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

The LaSalle Institute is a Catholic high school that admits only boys. The Kiwanis Club had not allowed women members until 1987. Otherwise, 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.

With Libby Post, *Cyberbullying Law Should Be Upheld*, The Times-Union (Albany), May 31, 2014. Copy supplied.

Letter to the Editor, The Times-Union (Albany), June 16, 2013. Copy supplied.

Letter to the Editor, The Times-Union (Albany), February 18, 2007. Copy supplied.

Letter to the Editor, The Spotlight, January 21, 2004. Copy supplied.

Letter to the Editor, The Spotlight, Oct. 22, 2003. Copy supplied.

Letter to the Editor, The Spotlight, Oct. 15, 2003. Copy supplied.

Censoring Religious Speech in the Name of Non-Establishment, Government, Law and Policy Journal, Winter/Spring 2003. Copy supplied.

Letter to the Editor, The Spotlight, May 15, 2002. Copy supplied.

Letter to the Editor, The Spotlight, January 30, 2002. Copy supplied.

Letter to the Editor, The Spotlight, June 16, 1999. Copy supplied.

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

None.

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

I was the Albany County Attorney from 2012–2015. I spoke monthly before various legislative committees concerning policy and legal issues. While the legislative committee meetings are public, they are neither transcribed nor recorded nor otherwise preserved

Memorandum Opinion, August 22, 2013. Copy supplied.

Albany County Legislature Information Session, January 29, 2013. Transcript supplied.

Albany County Legislators Information Session, January 24, 2013. Transcript supplied.

Albany County Legislators Information Session, January 22, 2013. Transcript supplied.

In 2006, I was hired as special counsel to City of Schenectady for referendum petition. I opined that the 1255 signatures on the referendum were invalid and thus the petition was invalid. This report was made public. I have not retained a copy of it.

I was a town councilman for the Town of Bethlehem from 2002–2005. The Board would meet bi-monthly. The minutes from the Bethlehem Town Board Meetings from 2002–2005 may be accessed at <https://www.townofbethlehem.org/Archive.aspx?AMID=39&Type=&ADID=>.

- 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.

Spring Semester 2019: Speaker, Albany Law School, Judge Rachel Krester's Class, Albany, New York. I spoke about litigating *Good News Club v. Milford Central School*. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Avenue, Albany, New York 12208.

Fall Semester 2018: Speaker, Albany Law School, Judge Lawrence Kahn's Class, Albany, New York. I spoke about being a solo practitioner and the experience of litigating *Good News Club v. Milford Central School*. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Avenue, Albany, New York 12208.

Fall Semester 2017: Speaker, Albany Law School, Judge Lawrence Kahn's Class, Albany, New York. I spoke about being a solo practitioner and the experience of litigating *Good News Club v. Milford Central School*. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Avenue, Albany, New York 12208.

June 2017: Commencement Speaker, Augustine Classical Academy, Mechanicville, New York. Notes supplied.

Fall Semester 2016: Speaker, Albany Law School, Judge Lawrence Kahn's Class, Albany, New York. I spoke about being a solo practitioner and the experience of litigating *Good News Club v. Milford Central School*. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Avenue, Albany, New York 12208.

Fall Semester 2016: Speaker, Oberlin College Law Scholars, Oberlin, Ohio. I discussed the principles of cross-examination in a criminal trial. I have no notes, transcript, or recording. The address of Oberlin College is 173 West Lorain Street, Oberlin, Ohio 44074.

September 25, 2012: Speaker, Cornell Law School Federalist Society, Ithaca, New York. I spoke on *Mount Soledad Memorial v. Trunk*. I have no notes, transcript, or recording. The address of Cornell Law School is Myron Taylor Hall, Ithaca, New York 14853.

Fall Semester 2004: Speaker, Albany Law School Federalist Society, Albany, New York. I spoke on religious speech. I have no notes, transcript, or recording. The address of Albany Law School is 80 New Scotland Avenue, Albany, New York 12208.

Fall Semester 2001: Speaker, Panel on *Good News Club v. Milford Central School*, Columbia Law School, New York, New York. I spoke on a panel about *Good News Club v. Milford Central School*. I have no notes, transcript, or recording. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027

Fall Semester 2001: Speaker, Cornell Law School Federalist Society, Ithaca, New York. I spoke about *Good News Club v. Milford Central School*. I have no notes, transcript, or recording. The address of Cornell Law School is Myron Taylor Hall, Ithaca, New York 14853.

June 12, 2001: Panelist, "Good News from the Supreme Court? Perspectives on the U.S. Supreme Court decision in *Good News Club v. Milford Central School*," Pew Research Center, Washington, D.C. Transcript supplied.

I have spoken many times to high school students and law school students about the Supreme Court and First Amendment. I do not have records of where I spoke and when, and I do not have any notes, transcripts, or recordings from those discussions.

In connection with my 1993 campaign for Albany County District Attorney, my 1999 campaign for Albany County Legislature, and my 2001 campaign for Bethlehem Town Council, I would have given political speeches relating to those candidacies. I have not retained copies of any notes, transcripts, or recordings for those speeches, nor have I retained records of where I spoke and when.

- 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.

Marcelle Advances to Senate Review for Federal Bench, WNYT, Oct. 12, 2018. Recording available at <https://wnyt.com/news/marcelle-judge-federal-appointment/5105922/>.

Nicholas Buonanno, *Popular La Salle Institute Principal Resigns*, The Record, July 8, 2017. Copy supplied.

Thomas Marcelle *Headed for Cohoes City Court Judgeship*, Times Union (Albany), Feb. 24, 2016. Copy supplied.

Larry Rulison, *Court Loses Influential Voice*, Times Union (Albany), Feb. 14, 2016. Copy supplied.

Tim Williams, *Capitol Pressroom*, WCNY, Dec. 2, 2015. Recording available at <http://www.wcny.org/dec-2-2015-amy-paulin-sean-casey-and-tom-marcelle-peter-iwanowicz-bruce-gyory/>.

Rouhollah Goudarzi, *Capitol Pressroom*, WCNY, Oct. 19, 2015. Recording available at <http://www.wcny.org/oct-19-2015-sean-casey-tom-marcelle-joe-heath-mike-elmendorf/>.

Jordan Carleo-Evangelist, *Oil Interests Study Albany County Spill Reporting Law*, Times Union (Albany), Oct. 15, 2015. Copy supplied.

Brendan Lyons, *Cop Under Investigation Resigns*, Times Union (Albany), July 16, 2015. Copy supplied.

Peter Crummey, *Benchmark*, William K. Sanford Town Library, approximately June 2015. Recording available at <https://vimeo.com/112850123>.

Jordan Carleo-Evangelist, *Lawyers Want \$6.9M from Albany County for Redistricting Case*, Times Union (Albany), May 7, 2015. Copy supplied.

Matthew Hamilton, *Manufacturers Sue Albany County Over 'Toxic Toys' Law*, Times Union (Albany), Apr. 17, 2015. Copy supplied.

Tim Williams, *Capitol Pressroom*, WCNY, Jan. 20, 2015. Recording available at <http://www.wcny.org/cpr012015>.

Tim Williams, *Capitol Pressroom*, WCNY, Oct. 20, 2014. Recording available at <http://www.wcny.org/cpr102014/>.

Robert Gavin, *Bid Indictment Is Downplayed*, Times Union (Albany), Oct. 11, 2014. Copy supplied.

Robert Gavin, *Highest Court to Take on Bullying*, Times Union (Albany), June 4, 2014. Copy supplied.

Alysia Santo, *Dueling Emails Over Crude Oil Consultant*, Times Union (Albany), Apr. 18, 2014. Copy supplied.

Many Albany County Laws Missing and Panels Never Meet, Times Union (Albany), Mar. 17, 2014. Copy supplied.

Danielle Sanzone, *Project Growth to Help Young Delinquents Make Positive Changes in Their Lives*, The Record, Dec. 3, 2013. Copy supplied.

Brendan Lyons and Alysia Santo, *County Probers Under Scrutiny*, Times Union (Albany), Oct. 20, 2013. Copy supplied.

Justin Mason, *Albany County Legislators Delay Action on Renovations for SCCC Branch*, The Daily Gazette, May 22, 2013. Copy supplied.

Justin Mason, *Investigator Files Federal Suit Against Albany County Sheriff's Office*, The Daily Gazette, May 2, 2013. Copy supplied.

Jordan Carleo-Evangelist, *County Can Sue Over Back Pay*, Times Union (Albany), Apr. 5, 2013. Copy supplied.

Jordan Carleo-Evangelist, *County on Notice in Chase Death*, Times Union (Albany), Feb. 21, 2013. Copy supplied.

Brendan Lyons, *Ex-Jail Officer Sues County*, Times Union (Albany), Feb. 9, 2013. Copy supplied.

Jordan Carleo-Evangelist, *Court Project Claim Gets OK*, Times Union (Albany), Jan. 31, 2013. Copy supplied.

Brendan Lyons, *Connors Seeking Added Powers*, Times Union (Albany), Nov. 30, 2012. Copy supplied.

Brendan Lyons and Jordan Carleo-Evangelist, *County Suing Disabled Officer for \$400G*, Times Union (Albany), Nov. 1, 2012. Copy supplied.

Robert Gavin, *Rules Aim at Law Guardians and Conflicts of Interest*, Times Union (Albany), Oct. 30, 2012. Copy supplied.

Robert Gavin, *Restrictions Are Possible for Law Guardians*, Times Union (Albany), Oct. 17, 2012. Copy supplied.

Jordan Carleo-Evangelist, *County Wants Tow Firm on the Hook*, Times Union (Albany), Sept. 12, 2012. Copy supplied.

Brendan Lyons, *Marra's to Settle Case for \$268G*, Times Union (Albany), Aug 2, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Pawn Law a Tough Sale*, Times Union (Albany), July 30, 2012. Copy supplied.

Robert Gavin, *Ex-Staffer's Back Pay Disputed*, Times Union (Albany), June 6, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Gold Buyer: County's Claim Valueless*, Times Union (Albany), April 28, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Friction Seen Over Shelter-Related Pact*, Times Union (Albany), Mar. 29, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Court Site's Worth Shown*, Times Union (Albany), Feb. 17, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Conservative County Attorney Confirmed*, Times Union (Albany), Feb. 14, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Notch One for Marcelle: Backed by County Independence Chair*, Times Union (Albany), Feb. 2, 2012. Copy supplied.

Jordan Carleo-Evangelist, *Marcelle Nominated as New County Attorney*, Times Union (Albany), Jan. 6, 2012. Copy supplied.

Carol Demare, *Judge Won't Block Voting*, Times Union (Albany), Aug. 19, 2011. Copy supplied.

Carol Demare, *Lawyers: End County Legislature Election Work*, Times Union (Albany), Aug. 5, 2011. Copy supplied.

Jordan Carleo-Evangelist, *God's Business Before People's?* Times Union (Albany), Jan. 27, 2010. Copy supplied.

Dan Sabbatino, *Judge in Ballot Petition Decides to Step Down*, The Spotlight, Sept. 30, 2009. Copy supplied.

Carol Demare, *Bakeries Feel Burned by Ban*, Times Union (Albany), May 1, 2009. Copy supplied.

Change of Plans on Colonie Board, Times Union (Albany), Dec. 12, 2008. Copy supplied.

Dan Sabbatino, *Candidates Dispute Election Filings*, The Spotlight, Sept. 10, 2008. Copy supplied.

Carol Demare, *Rights Lawyer Tapped As Jurist*, Times Union (Albany), Aug. 2,

2008. Copy supplied.

Marc Parry, *UAlbany Faulted for Student Fee Use*, Times Union (Albany), Nov. 22, 2007. Copy supplied.

Carol Demare, *Judges Seal Deal, but Day in Court Awaits*, Times Union (Albany), Sept. 29, 2007. Copy supplied.

Glenn Griffith, *Shen District, Teen Activist Reach Agreement*, Saratogian, Jan. 20, 2007. Copy supplied.

Pam Allen, *Pupil Who Opposes Abortion Wins Right*, Daily Gazette, Jan. 20, 2007. Copy supplied.

Pam Allen, *Student Protest Stopped, Suit Says*, Daily Gazette, Jan. 5, 2007. Copy supplied.

Rick Karlin, *Party Cash OK for Use in Primaries*, Times Union (Albany), Nov. 27, 2006. Copy supplied.

Rick Karlin, *Trying to Fly Under the Radar*, Times Union (Albany), Oct. 16, 2006. Copy supplied.

Brian Nearing, *Legal Threat Called Tool for Ending County GOP Dispute*, Times Union (Albany), Sept. 19, 2006. Copy supplied.

John Caher, *Case Broadens State Primary Rule Decision*, New York Law Journal, July 26, 2006. Copy supplied.

John Caher, *Funding of Campus Groups Seen as Bid to Limit Viewpoints*, New York Law Journal, Nov. 10, 2005. Copy supplied.

Kenneth Aaron, *Conservative Students Score Victory*, Times Union (Albany), Nov. 10, 2005. Copy supplied.

Stephanie Lubis, *Marcelle Seeks Judgeship*, The Spotlight, Nov. 2, 2005. Copy supplied.

Stephanie Lubis, *Marcelle Is GOP Pick for State Supreme Court*, The Spotlight, Sept. 28, 2005. Copy supplied.

Stephanie Lubis, *Local Hopefuls Line Up*, The Spotlight, Sept. 14, 2005. Copy supplied.

Katherine Gregg, *Laffey Plans to Keep Talking on the Radio*, Providence Journal, Sept. 10, 2005. Copy supplied.

I gave an interview regarding Chief Justice John Roberts to WTEN on September 6, 2005. I have been unable to locate a recording or transcript of this interview.

Carol Demare, *A Dedicated Jurist, a 'Good Man,'* Times Union (Albany), July 28, 2005. Copy supplied.

Daniel Barbarisi, *Decision Day – Appeals Panel Reverses Ruling on Cranston's Holiday Display*, Providence Journal, July 7, 2005. Copy supplied.

Daniel Barbarisi, *Laffey Takes Speech Case to Appeals Court*, Providence Journal, June 9, 2005. Copy supplied.

Libby Schirmer, *Republicans Tap Proven Winners*, The Spotlight, May 25, 2005. Copy supplied.

M. Charles Bakst, *Lisi to Laffey: What's the Big Deal?* Providence Journal, May 19, 2005. Copy supplied.

M. Charles Bakst, *When Laffey Looks for Advice, He Turns to Inner Circle*, Providence Journal, Sept. 19, 2004. Copy supplied.

Daniel Barbarisi, *Ruling Expected in Holiday-Display Suit Within 2 Months*, Sept. 1, 2004. Copy supplied.

Daniel Barbarisi, *City Moves for Dismissal of Creche Suit*, Providence Journal, Aug. 18, 2004. Copy supplied.

Kathleen Moore, *56 Conservative Candidates to Come Off Ballot*, Daily Gazette, Aug. 6, 2004. Copy supplied.

On June 11, 2004, I was a commentator for President Reagan's funeral on News Channel 9, now called Spectrum News. I have been unable to locate a recording or transcript of this program.

Kristen Olby, *County Dems Win Big*, The Spotlight, May 5, 2004. Copy supplied.

Cathy Woodruff, *Federal Judges Order Special County Vote*, Times Union (Albany), Jan. 29, 2004. Copy supplied.

Kristen Olby, *Marcelle New Chairman of Bethlehem GOP*, The Spotlight, Jan. 7, 2004. Copy supplied.

Cathy Woodruff, *Voting System Changes Studied*, Times Union (Albany), Dec. 1, 2003. Copy supplied.

Kristen Olby, *Meet the Candidates*, The Spotlight, Oct. 29, 2003. Copy supplied.

Kristen Olby, *County Legislator's Residency Questioned*, The Spotlight, Oct. 29, 2003. Copy supplied.

Cathy Woodruff, *Democrats Want Elections Postponed*, Times Union (Albany), Oct. 1, 2003. Copy supplied.

Cathy Woodruff, *Patterns Emerge in Black and White*, Times Union (Albany), Sept. 11, 2003. Copy supplied.

Kristen Olby, *Election Board Rules in Marcelle's Favor*, The Spotlight, Aug. 6, 2003. Copy supplied.

Kristen Olby, *Marcelle Draws Ire of WFP*, The Spotlight, July 30, 2003. Copy supplied.

Anne Miller, *In Mystery of Unearthed Bones, a Bill to be Paid*, Times Union (Albany), July 9, 2003. Copy supplied.

Kristen Olby, *Marcelle to Run for Town Justice Post*, The Spotlight, June 11, 2003. Copy supplied.

Rick Karlin, *Schools Face Funding Loss Over Prayer*, Times Union (Albany), Feb. 13, 2003. Copy supplied.

Redistricting Plan on Breslin's Desk, Times Union (Albany), Dec. 20, 2002. Copy supplied.

Lee Coleman, *School Board Ratifies Prayer Settlement*, Daily Gazette, June 12, 2002. Copy supplied.

Kenneth C. Crowe II, *District to Clarify Prayer Stance*, Times Union (Albany), May 11, 2002. Copy supplied.

Jim Kenney, *Judge Rules in Favor of Broadus in Grace Case*, Saratogian, Apr. 13, 2002. Copy supplied.

Federal Court Hears Lawsuit over Kindergarten Christian, Washington Times, Apr. 12, 2002. Copy supplied.

John Caher, *Solo Shakes Up Views of Establishment Clause*, New York Law Journal, Mar. 11, 2002. Copy supplied.

Michael Virtanen, *Attorneys Trying to Settle Case over Kindergarten Saying Grace*, Associated Press, Feb. 13, 2002. Copy supplied.

Jim Kinney, *Prayer Hearing Moves to March*, Saratogian, Feb. 12, 2002. Copy supplied.

Kenneth C. Crowe II, *Pupil May Say Grace Out Loud, Judge Rules*, Times Union (Albany), Feb. 6, 2002. Copy supplied.

Lee Coleman, *No Headline*, Daily Gazette, Feb. 6, 2002. Copy supplied.

Lee Coleman, *Grace at School Sparks Lawsuit*, Daily Gazette, Feb. 5, 2002. Copy supplied.

Joseph A. Phillips, *GOP Gains Bigger Edge on Bethlehem Board*, The Spotlight, Nov. 14, 2001. Copy supplied.

Joseph A. Phillips, *Town Board Hopefuls in Line for Nov. 6 Vote*, The Spotlight, Oct. 24, 2001. Copy supplied.

Joseph A. Phillips, *Slingerlands Lawyer Wins in Supreme Court*, The Spotlight, June 13, 2001. Copy supplied.

Rick Karlin, *State, Church Barrier Lowered*, Times Union (Albany), June 12, 2001. Copy supplied.

CNN, *Burden of Proof*, June 12, 2001. Transcript supplied.

Linda Greenhouse, *Supreme Court Hears Case of Bible Study at Public School*, New York Times, Mar. 1, 2001. Copy supplied.

Doug Blackburn, *Separation of Church and State at Issue*, Times Union (Albany), Feb. 25, 2001. Copy supplied.

Doug Blackburn, *Delmar Lawyer to go Before High Court*, Times Union (Albany), Feb. 25, 2001. Copy supplied.

Laura Suchowolec, *U.S. Judge Overturns Conviction*, Daily Gazette, Aug. 18, 2000.

Rick Karlin, *High Court Refuses to Hear Teacher's Appeal*, Times Union (Albany), Oct. 5, 1999. Copy supplied.

Joseph A. Phillips, *GOP Nominates Newcomer for Exec Post*, The Spotlight, June 16, 1999. Copy supplied.

Joseph A. Phillips, *Independence Party Makes Endorsements*, The Spotlight, June 16, 1999. Copy supplied.

Joseph A. Phillips, *Political Underdogs Get Independence Backing*, The Spotlight, June 16, 1999. Copy supplied.

Joseph A. Phillips, *Reilly Sets Sights on Legislature Seat*, The Spotlight, Apr. 14, 1999. Copy supplied.

Katherine McCarthy, *When Is Bigger Better?* The Spotlight, June 17, 1998. Copy supplied.

Tim O'Brien, *Marcelle Takes a Job Across the Hudson*, The Times Union (Albany), Jan. 21, 1994. Copy supplied.

Elaine Jackson Cape, *Greenberg Scores Landslide*, The Spotlight, Nov. 3, 1993. Copy supplied.

Carol De Mare, *District Attorney Wins Albany County Battle*, Times Union (Albany), Nov. 3, 1993. Copy supplied.

Fred LeBrun, *Greenberg, for One Last Time*, Times Union (Albany), Oct. 31, 1993. Copy supplied.

Carol De Mare, *Female Activists Urge Greenberg Re-Election*, Times Union (Albany), Oct. 28, 1993. Copy supplied.

Carol De Mare, *Marcelle Would Ban Assistant DAs from Outside Practices*, Times Union (Albany), Oct. 27, 1993. Copy supplied.

Carol De Mare, *Marcelle Calls for Change*, Times Union (Albany), Oct. 24, 1993. Copy supplied.

Michael McKeon, *Rival Presses Greenberg to Probe Rink Work*, Times Union (Albany), Oct. 19, 1993. Copy supplied.

Carol De Mare, *Greenberg, Marcelle Fight Over Criminal Conviction Statistics*, Times Union (Albany), Oct. 17, 1993. Copy supplied.

Jay Jochnowitz, *GOP Outlines Drug Policy*, Times Union (Albany), Oct. 14, 1993. Copy supplied.

Susan Graves, *Greenberg Squares Off With Political Newcomer*, The Spotlight, Oct. 13, 1993. Copy supplied.

Carol De Mare, *Greenberg Disputes Crime Stats*, Times Union (Albany), Oct. 1, 1993. Copy supplied.

Carol De Mare, *Dueling Statistics in DA Race*, Times Union (Albany), Sept. 17, 1993. Copy supplied.

John Caher, *Appeal in '57 Killing Will Test State's Right-to-Counsel Rule*, Times Union (Albany), Apr. 16, 1993. Copy supplied.

John Caher, *2 Men Pay Price for Logjam in Courts*, Times Union (Albany), Aug. 20, 1992. Copy supplied.

Joe Mahoney, *Karen Ely Fights from Jail for Freedom in Husband's Death*, Times Union (Albany), July 14, 1991. Copy supplied.

Carol Demare, *Drug Suspect Kept Off School Team*, Times Union (Albany), Mar. 2, 1989. 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.

Since 2016, I have been a Cohoes City Court Judge. I was appointed to this position by the Mayor of Cohoes, Shawn Morse. City Courts have both a civil and criminal jurisdiction. The City Court is a court of limited jurisdiction. The Court's civil jurisdiction is defined in Article 2 of the Uniformed City Court Act. By way of summary, the court's civil jurisdiction extends to civil claims not in excess of \$15,000; small claims/commercial claims (claims that are \$5,000 or less where the defendant resides or conducts business in the County of Albany); and eviction proceedings that arise in the City of Cohoes. The City Court has criminal jurisdiction defined by the Criminal Procedure Law. By way of summary, any person charged with a violation or a crime within the City of Cohoes is arraigned in the Cohoes City Court. The City Court retains jurisdiction of all cases until the defendant is indicted for a felony or waives a felony case for the action of the grand jury.

Since 2016, I have been occasionally appointed an Acting Judge in Albany City Court, Troy City Court, Rensselaer City Court, and Watervliet City Court. In each instance, I was assigned to this position by the Chief Administrative Judge on an interim basis or to hear a particular case where the other judges of the court had to recuse themselves from the case. I estimate that I have served in this position fifty times. Each court's subject jurisdiction is identical to the Cohoes City Court.

Since 2018, I have served as an appointed hearing officer by the New York State Commissioner of Education to hear cases involving teacher discipline and teaching certificate revocation under the authority of 8 NYCRR Part 83.

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

I have presided over 200 bench trials to verdict which include small claim cases, landlord-tenant eviction proceedings, criminal cases, traffic cases and commercial claims.

i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100% [total 100%]
civil proceedings:	66.67%
criminal proceedings:	33.33% [total 100%]

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

Opinions Published in the Official State Reporter:

Allen v. Powers, __ Misc. 3d ____, 97 N.Y.S. 3d 837 (2019)

KDG, LP v. Dixon, 62 Misc. 3d 557, 89 N.Y.S. 3d 835 (2018)

Riverwalk on the Hudson, Inc. v. Culliton, 62 Misc. 3d 351, 87 N.Y.S. 3d 852 (2018)

Morning Light Realty v. Brown, 62 Misc. 3d 274, 87 N.Y.S. 3d 274 (2018)

Len v. Home Depot, 61 Misc. 3d 835, 84 N.Y.S. 3d 874 (2018)

People v. Lamb, 59 Misc. 3d 699, 72 N.Y.S. 3d 799 (2018)

Cohoes Housing Authority v. Doe, 59 Misc. 3d 572, 72 N.Y.S. 3d 786 (2018)

Rensselaer Housing Authority v. Beverly, 59 Misc. 3d 534, 72 N.Y.S. 3d 786 (2018)

Forman v. Townsend, 58 Misc. 3d 474, 66 N.Y.S. 3d 100 (2017)

130 Remsen LLC v. Commercial Investigations LLC, 57 Misc. 3d 678, 59 N.Y.S.3d 880 (2017)

Herrman v. Coletti, 56 Misc. 3d 1148, 59 N.Y.S. 3d 284 (2017)

Hognestad v. Rabideau, 55 Misc. 3d 977, 53 N.Y.S. 3d 824 (2017)

People v. Lampman, 55 Misc. 3d 628, 48 N.Y.S. 3d 875 (2017)

People v. Krahfrost, 54 Misc. 3d 1010, 43 N.Y.S. 3d 734 (2016)

Hamilton v. Bosko, 54 Misc. 3d 386, 41 N.Y.S. 3d 690 (2016)

Carlo v. Koch-Mathews, 53 Misc. 3d 466, 37 N.Y.S. 3d 426 (2016)

Pena v. Lockenwitz, 53 Misc. 3d 428, 36 N.Y.S. 3d 574 (2016)

Opinions Published in on-line databases:

Reardon-Sleicher v. Twun-Barima, 63 Misc. 3d 1212(A), 2019 WL 1511346 (2019)

Desir v. Gordon, 60 Misc. 3d 1229(A), 2018 WL 4212488 (2018)

Marra v. Nazzaro, 58 Misc. 3d 1206(A), 2018 WL 280097 (2018)

Johnson v. Ace Home Inspections, 54 Misc. 3d 1209(A), 2017 WL 105033 (2017)

Community Care Physicians v. Domagalski, 51 Misc. 3d 1217(A), 2016 WL 1735501 (2016)

Niagara Mohawk Power Corp. v. Wheeler, 51 Misc. 3d 1226(A), 2016 WL 3045417 (2016)

Credit Acceptance Corp. v. Yerry, 51 Misc. 3d 1217(A), 2016 WL 1735492 (2016)

- 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. *People v. Lamb*, Docket No. Cr-1843-17, 72 N.Y.S.3d 799 (Cohoes City Court 2018)

Defendant's vehicle struck and killed a sixteen-year-old girl. Ultimately, defendant was accused of going 53 mph in a 40-mph zone in violation of Vehicle and Traffic Law § 1180(d) and driving at a speed that was not reasonable and prudent in violation of Vehicle and Traffic Law § 1180(a). A key issue in the case was the non-disclosure of the expert witness' notes. The defendant was found not guilty.

Counsel for the Prosecution:

Brian Kremer
Goldberger & Kremer

39 North Pearl Street Suite 201
Albany, New York 12207
(518) 436-8313

Counsel for the Defense:

Arthur Frost
Frost & Kavanaugh, P.C.
287 North Greenbush Road
Troy, New York 12180
(518) 283-3000

2. *Cohoes Housing Authority v. Doe*, Docket No. LT-576-17, 59 N.Y.S.3d 880 (Cohoes City Court 2018)

An eviction proceeding involving an altercation between two tenants. The key issues whether the court should *sua sponte* caption the case with a pseudonym and whether eviction was proportional remedy given the nature and circumstances of the tenant's actions. I entered judgment for Respondent Tenant.

Counsel for the Petitioner-landlord:

Brian Kremer
Goldberger & Kremer
39 North Pearl Street Suite 201
Albany, New York 12207
(518) 436-8313

Counsel for the Respondent-tenant:

Debra Ann Collura
Legal Aid Society of Northeastern New York
95 Central Avenue
Albany, New York 12206
(518) 689-6324

3. *130 Remsen LLC v. Commercial Investigations LLC*, Docket No. LT 185-17, 59 N.Y.S.3d 880 (Cohoes City Court 2017)

The case involved a commercial lease transaction. Key issues involved jurisdiction, the statute of frauds, and the doctrine of promissory estoppel. I entered judgment for Petitioner on its claim, and judgment for Respondent on its counter-claim.

Counsel for Petitioner-landlord:

Thomas Gabriels

Thomas J. Gabriels, Esquire
11 North Pearl Street, Suite 1506
Albany, New York 12207
(518) 463-1069

Counsel for Respondent-tenant:

Stephanie Ferradino
Ferradino Firm, PLLC
63 Putnam Street, Suite 202
Saratoga Springs, New York 12866
(518) 260-1229

4. *Herrman v. Coletti*, Docket No. SC-572-17, 59 N.Y.S.3d 284 (Cohoes City Court 2017)

Following mortgagor's default, mortgagee exercised mortgage agreement's assignment of rents provision and demanded rent from tenants and, when they did not pay, brought small claims action against them for breach of contract. Key issue involved effect of bankruptcy discharge and whether the assignment of rents should be resolved under a lien theory or a title theory. I entered judgment against the Plaintiff.

Counsel for Plaintiff:

Richard J. Herrmann, Jr.
Law Office of Richard J. Herrmann, Jr.
440 Route 146
Halfmoon, New York 12065
(518) 383-1299

Counsel for Defendant:

Donald Matusik
Donald M. Matusik, Esq.
Post Office Box 464
Saratoga Springs, New York 12866
(518) 584-5050

Counsel for Intervenor-Defendant:

Kenneth Gibbons
Kenneth W. Gibbons Esq.
309 Mohawk Avenue
Scotia, New York 12302
(518) 372-5097

5. *KDG v. Dixon*, Docket No. LT 3532-18, 89 N.Y.S.3d 835 (Albany City Court 2018)

The landlord sought to evict a tenant because of loud noise coming from her apartment which caused other tenants to quit their leases. The key issue was whether the tenant was being evicted because she was a victim of domestic violence. I entered judgment for the tenant.

Counsel for Petitioner-landlord:

John Keenan III
John T. Keenan, III
Post Office Box 5387
Albany, New York 12205
(518) 432-5100

Counsel for Respondent-tenant:

Shirley Dixon
Pro Se

6. *Rensselaer Housing Authority v. Beverly*, LT-103-17, 72 N.Y.S.3d 786 (Rensselaer City Court 2018)

The Housing Authority petitioned the court to evict the tenant for tampering with smoke detectors. The key issue involved the effect of accepting rent prior to the commencement of an eviction proceeding. I entered judgment for the tenant.

Counsel for Petitioner-landlord:

Molly Casey
Thuillez Ford Gold Butler & Monroe, LLP
20 Corporate Woods Boulevard, Third Floor
Albany, New York 12211
(518) 455-9952

Counsel for Respondent-tenant:

Bryan Bergeron
Legal Aid Society of Northeastern New York
55 Colvin Avenue
Albany, New York 12206
(518) 462-6765

7. *Forman v. Townsend*, Docket No. SC-388-17, 66 N.Y.S.3d 100 (Cohoes City Court 2017)

This case was brought by the lessee of a vehicle that was totaled in an accident due to the negligence of another driver. After the driver paid the lessor for the loss of the vehicle and the lessor released the lessee from the three-year lease, the lessee filed suit against the driver seeking to recover the lessee's transactional costs involving the lease. I entered judgment for the plaintiff.

Counsel for Plaintiff:

Robert C. Forman
Pro Se

Counsel for Defendant:

Lela Gray
Current contact information unknown

8. *People v. Krahfrost*, CR-1268-16, 43 N.Y.S.3d 734 (Cohoes City Court 2016)

Defendant was charged with violating the statute that required motorists on highways to exercise due care, including moving over to another traffic lane, to avoid colliding with parked, stopped, or standing emergency vehicles on shoulder or any portion of a highway. I entered a verdict of guilty.

Counsel for the prosecution:

Brian Kremer
Goldberger & Kremer
39 North Pearl Street Suite 201
Albany, New York 12207
(518) 436-8313

Counsel for the defense:

Dana Stanton
Then with McNamee, Lochner, Titus & Williams
Nixon Peabody LLP
677 Broadway, Floor 10
Albany, New York 12207
(518) 427-2735

9. *Riverwalk on the Hudson, Inc. v. Culliton*, Docket No. LT-394-18, 87 N.Y.S.3d 852 (Cohoes City Court 2018)

A landlord sought rent from a tenant who vacated an apartment leaving her spouse behind. The tenant who vacated was a victim of domestic violence, and

the issue in the case was whether she was liable for the unpaid rent of her husband pursuant to a joint and several liability clause contained in the lease. I entered judgment for the tenant.

Counsel for Plaintiff:

Tracy Bullett
Tabner, Ryan & Keniry LLP
18 Corporate Woods Boulevard, Suite 8
Albany, New York 12211

Counsel for Defendant:

Morgan Culliton
Pro Se

10. *Morning Light Realty v. Brown*, Docket No. LT-3429-118, 87 N.Y.S.3d 450 (Albany City Court 2018)

The landlord had previously wrongfully evicted the tenant but then waited a year (as required by statute) before terminating the lease. When the tenant refused to vacate, the landlord brought a hold over proceeding. The landlord demanded judgment for an eviction as a matter of law arguing that the statute allowed it to terminate the tenant's lease for any reason (even a wrongful one) after the expiration of a year. I denied the motion and held a trial. After trial, I found no illegal motive for the eviction and entered judgment for the landlord.

Counsel for the Petitioner:

John Keenan III
John T. Keenan, III
Post Office Box 5387
Albany, New York 12205
(518) 432-5100

Counsel for the Respondent:

Michael O'Brien
33 Danker Avenue
Albany, New York 12206
(518) 221-1160

- 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. *People v. Lamb*, 72 N.Y.S.3d 799 (Cohoes City Court 2018)

Counsel for the Prosecution:

Brian Kremer
Goldberger & Kremer
39 North Pearl Street Suite 201
Albany, New York 12207
(518) 436-8313

Counsel for the Defense:

Arthur Frost
Frost & Kavanaugh, P.C.
287 North Greenbush Road
Troy, New York 12180
(518) 283-3000

2. *Cohoes Housing Authority v. Doe*, 59 N.Y.S.3d 880 (Cohoes City Court 2018)

Counsel for the Petitioner-landlord:

Brian Kremer
Goldberger & Kremer
39 North Pearl Street Suite 201
Albany, New York 12207
(518) 436-8313

Counsel for the Respondent-tenant:

Debra Ann Collura
Legal Aid Society of Northeastern New York
95 Central Avenue
Albany, New York 12206
(518) 689-6324

3. *130 Remsen LLC v. Commercial Investigations LLC*, 59 N.Y.S.3d 880 (Cohoes City Court 2017)

Counsel for Petitioner-landlord:

Thomas Gabriels
Thomas J. Gabriels, Esquire
11 North Pearl Street, Suite 1506
Albany, New York 12207
(518) 463-1069

Counsel for Respondent-tenant:

Stephanie Ferradino
Ferradino Firm, PLLC
63 Putnam Street, Suite 202
Saratoga Springs, New York 12866
(518) 260-1229

4. *Herrman v. Coletti*, 59 N.Y.S.3d 284 (Cohoes City Court 2017)

Counsel for Plaintiff:

Richard J. Herrmann, Jr.
Law Office of Richard J. Herrmann, Jr.
440 Route 146
Halfmoon, New York 12065
(518) 383-1299

Counsel for Defendant:

Donald Matusik
Donald M. Matusik, Esq.
Post Office Box 464
Saratoga Springs, New York 12866
(518) 584-5050

Counsel for Intervenor-Defendant:

Kenneth Gibbons
Kenneth W. Gibbons Esq.
309 Mohawk Avenue
Scotia, New York 12302
(518) 372-5097

5. *KDG v. Dixon*, 89 N.Y.S.3d 835 (Albany City Court 2018)

Counsel for Petitioner-landlord:

John Keenan III
John T. Keenan, III
Post Office Box 5387
Albany, New York 12205
(518) 432-5100

Counsel for Respondent-tenant:

Shirley Dixon
Pro Se

6. *Rensselaer Housing Authority v. Beverly*, 72 N.Y.S.3d 786 (Rensselaer City Court 2018)

Counsel for Petitioner-landlord:

Molly Casey
Thuillez Ford Gold Butler & Monroe, LLP
20 Corporate Woods Boulevard, Third Floor
Albany, New York 12211
(518) 455-9952

Counsel for Respondent-tenant:

Bryan Bergeron
Legal Aid Society of Northeastern New York
55 Colvin Avenue
Albany, New York 12206
(518) 462-6765

7. *Forman v. Townsend*, 66 N.Y.S.3d 100 (Cohoes City Court 2017)

Counsel for Plaintiff:

Robert C. Forman
Pro Se

Counsel for Defendant:

Lela Gray
Current contact information unknown

8. *People v. Krahfrost*, 43 N.Y.S.3d 734 (Cohoes City Court 2016)

Counsel for the prosecution:

Brian Kremer
Goldberger & Kremer
39 North Pearl Street Suite 201
Albany, New York 12207
(518) 436-8313

Counsel for the defense:

Dana Stanton
Then with McNamee, Lochner, Titus & Williams
Nixon Peabody LLP
677 Broadway, Floor 10
Albany, New York 12207
(518) 427-2735

9. *Riverwalk on the Hudson, Inc. v. Culliton*, 87 N.Y.S.3d 852 (Cohoes City Court 2018)

Counsel for Plaintiff:

Tracy Bullett
Tabner, Ryan & Keniry LLP
18 Corporate Woods Boulevard, Suite 8
Albany, New York 12211

Counsel for Defendant:

Morgan Culliton
Pro Se

10. *Morning Light Realty v. Brown*, 87 N.Y.S.3d 450 (Albany City Court 2018)

Counsel for the Petitioner:

John Keenan III
John T. Keenan, III
Post Office Box 5387
Albany, New York 12205
(518) 432-5100

Counsel for the Respondent:

Michael O'Brien
33 Danker Avenue
Albany, New York 12206
(518) 221-1160

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

None of my cases have been the subject of a writ of certiorari.

- 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.

None of my cases have been appealed.

- 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.

I have tried over 250 cases to verdict and ruled on many dispositive motions. The majority of my opinions are oral decisions from the bench. The oral opinions are stored electronically. With respect to my written decisions, approximately a quarter of these were submitted to the State Reporter for possible publication. Those written opinions not submitted are placed in the court file.

- 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.

None of my opinions dealt with significant federal or state constitutional issues.

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

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

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

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

I recuse myself in any situation that would cause the litigants to perceive that I could not be unbiased. I have never declined to recuse myself when requested by a party. Since 2016, I have recused myself automatically in cases involving the Albany County Sheriff's Office. This has required recusal in approximately a dozen traffic matters and one application for an arrest warrant. I have also recused in the following matters:

Mann Law Firm, PC v. Rockenstire, cc-480-15/co and Mann Law Firm, PC v. Rockenstire, cc-745-15/co: The plaintiff informed me and the defendant that he had worked on my campaign for District Attorney in 1993. The defendant asked that I recuse myself and I granted the request.

People v. Mackay-Meggs, cr-2055-18/co: The defendant appeared before me on a traffic violation. When I was County Attorney, I was involved in his prosecution on another matter. I recused myself from the case.

Esmay v. Pieper, cv-213-16/co: The plaintiff was a personal friend and had provided orthodontic treatment for my three children. I recused myself.

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.

In 1988, I was appointed by Public Defender Doug Rutnik to serve as Assistant Albany County Public Defender. I left the position that same year.

In 1992, I was appointed by Public Defender Roger Fritz to serve as Assistant Albany County Public Defender. I left the position in 1993.

In 1993, I was a candidate for Albany County District Attorney. I did not win.

In 1999, I was a candidate for Albany County Legislature. I did not win.

In 2001, I was elected to the Bethlehem Town Council. I served a four-year term from 2002 through 2005.

In 2002, I was appointed as Albany County Minority Counsel by Minority Leader Christine Benedict. I left that position in 2012.

In 2012, I was appointed Albany County Attorney by County Executive Daniel McCoy, and was confirmed by Albany County Legislature. I left the position that same year.

In 2016, I was appointed Chief Counsel Albany County Sheriff by Sheriff Craig Apple. I left that position later that year to take my current judicial position.

- 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.

Committee to Re-Elect President George Bush, Albany County Chair (1992)

Albany County Republican Committee

Committeeman (1993 – 2011)

Counsel (2004 – 2011)

Judicial Delegate (2004 – 2010)

Bethlehem Republican Town Chair (2004)

Ulster County Republican Committee, Election Lawyer (2003 – 2009)

I worked as an informal advisor to Steven Laffey concerning his political campaign for mayor of Cranston, Rhode Island in 2002, his re-election to that office in 2004 and his primary race for United States Senate in 2006.

From 2003 to 2011, I was retained by various candidates in state and local elections to render legal advice concerning designating petitions, absentee ballots, and various other election law requirements for candidates for public office at the local and state levels. I have represented candidates from Albany, Columbia, Dutchess, Green, Oneida, Rensselaer, Schenectady, Sullivan and Ulster counties.

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never been a clerk to any judge.

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

1989 – 1990

Law Office of Thomas Marcelle

21 Lodge Street
Albany, New York 12207

1990 – 1994
Law Office of Thomas Marcelle
11 North Pearl Street
Albany, New York 12207

1995 – 2000
Law Office of Thomas Marcelle
71 Devonshire Drive
Slingerlands, New York 12159

2000 – 2003
Law Office of Thomas Marcelle
636 Delaware Avenue
Delmar, New York 12054

2003 – 2011
Law Office of Thomas Marcelle
2 E-Comm Square, 3rd Floor
Albany, New York 12207

2012 – Present
Law Office of Thomas Marcelle
61 Devonshire Drive
Slingerlands, New York 12159

- 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.

1988 – 1989
Rutnik and Rutnik
112 State Street
Albany, New York 12207
Lawyer

1988 – 1989; 1992 – 1993
Albany County Public Defender's Office
112 State Street
Albany, New York 12207
Assistant Albany County Public Defender

1990
Special Litigation Section

United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

1994
Troy Corporation Counsel's Office
City of Troy
Troy City Hall
Troy, New York 12180
Assistant Corporation Counsel

2010 – 2012
Alliance Defending Freedom
15100 North 90th Street
Scottsdale, Arizona 85260
Allied Attorney Coordinator

2002 – 2012
Minority Caucus Albany County Legislature
112 State Street
Albany, New York 12207
Minority Counsel

2012 – 2015
Albany County Attorney's Office
112 State Street
Albany, New York 12207
Albany County Attorney

2016
Albany County Sheriff's Office
16 Eagle Street
Albany, New York 12207
Chief Counsel

1989 – 1990; 1990 – Present
Lawyer
Private Practice, Solo Practitioner
61 Devonshire Drive
Slingerlands, New York 12159
Law Office of Thomas Marcelle

2016 – Present
Albany County Sheriff's Office
16 Eagle Street

Albany, New York 12207
Policy Analyst

- 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.

I began my practice in 1988 as an assistant public defender and worked part-time for the law firm of Rutnik and Rutnik. As an assistant public defender, I was assigned to Albany County Police Court. I handled arraignments, plea negotiations, preliminary hearings and suppression hearings. I was also assigned to parole revocation hearings. I tried felony cases in Albany County Court. I tried my first felony defense case to verdict in March of 1989. My work with Rutnik and Rutnik focused on tort cases and other civil cases. I prepared discovery materials, drafted memorandum of law and argued small matters in various city courts.

In 1989, I left the public defender's office and Rutnik & Rutnik to open my own practice. I focused primarily on criminal defense in state and federal court. I tried felony and misdemeanor cases and I prosecuted appeals for convicted defendants. I handled small civil matters as well. I maintained the practice until I took an offer on a job with the United States Department of Justice Civil Rights Division as a trial attorney with Special Litigation Section in 1990. Special Litigation Section enforced the Civil Rights of Institutionalized Persons Act ("CRIPA"). I conducted investigations and enforced consent decrees. I left the Special Litigation Section at the end of 1990 and returned to private practice in Albany. My practice involved primarily criminal defense work but also involved some federal civil rights cases as well. I served a stint as a part-time public defender in 1992-93.

After 1994, my practice began to transition to more federal 42 U.S.C. § 1983 claims, commercial cases and election law cases. In January 2002, I was appointed minority counsel to the Albany County Legislature. It was a part-time job where I drafted resolutions, attended committee meetings and advised the members of the Republican caucus on legal issues involving county government. In 2010, I accepted an offer with the Alliance Defending Freedom as an Allied Attorney Coordinator. My primary role was to train and assist lawyers in the Northeastern United

States in religious liberties cases.

In 2012, I was appointed to the office of Albany County Attorney. The County Attorney's office consisted of about 20 lawyers. The County Attorney is the legal advisor to the all members of the executive branch and the legislature: Sheriff, District Attorney, Executive, Comptroller, Clerk and the Legislature. Further, all juvenile delinquent cases are brought in the name of the County Attorney in Family Court and prosecuted by that office. The County Attorney litigates all the civil cases against the county and brings such litigation as directed by either the Legislature or the Executive. Further, County Attorney handled all administrative proceedings concerning county employees. During that period I handled small private matters as well.

When my term was completed at the end of December 2015, I accepted an appointment from the Albany County Sheriff to serve as Chief Counsel for the Sheriff's Office. I served in that position for about three months, until the Mayor of the City of Cohoes appointed me Judge of the City Court. I retained a part-time policy analyst position with the Sheriff's Office which did not involve the practice of law.

Since 2016, I have been a judge on Cohoes City Court. I also maintain a small civil practice.

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

From 1988 to 1994, my clients were primarily criminal defendants. I had civil clients as well involved in civil rights litigation and general civil practice.

From 1994 to 2011, my clients were generally political candidates, political parties, political office holders, political bodies, private individuals with civil rights claims and some criminal defendants.

From 2012 to 2016, my clients were the officers of the Albany County government.

- 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.

I have been a litigator my entire career. My practice has primarily been in court.

- i. Indicate the percentage of your practice in:
 1. federal courts: 60%
 2. state courts of record: 35%
 3. other courts: 0%
 4. administrative agencies: 5%
- ii. Indicate the percentage of your practice in:
 1. civil proceedings: 50%
 2. criminal proceedings: 50%
- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried at least seven felony criminal cases to jury verdicts. I have tried four civil cases to jury verdicts. I have tried several dozen parole revocation cases to verdict before an Administrative Law Judge. I have tried more than a dozen civil cases to verdict before state and federal judges. I have assisted on approximately ten criminal trials involving jury verdicts. I have assisted on two civil jury trials to verdict.

 - i. What percentage of these trials were:
 1. jury: 30%
 2. non-jury: 70%
- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

Argued Cases:

Good News Club v. Milford Central School, 533 U.S. 98 (2001). Petition for writ of certiorari, reply brief in support of petition, brief on the merits, reply brief in support, and oral argument transcript supplied.

Non-Argued Cases:

College Standard Magazine v. Student Association of the State University of New York at Albany, 563 U.S. 969 (2011). Petition for writ of certiorari and reply brief in support of petition supplied.

Connick v. Thompson, 563 U.S. 51 (2011). Brief of amici curiae supplied.

Bennett v. Lucier, 552 U.S. 1141 (2008). Petition for writ of certiorari and

reply brief in support of petition supplied.

Averill Park Central School District v. Cioffi, 549 U.S. 953 (2006). Brief in opposition supplied.

Marchi v. Board of Cooperative Education Services of Albany, Schoharie, Schenectady, and Saratoga Counties, 528 U.S. 869 (1999). Petition for writ of certiorari supplied.

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. *Good News Club v. Milford Central School*, 21 F. Supp. 2d 147 (N.D. NY 1998), *aff'd* 202 F.3d 502 (2d Cir. 2000), *rev'd* 533 U.S. 98 (2001)

I successfully argued before the Supreme Court that a religious youth group had a First Amendment right to use school facilities after school hours on the same terms as non-religious groups. I was the lead counsel from trial to every level of appeal.

Dates of representation: 1997 – 2001

Presiding judge (district court): Hon. Thomas McAvoy

Opposing Counsel:

Frank W. Miller
The Law Firm of Frank W. Miller, PLLC
6575 Kirksville Road
East Syracuse, New York 13057
(315) 234-9900

2. *People v. Richard Ruff*, 81 N.Y.2d 330 (1993)

I argued that defendant's confession was obtained in violation of the New York

Constitution right to counsel. The case involved New York's longest unsolved murder case at the time. I was lead counsel and represented the defendant on appeal only. The Court of Appeals affirmed my client's conviction.

Dates of representation: 1991 – 1993

Presiding judge (trial court): Hon. Thomas Keegan

Opposing Counsel:

Michael J. Connolly
Then the Albany County District Attorney
Attorney General's Office
The Capitol
Albany, New York 12224
(518) 776-2000

3. *People v. Marquan M.*, 24 N.Y.3d 1 (2014)

I argued that Albany County's Cyberbullying law did not violate the First Amendment. I was lead counsel and represented the prosecution on appeal to the Albany County Court and then the Court of Appeals. The Court of Appeals found the Cyberbullying Law unconstitutionally vague, reversing the lower court.

Dates of representation: 2013 – 2014

Presiding judge (trial court): Hon. Richard Maguire

Opposing Counsel:

Corey Stoughton
New York Civil Liberties Union
125 Board Street
New York, New York 10004
(212) 607-3300

4. *Amidon v. Student Ass'n of State Univ. of New York at Albany*, 508 F.3d 94 (2d Cir. 2007)

I successfully argued that the State University funding system for student groups violated the First Amendment. I was the lead attorney for the plaintiff at the trial and appellate level. The district court granted my client summary judgment which the circuit court affirmed.

Dates of representation: 2004 – 2007

Presiding judge (trial court): Hon. David Hurd

Opposing Counsel:

Lewis B. Oliver
Oliver and Oliver
156 Madison Avenue
Albany, New York 12202
(518) 463-7962

Michael B. De Leeuw
Then with Fried Frank
Cozen O'Connor
45 Broadway
New York, New York 10006
(212) 908-1331

5. *Hoblock v. Albany County Board of Elections*, 422 F.3d 77 (2d Cir 2005)

I successfully argued that the Rooker-Feldman doctrine did not preclude a federal court from ordering the counting of absentee ballots despite a contrary ruling from the New York State Court of Appeals. I was the lead counsel at the trial court and the appellate court. The district court granted a preliminary injunction which the circuit court affirmed. Ultimately, the voters had their ballots counted by order of the trial court and they were also awarded attorney fees.

Dates of representation: 2004 – 2006

Presiding judge (trial court): Hon. Lawrence Kahn

Opposing Counsel:

Michael Lynch
Then the Albany County Attorney
New York State Supreme Court Justice (Appellate Division)
Abrams Building for Law and Justice State Street
Albany, New York 12223
(518) 471-4777

6. *Cioffi v. Averill Park Central School District*, 444 F.3d 158 (2d Cir 2006)

I successfully argued that an athletic director had the right to bring a First Amendment claim against the school district alleging that the school district abolished his position in retaliation for publicly exposing a hazing incident involving a sexual assault. I was the lead counsel for the plaintiff on appeal. The district court had granted the school district summary judgement which the circuit court reversed. I continued as co-counsel when

the case was returned to district court. The parties settled the case with the plaintiff receiving a monetary award and attorney fees.

Dates of representation: 2004 – 2008

Presiding judge (trial court): Hon. David Hurd

Opposing Counsel:

Beth Bourassa
Whiteman, Osterman & Hanna
99 Washington Avenue
Albany, New York 12260
(518) 487-7600

7. Price v. New York Board of Elections, 540 F.3d 101 (2d Cir 2008)

I successfully argued that New York State law that prohibited voting by absentee ballot in primary elections for party committee position violated the First Amendment. I was lead counsel at the trial and appellate level. The district court granted summary judgment to the defendant which the circuit court reversed. Voters were allowed to have their absentee ballots count and were awarded attorney fees.

Dates of representation: 2007 – 2009

Presiding judge (trial court): Hon. Gary Sharpe

Opposing Counsel:

Todd Valentine
New York State Board of Elections
40 North Pearl Street
Albany, New York 12207
(518) 474-6220

8. Carter v. Lenardo, 97-cv-1013 (N.D.N.Y. 2000)

I successfully vacated a state murder conviction in federal *habeas corpus* proceeding. I was lead counsel for the petitioner and represented him only for the federal habeas corpus proceeding which the district granted and vacated his conviction.

Dates of representation: 1997 – 2000

Presiding judge (trial court): Hon. Frederick Scullin

Opposing Counsel:

Darren O'Conner
Then an Assistant Attorney General
Attorney General's Office
The Capitol
Albany, New York 12224.
(518) 776-2000

9. *People v. Delos White*, ((No. 91-3227/DA-331-91) Albany County. Ct. 1991)

I defended Delos White in the "Boys in the Hood" murder trial. I was lead counsel for Mr. White. He was tried together with two other co-defendants. Mr. White was acquitted by the jury.

Dates of representation: 1990 – 1992

Presiding judge (trial court): Hon. Joseph Harris

Opposing Counsel:

Larry Wiest
Then Chief Assistant District Attorney
Albany County District Attorney's Office
The Justice Center
6 Lodge Street
Albany, New York 12207
(518) 487-5460

10. *Shannon v. Jacobowitz*, 394 F.3d 90 (2d Cir. 2004)

A losing candidate alleged that broken voting machines deprived him of due process. The district Court granted the losing candidate summary judgment making him the winner. After being retained as appellate counsel, I successfully argued that the District Court erred in its decision and that no constitutional violation had occurred. I was lead counsel at the appellate level.

Dates of representation: 2004 – 2005

Presiding judge (trial court): Hon. David Hurd

Opposing Counsel:

Brian Quail
New York State Board of Elections
40 North Pearl Street
Albany, New York 12207

(518) 474-6220

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.)

Project Growth (2014)

As Albany County Attorney I was responsible for prosecuting juvenile delinquents. I developed a program in conjunction with Albany County Family Court (the court which possesses jurisdiction over juvenile offenders) to help increase restitution to victims and reduce recidivism rates. The program was called Project Growth. Juveniles were employed by various groups and were paid minimum wage. The juveniles would keep a portion of their wages and remitted the rest for restitution. Judge Margaret Walsh and Judge Gerard Maney were integral in establishing the program. Assistant County Attorney William Andrews oversaw the project as the chief prosecutor in family court.

Green v. Conlen (10-CV-1268, NDNY Peebles, MJ) (2013)

This case was the first federal case tried to jury verdict by the Albany County Attorney's Office. The jury found for the defendants. This case is representative of the reconfiguration of the County Attorney's Office during my tenure. I converted the County Attorney's office into a litigation office. My incoming year as County Attorney, outside counsel expenses exceed \$350,000 and my last year outside counsel fees estimated under \$40,000.

Albany County Legislature (2002-2012)

During my tenure as minority counsel, I was able to work with majority counsel William Conboy to alter the atmosphere of the legislative process. By agreement, so called "urging resolutions" (resolutions where the Legislature urged either a federal or state elected official(s) to act on state or national issues) were no longer permitted. Additionally, the majority/minority counsels developed a process to allow minority legislators' resolution to come out of committee and proceed to a vote by the entire legislative body.

Capital City Rescue Mission

I have served as legal counsel to the Capital City Rescue Mission. When the mission expanded, I worked on zoning and housing issues with the City of Albany and the State of New York to permit construction at the new location.

Broadus v. Saratoga Central School (N.D.N.Y., Judge David Hurd) (2002)

The school district stopped an elementary student's right to say grace before snack time. Judge David Hurd (NDNY) granted a TRO and ultimately issued a preliminary injunction after a hearing where he enjoined the school from stopping the student(s) from praying. I

worked with the district and its counsel (Gregg Johnson) to establish guidelines for the student to say grace with her friends. Plaintiff was awarded attorney fees.

Mills v. Wachtler (1992)

My client Willie Mills had been waiting more than two years for his murder trial. Such waits were typical in the early 1990s for criminal defendants in Albany County. Only two County Court judges heard criminal cases. I sued the Chief Judge of the New York State Court of Appeals demanding more trial judges be assigned to criminal cases. The prosecution (Chief Assistant District Attorney Larry Wiest) dismissed the murder charges against Mills and mooted the case. Subsequently, more trial judges were assigned to criminal cases, a practice which continues.

Schiller v. Miller (09-3439, Ulster County Supreme Court, Judge Gerald Connelly)

I represented the son who petitioned the court concerning medical treatment of his mother in an end of life case. The court issued two restraining orders in the case requiring continued medical treatment. After one day of trial, my expert witness, a priest who was a medical ethics expert, and I negotiated a settlement with all family members and the hospital.

People v. Price (Albany County Court, Judge John Turner) (1992)

I represented Wayne Price. He was among several defendants who were indicted for the arson murder of six women and children. After a pre-trial identification hearing, I was able to demonstrate to the prosecutor (Assistant District Attorney Michael Katzer) that Mr. Price was wrongly identified. The prosecutor consented to a motion to dismiss.

Ephesian House

I provided pro bono services for a battered women's shelter called Ephesian House. I worked with the Town of Coeymans police department (Chief Scott Giroux) and the Town Attorney (John Biscone) to resolve code, zoning and other issues (e.g., anonymity of residents) to allow the shelter to operate legally and safely.

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

I have never taught a course.

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

None.

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

I have no such plans.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I was the County Attorney for Albany County. I would recuse myself automatically from cases involving the County and its officers for a sufficient period that no elected official who I represented continues in office. After that period, I would resolve potential conflicts on a case by case basis. I am represented by a law firm in a civil litigation (Igoe v. Craig Apple and Thomas Marcelle). I would not sit on any case that involved that law firm for a period of two years after the completion of the litigation.

- 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 identify and evaluate potential conflicts of interest by considering the relevant federal statute, 28 U.S.C. § 455, as well as the other laws and rules governing the conduct of federal judges. I would also consult with my colleagues on the bench.

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.

I have been deeply committed to pro bono work throughout my career. I am on the Northern District of New York Pro Bono Honor Roll. Before becoming County Attorney, I accepted prisoner rights case on a pro bono basis from the federal court and tried the same to jury verdicts. My most recent trial was *Orraca v. DeLuke* in 2010. I was on the Second Circuit pro bono panel and accepted assignments from the court including the role of amicus counsel in *Orange County Water Dist v. Unocal Corp.*, 584 F.3d 43 (2d Cir. 2009). I provide annually legal services to individual men at the rescue mission and to the rescue mission itself. Prior to becoming a judge, I regularly accepted pro bono criminal defense work. I have for the last several years served as a judge for the Albany Law School Moot Court competitions and served as a coach for several mock trial teams.

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.

I was recommended for an interview with the White House Counsel’s Office by Congressman John Faso (N.Y.-19) and Congressman Lee Zeldin (N.Y.-1). I was interviewed by White House Counsel’s Office and the Office of Legal Policy on February 28, 2018. On April 6, 2018, White House Counsel’s Office directed that I proceed with nomination process. On October 10, 2018, the President announced his intent to nominate me. Since that time, I have been in regular contact with attorneys from the White House Counsel’s Office and the Office of Legal Policy at the Department of Justice regarding my nomination.

- 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