

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lawrence Joseph Vilardo

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

United States District Judge for the Western District of New York

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

Office: Connors & Vilardo, LLP
1000 Liberty Building
424 Main Street
Buffalo, NY 14202

Residence: Town of Tonawanda, NY

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

1955; Buffalo, New York

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

1977 – 1980, Harvard Law School; J.D. (*magna cum laude*), 1980

1973 – 1977, Canisius College; B.A. (*summa cum laude*), 1977

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

1986 – present
Connors & Vilardo, LLP
1000 Liberty Building
424 Main Street
Buffalo, NY 14202
Partner

February – May 1987
State University of New York at Buffalo School of Law
John Lord O'Brian Hall
Buffalo, NY 14260
Adjunct Faculty

1983 – 1987
Canisius College
2001 Main Street
Buffalo, NY 14209
Adjunct Faculty

1981 – 1986
Damon & Morey
200 Delaware Avenue, Suite 1200
Buffalo, NY 14202
Associate

1980 – 1981
United States Court of Appeals for the Fifth Circuit
1100 Commerce Street
Dallas, TX 75202
Law clerk to the Honorable Irving L. Goldberg

Summer 1979
Morrison & Foerster
425 Market Street
San Francisco, CA 94105
Summer law clerk

Summer 1978
Lipsitz, Green, Fahringer, Rolle, Schuller & James
42 Delaware Avenue, Suite 100
Buffalo, NY 14202
Summer law clerk

May – August 1977
Joseph S. Vilardo & Sons
Printing & Rubber Stamps
(a/k/a Vilardo Printing)
326 Connecticut Street
Buffalo, NY 14213
Printer

Other affiliations (uncompensated):

2012 – present
Canisius College
2001 Main Street
Buffalo, NY 14208
Trustee

2010 – present
Irish Classical Theatre Company
625 Main Street
Buffalo, NY 14203
Trustee

2001 – 2007
Canisius High School
1180 Delaware Avenue
Buffalo, NY 14209
Trustee (2001 – 2007)
Board Chair (2004 – 2007)

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 U.S. Military. I timely registered for selective service.

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

Best Lawyers in America (2007 – present)

New York Super Lawyers (Upstate New York) (2007 – present)

Fellow, New York State Bar Foundation (2005 – present)

Fellow, American Academy of Appellate Lawyers (2003 – present)

Fellow, American Bar Foundation (1999 – present)

New York Super Lawyers Top 10 (Upstate New York) (2014)

New York Super Lawyers Top 50 (Upstate New York) (2008 – 2011, 2013 – 2014)

Canisius College Distinguished Alumni Award (2010)

Canisius High School Distinguished Alumni Hall of Honor (2008)

Alpha Sigma Nu (National Jesuit Honor Society) Service Award, Canisius College Chapter (2008)

Officer-at-Large: Assistant to the President, *Harvard Law Review* (1979 – 1980)

Editor, *Harvard Law Review* (1978 – 1980)

Father Francis A. O'Malley Memorial Award for Highest Four-Year Cumulative Average, Canisius College (1977)

William Harrigan Memorial Award for Excellence in History, Canisius College (1977)

Student Vice Master, DiGamma Honor Society, Canisius College (1976 – 1977)

Dean's List (with special distinction for 4.0 grade point average), Canisius College (1973 – 1977)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (1981 – present)

Section of Litigation (1981 – present)

Litigation Magazine (1987 – 2000, 2010 – 2014)

Associate Editor (1987 – 1996)

Executive Editor (1996 – 1998)

Editor-in-Chief (1998 – 2000)

Senior Editor (2010 – 2014)

Book Publishing Board (2004 – 2009)

Council Member (2001 – 2004)

Publications Division (2000 – 2001)

Co-Director

Erie County Bar Association (1981 – present)

Nominating Committee (2012 – present)

New York State Bar Association (1981 – present)

Committee on Standards of Attorney Conduct (COSAC) (2010 – present)

Task Force on Non-Lawyer Ownership (2011 – 2012)

New York State Judicial Conference (2000 – 2002)

Second Circuit Task Force on Gender, Racial, and Ethnic Fairness (Western District of New York Working Committee) (approximately 1993)

United States District Court, Western District of New York, Civil Justice Reform Act Advisory Group (approximately 1991 – 1995)

Chair (approximately 1991 – 1993)

Reporter (approximately 1993 – 1995)

Western New York Trial Lawyers Association (sometime in the 1980s, 1990s, or 2000s)

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, 1981

There has been no lapse in my membership.

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

Supreme Court of the United States, 1987

United States Court of Appeals for the Second Circuit, 1983

United States District Court for the Western District of New York, 1982

United States Court of Appeals for the Third Circuit, 1981

United States Court of Appeals for the Fifth Circuit, 1981 (inactive)

United States Court of Appeals for the Eleventh Circuit, 1981 (inactive)

I inadvertently did not renew my admission in the Second Circuit, and my admission lapsed in approximately 2010 or 2011. I reapplied and have been

readmitted since 2013. I did not practice before the Second Circuit while my admission lapsed. I was admitted to the Fifth Circuit as a result of my clerkship there. When the Fifth Circuit split, I also was admitted to the Eleventh Circuit. Because I have never practiced in the Eleventh Circuit and have handled only one matter in the Fifth Circuit (which occurred while I was admitted there), I did not renew my admission to those courts when they lapsed.

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.

Alpha Sigma Nu Honor Society (2008 – present)

Canisius College Board of Trustees (2012 – present)

Student Life Committee Chair (2013 – present)

Canisius High School Board of Trustees (2001 – 2007)

Chair (2004 – 2007)

DiGamma Honor Society, Canisius College (approximately 1976 – present)

Irish Classical Theater Company Board of Trustees (2010 – present)

Nominating Committee Chair (2012 – 2014)

Lockport Town & Country Club (approximately 1993 – 2002)

St. Thomas More Guild (Western New York Catholic Lawyers) (approximately 1982 – present)

President (1993 – 1994)

Scholarship Committee (2006)

Tan-Tara Country Club (approximately 1983 – 1993)

- 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 St. Thomas More Guild is an organization of Catholic lawyers and legal professionals. Canisius High School, of which I was a trustee from 2001 to 2007, is an all-male, Jesuit school. Canisius College, of which I am now a trustee, previously admitted only men years before I attended or became a trustee. When I became a member of the DiGamma Honor Society at Canisius College in approximately 1976, it did not admit women, but there was a separate organization, DiGamma Alpha, for women. In 1976, I wrote an editorial for the college newspaper calling for DiGamma to admit women. In 1983, the men's and women's societies voted to become one. To my knowledge, none of the other 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.

After a careful search of my personal records and public records, I have been able to locate the following materials:

Lawrence J. Vilardo, *Magis* essay (2014), Canisius College Website. Copy supplied.

Lawrence J. Vilardo, *You Can Go Home Again* (January 7, 2014). Copy supplied.

Lawrence J. Vilardo, Book Review, Erie County Bar Association Bulletin (2014) (reviewing Robert L. Haig, *Business and Commercial Litigation in Federal Courts*, 3d ed., (2014)). Copy supplied.

Lawrence J. Vilardo & Vincent E. Doyle III, *Where Did the Zeal Go?*, 38 Litigation, no. 1 (Fall 2011). Copy supplied.

Lawrence J. Vilardo & Vincent E. Doyle III, *Representing Lawyers*, 32 Litigation, no. 4 (Summer 2006). Copy supplied.

Priscilla Anne Schwab & Lawrence J. Vilardo (eds.), *The Litigation Manual: Depositions*, American Bar Association (2006). Copy supplied.

Lawrence J. Vilaro, *Expert Analysis: CPLR §3101*, New York Consolidated Law Service Annotated Statutes with Forms: Civil Practice Law and Rules (3101-3108) (2002). Copy supplied.

Lawrence J. Vilaro, *Communicating with Clients*, 27 *Litigation*, no. 3 (Spring 2001). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Lawyers, Lessons, Life & Death*, 26 *Litigation*, no. 4 (Summer 2000). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Perspective*, 26 *Litigation*, no. 3 (Spring 2000). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Tomorrow*, 26 *Litigation*, no. 2 (Winter 2000). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Yesterday*, 26 *Litigation*, no. 1 (Fall 1999). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Experts, E-Mail, Cutting-Edge Cases*, 25 *Litigation*, no. 4 (Summer 1999). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Evidence*, 25 *Litigation*, no. 3 (Spring 1999). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Appeals*, 25 *Litigation*, no. 2 (Winter 1999). Copy supplied.

Lawrence J. Vilaro, Editor's Note in *Back to Basics*, 25 *Litigation*, no. 1 (Fall 1998). Copy supplied.

Lawrence J. Vilaro & Howard W. Gutman, *The Honorable Irving L. Goldberg: A Place in History*, 49 *SMU L. Rev.* 1 (1995). Copy supplied.

Lawrence J. Vilaro, *Taking Care of the Doctor*, 21 *Litigation*, no. 3 (Spring 1995). Copy supplied.

Lawrence J. Vilaro & Howard W. Gutman, *With Justice From One: Interview with Hon. Irving L. Goldberg*, 17 *Litigation*, no. 3 (Spring 1991). Copy supplied.

Larry Vilaro & Doug Karp, *A Supra Show*, *Harvard Law Record* (Feb. 29, 1980). Copy supplied.

Ralph D. Gants, Larry Vilaro, et al., *Developments in the Law – Corporate Crime: Regulating Corporate Behavior Through Criminal Sanctions*, 92 *Harvard L. Rev.* 1227 (1979). I was responsible for Part II(A): *The Rationale for*

Regulatory Crimes; Part V: The Choice Between Civil and Criminal Sanctions; and Part VIII: Conclusion: An Evaluation and Proposal. Copy supplied.

Larry Vilardo, *Miller Goes Video, Debates Issues*, Harvard Law Record (Nov. 2, 1979). Copy supplied.

Larry Vilardo, *Marshall Club Takes Honors*, Harvard Law Record (Nov. 21, 1978). Copy supplied.

Larry Vilardo, *Stone Elected by Psychiatrists*, Harvard Law Record (Apr. 28, 1978). Copy supplied.

Larry Vilardo, *Admission Policy Revamped; Flawed Candidates Sought*, Harvard Law Record (Apr. 1, 1978) (humorous April Fools issue). Copy supplied.

Larry Vilardo, *Alumni Notebooks: Pages from the Past*, Harvard Law Record (Mar. 17, 1978). Copy supplied.

Larry Vilardo, *Bar Gives Mixed Reaction to Burger's Rap of Lawyers*, Harvard Law Record (Mar. 3, 1978). Copy supplied.

Larry Vilardo, *Cross-Country Skiing: Rx for the Law Student*, Harvard Law Record (Jan. 27, 1978). Copy supplied.

Larry Vilardo, *Judge Says Test Lacks Redeeming Social Value*, Harvard Law Record (Dec. 9, 1977). Copy supplied.

Larry Vilardo, *Group Proposed to Seek Student Aid to Support Public Interest Law*, Harvard Law Record (Nov. 23, 1977). Copy supplied.

Larry Vilardo, *Law School is Family Affair for 1L*, Harvard Law Record (Oct. 28, 1977). Copy supplied.

Larry Vilardo, *T-Shirts a 'Plus' for Harvard Graduate*, Harvard Law Record (Oct. 7, 1977). Copy supplied.

Larry Vilardo, *Melvin Belli: Tort Lawyer Made Good*, Harvard Law Record (Sept. 23, 1977). Copy supplied.

Larry Vilardo, *Newspaper's Function Critical*, The Griffin (Mar. 11, 1977). Copy supplied.

Larry Vilardo, *Senate Voting Makes Cents*, The Griffin (Mar. 4, 1977). Copy supplied.

Larry Vilardo, *UnderGriffs Startle Niagara, 64-60*, The Griffin (Mar. 4, 1977). Copy supplied.

Larry Vilardo, *Pinstripes Are Back in Style*, The Griffin (Feb. 25, 1977). Copy supplied.

Larry Vilardo, *Music Awards Lack Harmony*, The Griffin (Feb. 18, 1977). Copy supplied.

Larry Vilardo, *Fee VP Has Golden Touch*, The Griffin (Feb. 11, 1977). Copy supplied.

Larry Vilardo, *All I Want for Christmas . . .*, The Griffin (Dec. 10, 1976). Copy supplied.

Larry Vilardo, *Sense of Humor Makes Sense*, The Griffin (Nov. 19, 1976). Copy supplied.

Larry Vilardo, *SC Ramp Among Alternatives*, The Griffin (Nov. 12, 1976). Copy supplied.

Larry Vilardo, *Great Pumpkin Didn't Raise Drooping Halloween Spirits*, The Griffin (Nov. 5, 1976). Copy supplied.

Larry Vilardo, *Election Year Ramblings*, The Griffin (Oct. 29, 1976). Copy supplied.

Larry Vilardo, *' . . . That's the Facts, Ma'am, '* The Griffin (Oct. 15, 1976). Copy supplied.

Larry Vilardo, *'Testy' About Loud Carpets*, The Griffin (Oct. 8, 1976). Copy supplied.

Larry Vilardo, *Rocky Outing a Cliffhanger*, The Griffin (Oct. 1, 1976). Copy supplied.

Larry Vilardo, *Two Tempests at Stratford*, The Griffin (Sept. 24, 1976). Copy supplied.

Larry Vilardo, *Crowded Prisons, Empty Inmates*, The Griffin (Sept. 17, 1976). Copy supplied.

Larry Vilardo, *Forward-Looking Retrospect*, The Griffin (May 7, 1976). Copy supplied.

Larry Vilardo, *It's Yankee Time Again*, The Griffin (Apr. 2, 1976). Copy supplied.

Larry Vilardo, *When in Doubt, Call a Meeting*, The Griffin (Mar. 19, 1976). Copy supplied.

Larry Vilardo, *Urban History Analyzed by Fitzpatrick Lecturer*, The Griffin (Mar. 19, 1976). Copy supplied.

Larry Vilardo, *Griff Aud Program Needs Help*, The Griffin (Mar. 12, 1976). Copy supplied.

Larry Vilardo, *Martin, Foschio Too Tough for Snyder's Braves Brass*, The Griffin (Mar. 5, 1976). Copy supplied.

Larry Vilardo, *Tuition Change Forces Financial Aid Revision*, The Griffin (Feb. 13, 1976). Copy supplied.

Larry Vilardo, *Bursar Berry's Outlook Bright; Late Fine Deters Delinquents*, The Griffin (Jan. 30, 1976). Copy supplied.

Larry Vilardo, *Turnovers Prove Costly as Bona Scalps Canisius*, The Griffin (Jan. 30, 1976). Copy supplied.

Larry Vilardo, *Dismissal Charges Against Mr. Ernst Rescinded by College*, The Griffin (Jan. 23, 1976). Copy supplied.

Larry Vilardo, *Ernst Resolution Up Before Faculty Senate*, The Griffin (Dec. 12, 1975). Copy supplied.

Larry Vilardo, *Ernst Takes Appeal Before Courts*, The Griffin (Dec. 5, 1975). Copy supplied.

Larry Vilardo, *Frosh Tongue Tie Opponents*, The Griffin (Nov. 21, 1975). Copy supplied.

Larry Vilardo, *Paper Griffin Finds ROTC Weekend Rewarding*, The Griffin (Nov. 7, 1975). Copy supplied.

Larry Vilardo, *Athletic Reply Scores*, The Griffin (Oct. 17, 1975). Copy supplied.

Larry Vilardo, *Ernst, Dept. Submit Appeal*, The Griffin (Oct. 10, 1975). Copy supplied.

Larry Vilardo, *'Peer Evaluation' Just an Empty Standard*, The Griffin (Oct. 10, 1975). Copy supplied.

Larry Vilardo, *M.S.A. Response Off Target*, The Griffin (Oct. 3, 1975). Copy supplied.

Larry Vilardo, *I.P.T.B.A.*, The Griffin (Oct. 3, 1975). Copy supplied.

Larry Vilardo, *Dismissal Creates Crisis*, The Griffin (Sept. 19, 1975). Copy supplied.

Larry Vilardo, *Ump School Safe at Home*, The Griffin (Sept. 12, 1975). Copy supplied.

Larry Vilardo, *Prof Fired; Dept. Balks*, The Griffin (Sept. 12, 1975). Copy supplied.

Larry Vilardo, *Where Have All the Baseballs Gone?*, The Griffin (Apr. 25, 1975). Copy supplied.

Larry Vilardo, *Learn From Our Mistakes*, The Griffin (Apr. 18, 1975). Copy supplied.

Larry Vilardo, *Maybe This Year?*, The Griffin (Apr. 11, 1975). Copy supplied.

Larry Vilardo, *It Can't Happen Here*, The Griffin (Mar. 7, 1975). Copy supplied.

Larry Vilardo, *Ship Up and Shape Out*, The Griffin (Feb. 28, 1975). Copy supplied.

Larry Vilardo, *Christ Is Alive*, The Griffin (Feb. 14, 1975). Copy supplied.

Larry Vilardo, *Who, What, Where, Why, How is P.F. Flyers?*, The Griffin (Feb. 7, 1975). Copy supplied.

Larry Vilardo, *Is It Better to Give Than to Receive?*, The Griffin (Jan. 31, 1975). Copy supplied.

Larry Vilardo, *Who Woulda Thunk It?*, The Griffin (Jan. 24, 1975). Copy supplied.

Larry Vilardo, *Skiing to Potato City*, The Griffin (Jan. 17, 1975). Copy supplied.

Larry Vilardo, *Free Throw Parade*, The Griffin (Dec. 6, 1974). Copy supplied.

Larry Vilardo, *Doctor Heals Attendance*, The Griffin (Nov. 22, 1974). Copy supplied.

Larry Vilaro, *You've Come a Long Way, Baby!*, The Griffin (Nov. 15, 1974). Copy supplied.

Larry Vilaro, *From Rome to Holiday Rinks*, The Griffin (Nov. 8, 1974). Copy supplied.

Larry Vilaro, *Alibis & Excuses*, The Griffin (Nov. 1, 1974). Copy supplied.

Larry Vilaro, *Beer Cans, Trash Barrels and Club Football*, The Griffin (Oct. 18, 1974). Copy supplied.

Larry Vilaro, *'Tell Him to Stonewall – Cover It Up,'* The Griffin (Oct. 11, 1974). Copy supplied.

Larry Vilaro, *Tennis is on the Upswing*, The Griffin (Oct. 4, 1974). Copy supplied.

Larry Vilaro, *I.P.T.B.A.*, The Griffin (Sept. 27, 1974). Copy supplied.

Larry Vilaro, *"Lot for U.S. to Catch Up,"* The Griffin (Sept. 27, 1974). Copy supplied.

Larry Vilaro, *"Lot for U.S. to Catch Up,"* The Griffin (Sept. 20, 1974). Copy supplied.

Larry Vilaro, *Damn Yankees!*, The Griffin (Mar. 29, 1974). Copy supplied.

Larry Vilaro, *"Concert at the Aud,"* The Griffin (Mar. 1, 1974). Copy supplied.

I also edited and wrote several pieces for *The Griffin* and the *Harvard Law Record* for which I did not have a by-line, including the following:

Fenno (humor column), Harvard Law Record (May 4, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Apr. 27, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Apr. 20, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Apr. 13, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Apr. 2, 1979) (humorous April Fools issue). Copy supplied.

Fenno (humor column), Harvard Law Record (Mar. 23, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Mar. 4, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Mar. 2, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Feb. 16, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Feb. 9, 1979). Copy supplied.

Fenno (humor column), Harvard Law Record (Dec. 8, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Nov. 21, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Nov. 16, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Nov. 3, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Oct. 27, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Oct. 20, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Oct. 13, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Oct. 6, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Sept. 29, 1978). Copy supplied.

Fenno (humor column), Harvard Law Record (Sept. 22, 1978). Copy supplied.

Editorial: *Parking Fee Unfair*, The Griffin (Dec. 10, 1976). Copy supplied.

Editorial: *Merry Christmas*, The Griffin (Dec. 10, 1976). Copy supplied.

Editorial: *CPB Works Now . . . Parties Later*, The Griffin (Apr. 2, 1976). Copy supplied.

Editorial: *We'll Drink to That*, The Griffin (Mar. 12, 1976). Copy supplied.

Editorial: *Quad Party Needs Time*, The Griffin (March 5, 1976). Copy supplied.

Editorial: *Promise Her Anything – But Give Her DiGamma*, The Griffin (Feb. 13, 1976). Copy supplied.

Buckley to Speak at Canisius on Tuesday Night, The Griffin (Feb. 6, 1976). Copy supplied.

Canisius Community Loses 3, The Griffin (Feb. 6, 1976). Copy supplied.

Afro President Welcomes All Cultural Enthusiasts, The Griffin (Feb. 6, 1976). Copy supplied.

Editorial: *Pat on the Back for REACH*, The Griffin (Dec. 5, 1975). Copy supplied.

Ministry Urges Pooling Resources, The Griffin (Oct. 24, 1975). Copy supplied.

Editorial: *Time for a Turnaround in Student Government*, The Griffin (Apr. 25, 1975). Copy supplied.

Father Maloney Ailing, The Griffin (circa 1975 – 1976, date unknown). Copy supplied.

Ernst Meetings Prove Fruitless: 'Crisis' Remains, The Griffin (circa 1975 – 1976, date unknown). Copy supplied.

Tutorial Group Plans Rathskellar to Benefit Poor, The Griffin (circa 1975 – 1976, date unknown). Copy supplied.

Committee Celebrates Golen [sic] Anniversary, The Griffin (May 6, 1974) (humorous Moving Up Day (MUD) issue). Copy supplied.

I also edited my biography and the “Law Firm Profile” section from my law firm’s website. Copies supplied.

Between 1987 and 2014, I served as a copy editor for various publications by the American Bar Association, although I did not provide substantive edits to the pieces. As the Editor-in-Chief of the American Bar Association’s *Litigation* magazine between 1998 and 2000, I copyedited the articles in Volumes 25 and 26. Over the years, I also have copyedited numerous articles in my capacities as Associate Editor, Executive Editor, and Senior Editor of that publication. I also helped copyedit Hecht, *Effective Depositions*, 2d ed. (2010), published by the American Bar Association Section of Litigation.

- 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.

As Chair of the Student Life Committee of the Canisius College Board of Trustees since 2013, I have attended quarterly meetings related to student life and reported on those meetings to the Board of Trustees. I have no notes, transcripts, or recordings, but summaries of these reports, which were included in the Canisius College Board of Trustees Highlights and Summaries, are supplied.

As a member of the New York State Bar Association Task Force on Nonlawyer Ownership in 2010 and 2011, I contributed to the preparation of the Report of the Task Force on Nonlawyer Ownership. Copy supplied.

As a member of the New York State Bar Association Committee on Standards of Attorney Conduct in 2010, I contributed to the preparation of the New York State Bar Association, New York City Bar Association and New York County Lawyers’ Association Proposed Rules for Licensing of In-House Counsel. Copy supplied.

As a part of the Western District of New York Working Committee for the Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in 1997, I contributed to the preparation of the Report of the Working Committees to the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts. Copy supplied.

As chair and as reporter for the Civil Justice Reform Act Advisory Group for the United States District Court, Western District of New York, in the early 1990s, I participated in the preparation of the Report and Recommendations of the Civil Justice Reform Act Advisory Group for the Western District of New York and a Draft Standing Order on Effective Discovery. Copies 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.

I have not provided any testimony or statements of this nature.

- 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.

The following list reflects my best effort to identify the public speeches, talks and remarks that I have delivered. I have carefully reviewed my personal papers, calendars, diaries, and public records to compile this list. There may, however, have been other talks, presentations, or moot court competitions over the years that I have been unable to recall or identify.

October 23, 2014: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 7, 2014: Speaker, Seminar on Appellate Oral Argument, SUNY Buffalo Law School, Amherst, NY. I have no notes, transcript, or recording, but my remarks would have been substantially similar to the October 17, 2013 event, for which notes have been supplied.

April 30, 2014: Panelist, Panel Discussion, Buffalo Pediatric Society, Buffalo, NY. The panel discussion was on legal, ethical, and moral issues arising from parents' refusing vaccinations for their children. I have no notes, transcript, or recording. The address of the Buffalo Pediatric Society is P.O. Box 827, Buffalo, NY 14220.

February 26, 2014: Panelist, Panel Discussion, The Charles S. Desmond American Inn of Court, Buffalo, NY. The panel discussion was on the late Charles S. Desmond, Chief Judge of the New York Court of Appeals. I have no notes, transcript, or recording. The address of The Charles S. Desmond American Inn of Court is Charles S. Desmond American Inn of Court, c/o Mark Davis, Esq.,

Lippes Mathias Wexler Friedman LLP, 665 Main Street, Suite 300, Buffalo, NY 14203.

February 7, 2014, Speaker, Luncheon Speech to Group of Catholic Men, Northside First Friday Club, Kenmore, NY. Remarks supplied.

December 19, 2013: Panelist, "Real Life vs. Reel Life Ethics," New York State Bar Association, Amherst, NY. The panel discussion was part of a continuing legal education seminar on legal ethics as seen in motion pictures. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, NY 12207.

October 24, 2013: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 17, 2013: Speaker, Seminar on Appellate Oral Argument, SUNY Buffalo Law School, Amherst, NY. Notes supplied.

June 15, 2013: Speaker, Litigation Journal Tribute, ABA Litigation Section, Newport, RI. Video available at:
http://stream.americanbar.org/services/player/bcpid2059188277001?bckey=AQ~.AAABsp7SiCE~,aEBLYbQyvvDzG_ilsy3VR1brzH8RuBlr&bctid=2520484017001.

February 15, 2013: Panelist, "Effective Arbitration and Mediation Advocacy: The Do's and Don'ts," New York State Bar Association, Buffalo, NY. The two continuing legal education panel discussions in which I participated were on effective advocacy in mediation and arbitration. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, NY 12207.

December 10, 2012: Panelist, "Real Life vs. Reel Life Ethics," New York State Bar Association, Amherst, NY. The panel discussion was part of a continuing legal education seminar on legal ethics as seen in motion pictures. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, NY 12207.

December 8, 2012: Trial Technique Judge, SUNY Buffalo Law School, Buffalo, NY. I participated as a judge for law students trying a fictional case in Buffalo City Court. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 31, 2012: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I

have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 24, 2012: Speaker, Seminar on Appellate Oral Argument, SUNY Buffalo Law School, Amherst, NY. I have no notes, transcript, or recording, but my remarks would have been substantially similar to the October 17, 2013 event, for which notes have been supplied.

October 16, 2012: Panelist, "U.S. Supreme Court Review and Preview," Erie County Bar Association, Buffalo, NY. Notes supplied.

September 13, 2012: Panelist, "The Continuous Pursuit of Excellence," Canisius High School, Buffalo, NY. The panel was on networking and future employment. I have no notes, transcript, or recording. The address of Canisius High School is 1180 Delaware Avenue, Buffalo, NY 14209.

May 5, 2012: Speaker, Alumni Hall of Honor Induction Speech for Erik L. Brady, Canisius High School, Buffalo, NY. Remarks supplied.

May 4, 2012: Speaker, Retirement Speech for Dr. Peter Galie, Canisius College, Buffalo, NY. Remarks supplied.

December 5, 2011: Panelist, "Avoiding Ethical Dilemmas in Day to Day Practice," New York State Bar Association, Amherst, NY. The continuing legal education panel was on ethical issues in legal practice. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, NY 12207.

November 14, 2011: Speaker, Luncheon Speech, Harvard Club of Western New York, Buffalo, NY. Remarks supplied.

October 27, 2011: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 20, 2011: Speaker, Seminar on Appellate Oral Argument, SUNY Buffalo Law School, Amherst, NY. I have no notes, transcript, or recording, but my remarks would have been substantially similar to the October 17, 2013 event, for which notes have been supplied.

March 3-5, 2011: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

November 13, 2010: Speaker, Distinguished Alumni Induction, Canisius College, Buffalo, NY. The speech was on my gratitude for being inducted into the Canisius College Distinguished Alumni. I have no notes, transcript, or recording. The address of Canisius College is 2001 Main Street, Buffalo, NY 14208.

November 11-12, 2010: Trial Technique Judge, SUNY Buffalo Law School, Buffalo, NY. I participated as a judge for law students trying a fictional case in Buffalo City Court. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 31, 2010: Speaker, Father-Son Breakfast, Canisius High School, Buffalo, NY. Remarks supplied.

October 27, 2010: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 25, 2010: Speaker, Seminar on Appellate Oral Argument, SUNY Buffalo Law School, Amherst, NY. I have no notes, transcript, or recording, but my remarks would have been substantially similar to the October 17, 2013 event, for which notes have been supplied.

April 24, 2010: Speaker, Distinguished Alumni Hall of Honor Induction Speech for the late Rev. James Higgins, S.J., Canisius High School, Buffalo, NY. Remarks supplied.

March 1, 2010: Speaker, Seminar on Appeals, SUNY Buffalo Law School, Amherst, NY. I have no notes, transcript, or recording, but my remarks would have been substantially similar to the November 5, 2003 event, for which notes have been supplied.

January 22, 2010: Panelist, "U.S. Supreme Court Review and Preview," Erie County Bar Association, Buffalo, NY. The continuing legal education panel discussion was on recent and forthcoming Supreme Court cases. I have no notes, transcript, or recording. The address of the Erie County Bar Association is 438 Main Street, Sixth Floor, Buffalo, NY 14202

December 6, 2009: Speaker, Dedication of Rev. James Higgins Hall, Canisius High School, Buffalo, NY. Remarks supplied.

December 1, 2009: Panelist, Continuing Legal Education Panel Discussion on Ethics and Professionalism, New York State Bar Association, Buffalo. The panel was on ethics and professionalism in legal practice. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, NY 12207.

September 25, 2009: Speaker, "The Art of Civil Trial Advocacy, Preserving the Record," New York State Bar Association, Buffalo, NY. Outline supplied.

January 24, 2009: Speaker, Eulogy of Rev. James Higgins, S.J., Buffalo, NY. Remarks supplied.

November 7-11, 2008: Trial Technique Judge, SUNY Buffalo Law School, Buffalo, NY. I participated as a judge for law students trying a fictional case in Buffalo City Court. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

November 1, 2008: Speaker, Distinguished Alumni Hall of Honor Induction Speech, Canisius High School, Buffalo, NY. Remarks supplied.

October 21-22, 2008: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

April 6, 2008: Speaker, Service Award Recipient Speech, Alpha Sigma Nu, Canisius College, Buffalo, NY. Remarks supplied.

December 12, 2007: Panelist, Continuing Legal Education Panel Discussion on Ethics and Professionalism, New York State Bar Association, Buffalo, NY. The panel was on ethics and professionalism in legal practice. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, NY 12207.

October 29-31, 2007: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

July 21, 2007: Speaker, Graduate School Presentation for St. Bonaventure University, Campus of Hilbert College, Hamburg, NY. Notes supplied.

November 9-12, 2006: Trial Technique Judge, SUNY Buffalo Law School, Buffalo, NY. I participated as a judge for law students trying a fictional case in Buffalo City Court. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

October 27-29, 2005: Trial Technique Judge, SUNY Buffalo Law School, Buffalo, NY. I participated as a judge for law students trying a fictional case in Buffalo City Court. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

July 16, 2005: Speaker, Swearing-In Speech for Hon. Jeffrey N. Cole, Magistrate Judge, United States District Court for the Northern District of Illinois, Chicago, IL. The speech was about Judge Cole on the occasion of his swearing in as a United States Magistrate Judge. I have no notes, transcript, or recording. The address of the United States District Court for the Northern District of Illinois is 219 South Dearborn Street, Chicago, IL 60604.

October 7, 2004: Trial Technique Judge, SUNY Buffalo Law School, Buffalo, NY. I participated as a judge for law students trying a fictional case in Buffalo City Court. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

November 5, 2003: Speaker, Seminar on Appellate Practice, New York State Bar Association, Rochester, NY. Notes supplied.

October 13-16, 2003: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

November 11-13, 2002: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

September 21, 2002: Panelist, Panel Discussion, Jesuits for Upstate New York, Canisius College, Buffalo, NY. The panel discussion was on the clergy sex abuse crisis. I have no notes, transcript, or recording. The address of Canisius College is 2001 Main Street, Buffalo, NY 14208.

October 23-27, 2000: Moot Court Judge, SUNY Buffalo Law School, Amherst, NY. I participated as a moot court judge for law students arguing a fictional case. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

March 2, 2000: Speaker, "Mini-Medical School" Presentation, SUNY Buffalo Law School, Amherst, NY. The presentation was on the legal issues connected with obstetrics and delivery resulting in an injured infant. I have no notes, transcript, or recording. The address of SUNY Buffalo Law School is John Lord O'Brian Hall, Buffalo, NY 14260.

February 18, 2000: Speaker, DiGamma Honor Society Induction Speech, Canisius College, Buffalo, NY. The speech was a light-hearted look at the honor society on the induction of a new class of members. I have no notes, transcript, or

recording. The address of Canisius College is 2001 Main Street, Buffalo, NY 14208.

September 26, 1986: Speaker, "Attorney Client Privilege and You," New York State Bar Association Committee on Law Office Economics and Management, Buffalo, NY. Annotated outline supplied.

I recall giving seminars to the National Federation of Paralegals Association and the Western New York Paralegal Association sometime in the 1980s or 1990s, but I do not have any records of those seminars, cannot recall the dates, and have not found any record of those seminars despite an Internet search and contacting the organizations.

I recall judging moot court competitions at Harvard Law School in 1979 – 1980 and at Southern Methodist University Law School in 1980 – 1981, but I do not have any records of those competitions, cannot recall the dates, and have not found any record despite a careful search of my personal papers.

- 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.

Susan Schulman, *Diocese, Falls School to be Tried Over Role in Girls' Harassment*, Buffalo News, February 9, 2014. Copy supplied.

Phil Fairbanks, *Ex-Shipping Company Owners Get New Court Chance in DHL Claim*, The Buffalo News, February 8, 2014. Copy supplied.

Jerry Zremski, *Presidential Campaign Donations in WNY Dwindling*, The Buffalo News, April 22, 2012. Copy supplied.

Marlen Garcia, *Case Against Boeheim Likely Tough to Prove*, USA Today, December 15, 2011. Copy supplied.

Distinguished Alumni 2010, Canisius College Magazine, Winter 2011. Copy supplied.

Audrey R. Browka, *All College Honors: Bringing Out the Best in Students for 50 Years*, Canisius College Magazine, Summer 2010. Copy supplied.

Jocelyn Allison, *Ex-Watermark Affiliate Pleads Guilty In \$6M Ponzi*, Law360, April 19, 2010. Copy supplied.

Michael Beebe, *Associate Pleads Guilty in \$6 Million Ponzi Scheme*, The Buffalo News, April 16, 2010. Copy supplied.

Michael Beebe, *Authorities Arrest Man Accused of \$5.8 million Ponzi Scheme*, The Buffalo News, March 26, 2010. Copy supplied.

Michael Beebe, *Guilty Plea by Gane's VP Expected in SEC Fraud Case; Altadonna Will Admit Misleading Investor in Alleged Ponzi Scheme, Court Papers Say*, The Buffalo News, March 16, 2010. Copy supplied.

WNED-AM, *Law Line* (radio interview on 2010 Supreme Court cases), January 2, 2010. Recording supplied.

Jerry Zremski, *Former Area Man Takes Top Civil Rights Post; Dominican Heritage Also Shapes Perez*, The Buffalo News, November 14, 2009. Copy supplied.

Jay Tokasz, *Diocese Ousts St. Teresa's Priest and Finance Chief: Both Had Aired Concerns About Irregularities*, The Buffalo News, August 27, 2009. Copy supplied.

Rev. James Higgins, *'Remarkable' as Canisius High School President; Nov. 3, 1954 – Jan. 20, 2009*, The Buffalo News, January 23, 2009. Copy supplied.

Jay Tokasz, *Higgins, Ex-Head of Canisius High, Dies*, The Buffalo News, January 22, 2009. Copy supplied.

G. Scott Thomas, *Donations Lag for Front-Runners*, Buffalo Business First, March 3, 2008. Copy supplied.

Harold McNeil, *Buffalo Law Firm Takes Smartest Title in Trivia Contest Aiding Cradle Beach: Fundraiser*, The Buffalo News, April 5, 2007. Copy supplied.

Canisius High Names New Principal, Buffalo Business First, April 25, 2006. Copy supplied.

Local News Briefs, The Buffalo News, February 7, 2006. Copy supplied.

Anthony Cardinale, *4 Canisius High Teachers Sue Over Tenure Denial*, The Buffalo News, September 23, 2005. Copy supplied.

Michael Ziegler, *Area Lawyers Says Roberts a 'Gentleman'*, Democrat and Chronicle, September 13, 2005. Copy supplied.

Jerry Zremski, *Roberts Nomination Draws Praise; John G. Roberts Jr.'s Stellar Legal Record and Stealth Judicial Views Are Seen as Assets By Legal Experts*, The Buffalo News, July 21, 2005. Copy supplied.

Dan Herbeck, *Lewiston Lawyer Gets Probation in Tax Case*, The Buffalo News, May 21, 2003. Copy supplied.

Michael Beebe, *National Fuel Critic is Spared Jail, Gets Fine and Gag Order*, The Buffalo News, December 20, 2002. Copy supplied.

Kathy Kellogg, *Changing Priorities Cited in Ouster of Hospital CEO*, The Buffalo News, July 7, 2001. Copy supplied.

It's the Law: Keeping Up with Educational Requirements is Required, Buffalo Business First, January 8, 2001. Copy supplied.

Buffalo Firm Asked to Assist Gore Group, The Buffalo News, November 15, 2000. Copy supplied.

Tom Ernst, *Doctor Sought on Sex Charges Kills Himself*, The Buffalo News, May 29, 1995. Copy supplied.

Dan Herbeck, *Area Doctor is Target of U.S. Manhunt Fugitive Warrant Issued in Drugs-for-Sex Probe*, The Buffalo News, May 24, 1995. Copy supplied.

Dan Herbeck, *Disbarred Lawyer Wins a Reversal of Bankruptcy Fraud Charge*, The Buffalo News, February 16, 1994. Copy supplied.

Neil Graves, *Lewiston, Modern Assess Relationship*, The Buffalo News, July 30, 1992. Copy supplied.

McKinley Mall Pays Its Taxes Under Protest, The Buffalo News, April 18, 1992. Copy supplied.

Rick Stouffer, *Developer Loses Control of McKinley Mall, About \$3 Million in County, Town and School Taxes Were Not Paid by Zamias*, The Buffalo News, March 31, 1992. Copy supplied.

James T. Madore, *Zamias Back on Top at McKinley Mall, Two Judges Rule in His Favor, But Another Court Date Is Set for Nov. 20*, The Buffalo News, November 2, 1991. Copy supplied.

Rick Stouffer, *Heitman Wins Control of McKinley Mall But Despite Court Ruling, Zamias Company Still Claims to Be General Partner*, The Buffalo News, November 1, 1991. Copy supplied.

Rick Stouffer, *Mall Power Struggle Goes to Court*, The Buffalo News, October 31, 1991. Copy supplied.

Matt Gryta, *Man's Award in Police Beating Upheld But New Trial is Ordered to*

Assess Punitive Damages Against Officers, The Buffalo News, November 24, 1989. Copy supplied.

Karen Brady, *Faculties of Fine Prof Don't Depend on Age*, The Buffalo News, approximately June 11, 1980. Copy supplied.

Louise Leiker, *'Tortoise' Student's Fast Finish Brings Him Scholastic Awards*, Courier-Express, approximately June 1977. Copy supplied.

In addition to the list provided, on a few occasions over the years, I have been interviewed on WIVB-TV, Buffalo, New York, to comment on current legal issues during segments on the nightly news. I also recall being interviewed on television, and perhaps radio, about the appointment of Chief Justice Roberts, who was a law school schoolmate and with whom I served on the Harvard Law Review. I have no transcripts, copies, or tapes of those interviews, and I do not have any record of them or recall the dates.

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.

Although I have not served as a judge, I have served as a hearing officer and fact finder in a quasi-judicial capacity in two matters. In 2008, I was retained by the Town of Cheektowaga, New York, to serve as a hearing officer and fact finder in a decision relating to the town's residency requirement for employees as applied to a town employee. In 2005, I was retained by Kaleida Health to serve as a hearing officer regarding the denial of hospital privileges of a hospital physician.

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

Although I have not presided over any cases in the traditional sense, I have presided over two matters as a hearing officer in a quasi-judicial capacity, and both of those matters resulted in a decision.

- i. Of these, approximately what percent were:

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

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

In the Matter of a Proceeding to Determine the Residency of Rogowski, an Employee of the Town of Cheektowaga (2008).

In the Matter of the Kaleida Fair Hearing Regarding the Neonatology Privileges of Dukarm, M.D. (2005).

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

- (1) *In the Matter of a Proceeding to Determine the Residency of Rogowski, an Employee of the Town of Cheektowaga.* Decision supplied.

I was the hearing officer and fact finder in this matter involving a dispute over the Town of Cheektowaga residency requirement. After conducting a hearing, I rendered a decision finding that the employee, who had moved out of town, did not meet the town's residency requirement because he had less than the 15 years of service required of employees who lived outside the town.

Attorney for Mr. Rogowski:
Richard H. Wyssling, Esq.
375 Linwood Avenue
Buffalo, NY 14209
(716) 882-2243
(Solo Practitioner)

Attorney for Town of Cheektowaga:
Henry F. Sobota, Esq.
Ferrara, Fiorenza, Larrison, Barrett & Reitz
5010 Campuswood Drive
East Syracuse, NY 13057
(315) 427-7600

- (2) *In the Matter of the Kaleida Fair Hearing Regarding the Neonatology Privileges of Dukarm, M.D.* Decision supplied.

I was the hearing officer presiding over a dispute between a hospital and physician regarding the physician's privileges in neonatology. The physician requested a hearing after the hospital denied his application for "Level III" privileges because it had an exclusive contract with a group in which the physician was not a member to provide Level III services. After conducting a hearing, I drafted a decision, which then was rendered by a three-member panel, confirming the denial of hospital privileges.

Attorney for Kaleida Health:
Robert J. Lane, Jr., Esq.
Hodgson Russ, LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, NY 14202
(716) 848-1474

Attorney for Dukarm, M.D.:
Linda C. Laing, Esq.
Notaro & Laing, P.C.
One Niagara Square
Buffalo, NY 14202
(716) 854-4080

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

- (1) *In the Matter of a Proceeding to Determine the Residency of Rogowski, an Employee of the Town of Cheektowaga.* Decision previously supplied in response to 13c.

Attorney for Mr. Rogowski:
Richard H. Wyssling, Esq.
375 Linwood Avenue
Buffalo, NY 14209
(716) 882-2243
(Solo Practitioner)

Attorney for Town of Cheektowaga:
Henry F. Sobota, Esq.
Ferrara, Fiorenza, Larrison, Barrett & Reitz
5010 Campuswood Drive
East Syracuse, NY 13057
(315) 427-7600

- (2) *In the Matter of the Kaleida Fair Hearing Regarding the Neonatology Privileges of Dukarm, M.D.* Decision previously supplied in response to 13c.

Attorney for Kaleida Health:
Robert J. Lane, Jr., Esq.
Hodgson Russ, LLP
The Guaranty Building
140 Pearl Street, Suite 100

Buffalo, NY 14202
(716) 848-1474

Attorney for Dukarm, M.D.:
Linda C. Laing, Esq.
Notaro & Laing, P.C.
One Niagara Square
Buffalo, NY 14202
(716) 854-4080

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

None.

- 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.

- 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 issued one unpublished decision in *In the Matter of a Proceeding to Determine the Residency of Rogowski, an Employee of the Town of Cheektowaga*. A copy of that decision is on file with the Law Department of the Town of Cheektowaga. I drafted a second unpublished decision for the panel in *In the Matter of the Kaleida Fair Hearing Regarding the Neonatology Privileges of Dukarm, M.D.* A copy of that decision is on file with Hodgson Russ, LLP, counsel for Kaleida Health in the matter.

- 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.

- 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.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed

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

I neither recused myself sua sponte nor was I asked to recuse myself in either of the cases in which I served as hearing officer.

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

15. Public Office, Political Activities and Affiliations:

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

I have not held public office, nor have I been an unsuccessful candidate or nominee.

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

As an unpaid member of the Transition Team for New York State Attorney General Eric Schneiderman in 2011, I reviewed resumes, participated in telephone interviews, and helped recommend candidates for positions in the Attorney General's Office.

My wife and I hosted a fundraiser in our home for President Barack Obama's campaign in 2008.

In 1993 and 1994, I was a volunteer for the Transition Team of City of Buffalo Mayor Anthony M. Masiello, which involved providing ad hoc legal advice.

As an unpaid member of the Finance and Administration Subcommittee of the Transition Team for Erie County Executive Joel Giambra from 1999 to 2000, I reviewed resumes and helped recommend candidates for positions in Erie County government.

In addition, my firm handled or worked on the following election law matters. Although I was not primarily responsible for these matters, I did some work on them:

Zalocha v. Donovan, Index No. 125-2014 (New York State Supreme Court) (election law challenge to validity of nominating petitions on behalf of State Senator Timothy Kennedy) (2014) (paid)

Betz v. Key, Index No. 2557-2012 (New York State Supreme Court) (election law challenge to validity of nominating petitions on behalf of Buffalo City Court Judge Amy Martoche) (2012) (paid)

Masiello v. Griffin, Index No. 8845-2002 (New York State Supreme Court) (opposition to petition to recall Buffalo Mayor Anthony M. Masiello) (2002) (paid)

Bush v. Gore, 531 U.S. 98 (2000) (United States Supreme Court) (limited fact-finding and legal assistance to attorneys representing Vice President Gore in connection with presidential election provided before case reached U.S. Supreme Court) (2000) (unpaid)

Smith v. Masiello, Index No. 5836-1997 (New York State Supreme Court) (defended election law challenge to validity of nominating petitions) (1997) (unpaid)

16. Legal Career: Answer each part separately.

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

From 1980 to 1981, I served as a law clerk to the Honorable Irving L. Goldberg, Circuit Judge of the United States Court of Appeals for the Fifth Circuit.

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

I have never practiced law alone.

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

1981 – 1986
Damon & Morey
200 Delaware Avenue, Suite 1200
Buffalo, NY 14202
Associate

1986 – present
Connors & Vilardo, LLP
1000 Liberty Building
Buffalo, NY 14202
Partner

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

I have served as a mediator or arbitrator in the following seven matters, the last of which involved a number of relatively small cases.

1. *Monarch Companies, Inc., and Monarch/DNC Buffalo Airport /f/k/a Buffalo Encounter v. Delaware North Companies Travel Hospitality Services, Inc., f/k/a CA One Services, Inc.* (three-person arbitration panel regarding a joint venture agreement and alleged breach of contract)
2. *Precimed, Inc., d/b/a/ Greatbatch Medical v. ECA Medical Instruments* (mediation regarding alleged breach of exclusive distribution agreement for certain medical products; case settled before mediation session was held)
3. *Lender Consulting Services, Lipuma, and Duffy v. Hiscock & Barclay and McCabe* (mediation regarding claim of legal malpractice)
4. *In the Matter of an Arbitration between Dearlove v. Deloitte & Touche, LLP, and Deloitte, LLP* (three-person arbitration panel regarding claims of legal malpractice, indemnification, and breach of fiduciary responsibility)

5. *Manufacturers and Traders Trust Co. v. First Tennessee Bank National Association* (three-person arbitration panel regarding multi-million dollar dispute between two banks over sale of Home Equity Lines of Credit)
6. *In the Matter of the Arbitration of Seneca One Realty, LLC v. HSBC Bank USA, N.A.* (three-person arbitration panel regarding disputes arising out of lease of office space in Buffalo's largest office building)
7. *In Matters involving DIRECTV* (numerous mediations of disputes involving alleged cable-TV theft)

b. Describe:

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

The general character of my law practice always has been litigation. As an associate at Damon & Morey from 1981 to 1986, my practice primarily involved medical malpractice defense and criminal work. I wrote briefs and legal memoranda, argued motions and appeals, and assisted in several trials. In 1986, along with a partner with whom I had worked at Damon & Morey, I began Connors & Vilardo, now Connors & Vilardo, LLP. Since then, my practice has evolved to include appellate work, representation of lawyers and other professionals, business litigation, and alternative dispute resolution. I continue to write and edit briefs and memoranda, argue motions, and argue appeals. I also serve as a mediator or arbitrator and represent and advise attorneys on ethical matters.

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

As an associate at Damon & Morey, my typical clients included physicians being sued for medical malpractice and criminal defendants. Today, my clients include several Buffalo law firms, the Roman Catholic Diocese of Buffalo, one of Buffalo's largest health insurance carriers, and several individuals and businesses. More recently, I have been asked to be a mediator or arbitrator in a number of matters.

- 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.

100% of my practice has been litigation. Over the years, I have appeared in court from occasionally to frequently. While my court appearances sometimes ebb and flow, there has been no real variance at the different stages of my career.

- i. Indicate the percentage of your practice in:
 1. federal courts: 30%
 2. state courts of record: 50%
 3. other courts: 0%
 4. administrative agencies: 20%

- ii. Indicate the percentage of your practice in:
 1. civil proceedings: 75%
 2. criminal proceedings: 25%

- 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 four bench cases to verdict as sole or lead counsel and one jury case to verdict as associate counsel in courts of record. I also have served as sole or lead counsel in at least three trials before administrative law judges with the New York State Board of Professional Medical Conduct that resulted in panel decisions. In addition, I have provided substantial trial assistance in at least five other trials, including one bench trial and four jury trials, that resulted in a verdict.

- i. What percentage of these trials were:
 1. jury: 50%
 2. non-jury: 50%

- 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 drafted or edited petitions for writs of certiorari in:

Mouawad v. United States, 510 U.S. 990, No. 93-366 (1993). Cert. Petition is available at 1993 WL 13074997.

Reinig v. New York, 493 U.S. 852, No. 89-138 (1989). I have been unable to locate a copy.

Bailey v. Grand Truck Lines New England, 484 U.S. 826, No. 86-1980 (1987). Cert. Petition is available at 1987 WL 954994.

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. DHL Express (USA), Inc.*, Case No. 1:08-cv-00301-JTC (W.D.N.Y.) (Hon. John T. Curtin, District Judge), 742 F.3d 51 (2d Cir. 2014) (Hons. Winter, Cabranes, and Livingston).

Since 2013, I have represented the defendant in this pending *qui tam* False Claims Act case in the United States District Court for the Western District of New York. The relators have alleged that the defendants overcharged the United States based on fuel surcharges that allegedly were improperly added. The district court dismissed the action based on a statutory notice provision, but the Second Circuit vacated that decision and remanded the case to the district court. I argued the appeal in the Second Circuit in 2013 and more recently was primarily responsible for handling the submission of our renewed motion for dismissal on alternative grounds. On September 11, 2014, the district court again dismissed the complaint. A second appeal to the Second Circuit is pending.

Attorneys for Relators:

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Attorneys for the United States:

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Joshua Waldman, Esq.
U.S. Department of Justice
Civil Division
950 Pennsylvania Ave., N.W.
Room 7232
Washington, DC 20530
(202) 514-0236

2. *Cohane v. NCAA*, No. 04-cv-0943s, 2013 U.S. Dist. LEXIS 186713 (W.D.N.Y. Aug. 8, 2013) (Hon. William M. Skretny, District Judge; Hon. Kenneth Schroeder, Jr., Magistrate Judge).

Since 2005, I have served as co-counsel for the NCAA and several individual defendants in this lawsuit brought by the former head basketball coach at the State University of New York at Buffalo. The plaintiff alleged that the NCAA conspired with the State University of New York at Buffalo and the Mid-American Conference to violate his constitutional rights in connection with findings that he violated a number of NCAA rules in his tenure as head coach. The magistrate judge recommended that the court grant summary judgment in favor of the defendants, and, after objections and responses were filed, the district court granted summary judgment. An appeal to the Second Circuit is currently pending. Although my role began as local counsel, it soon evolved to co-counsel status. I helped to prepare all written submissions in this case and have made nearly all court appearances as well.

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Attorney for Defendant Mid-American Conference:
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Walter Haverfield, LLP
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Attorney for State Defendants:
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Co-Counsel for Defendant National Collegiate Athletic Association, et al.:
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3. *Peters v. City of Buffalo*, 848 F. Supp. 2d 378 (W.D.N.Y. 2012) (Hon. William M. Skretny, District Judge; Hon. Jeremiah J. McCarthy, Magistrate Judge).

In a matter that has been pending since 2012, we represent the former District Attorney of Erie County, Mr. Clark, in a federal court action based on the alleged wrongful conviction of a woman for the murder of her daughter. After the woman had spent 13 years in jail, DNA tests provided evidence that called her guilt into question. In the ensuing investigation, medical experts retained by the prosecutor's office opined that the cause of death was not strangulation as previously concluded but rather was a drug overdose. Consequently, the District Attorney's Office declined to try the case again and moved for dismissal in the interest of justice, which was granted. The pending lawsuit alleges that the prosecutors improperly granted immunity to the individual responsible for the young woman's death, failed to obtain all the evidence, and incorrectly focused the investigation and eventual prosecution on the wrong person. I have been responsible for the pre-trial and discovery matters in this case to date and have made most court appearances before the magistrate judge.

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Attorney for Defendant County of Erie:
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Attorney for Defendants City of Buffalo and Buffalo City Police Department:
Timothy A. Ball, Esq.
City of Buffalo Department of Law
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Attorney for Defendant Marusak:
Richard S. Atwater, Esq.
Gross, Shuman, Brizdle, & Gilfillan, P.S.
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4. *Lincoln Trust v. Spaziano*, 969 N.Y.S.2d 804 (2013) (New York State Supreme Court)

(Hon. Anthony J. Paris, J.S.C.), aff'd, *Lincoln Trust v. Spaziano*, 118 A.D.3d 1339 (4th Dep't 2014) (New York State Supreme Court, Appellate Division, Fourth Department) (Hons. Centra, Fahey, Peradotto, Lindley, and Valentino).

From 2004 until 2014, I represented one of Buffalo's largest law firms in this legal malpractice suit alleging a conflict of interest and damages resulting from the alleged failure to protect the lender's interest in a sophisticated loan transaction. We obtained summary judgment on behalf of the law firm, and the New York State Supreme Court, Appellate Division, Fourth Department, unanimously affirmed. I took or defended all depositions, wrote or edited all the briefs that were submitted to the trial court and the appellate court, and argued both the motion for summary judgment and the appeal.

Attorney for Plaintiffs:

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Davidson Fink, LLP

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(585) 756-5952

Defendant Albert D. Spaziano (pro se)

Attorney for Albert Mercury:

Richard T. Sullivan, Esq.

Harris Beach LLP

Larkin at Exchange

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(716) 200-5050

5. *Dick Road-Blend All Hotel Development, Inc., et al. v. Cipolla, et al.* Index No. 4236/08 (New York State Supreme Court) (Hon. John M. Curran).

From 2008 to 2009, I served as the lead trial counsel in a contempt prosecution for violation of an injunction. In 2008, the plaintiffs moved for injunctive relief in connection with a contract that precluded the use of certain premises as a nightclub. After conducting an evidentiary hearing, the court issued the requested injunction. A few months later, however, the plaintiffs brought a contempt proceeding for violation of the injunction. I handled the trial of that contempt proceeding, offering factual and expert testimony to establish that the premises were being operated as a "nightclub, discotheque or dance hall," as opposed to a restaurant with a bar. The defendants offered the testimony of a marketing expert in the entertainment industry disputing that conclusion. The court issued a "Conditional Order of Contempt," finding the defendants in contempt of court but permitting them to purge their contempt by complying immediately with certain restrictions.

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Attorney for Defendant Buffamonti:
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Attorney for Defendant Pasta Grill, Inc.:
Michael Bly Santa-Maria, Esq.
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Attorney for Defendants T.D.K. National Corporation & Schillo:
Hon. Mark A. Montour, J.S.C.
(now a New York State Supreme Court Justice)
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(Formerly in Solo Practice)

6. *Ramos v. Howard Indus., Inc.*, 10 N.Y.3d 218 (New York Court of Appeals 2008)
(Hons. Kaye, Ciparick, Graffeo, Read, Smith, Pigott, and Jones).

In March 2006, I was retained to handle the appeal of this matter and to represent the defendant, which had lost a motion for summary judgment in a products liability case. The plaintiff claimed that he was injured by a product with a manufacturing defect, but the product – an electric transformer – could not be located for inspection when the

lawsuit was filed. The defendant moved for summary judgment on the grounds that the plaintiff could not make out a prima facie case that the missing product was defective, but the trial court denied the motion and the New York State Supreme Court, Appellate Division, Fourth Department, affirmed the ruling. In a six-to-one decision, the Court of Appeals reversed, found in favor of the defendant, and granted summary judgment dismissing the case. I wrote the briefs and argued before the Court of Appeals.

Attorney for Respondent:
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Dolce Panepinto, PC
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7. *Data-Track Account Servs. v. Lee*, No. 1999-960 (New York State Supreme Court 2002) (Hon. Joseph G. Makowski, J.S.C.), *aff'd* 17 A.D.3d 1115 (4th Dep't 2005) (Hons. Pigott, Gorski, Pine and Lawton).

From 2000 to 2003, I was the lead trial attorney for the plaintiffs – National Fuel Gas Company and its subsidiaries – in a contempt prosecution of a former attorney for the National Fuel Gas Company. The issues included the violation of court orders protecting sensitive information from disclosure and the disclosure of information protected by those court orders and the attorney-client privilege. After more than 30 days of bench trial and related proceedings conducted over the course of more than a year, the court held the defendant in contempt of court. In an appeal I did not handle, the appellate court affirmed the trial court's holding of contempt while vacating one paragraph of its order.

Co-Counsel for Plaintiffs:
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John G. Schmidt, Jr., Esq.
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Attorney for Defendant:
David G. Jay, Esq. (deceased)

8. *Panczykowski v. Laborers' Int'l Union*, No. 97-cv-0832A, 2000 U.S. Dist. LEXIS 4847 (W.D.N.Y. March 31, 2000) (Hon. Richard J. Arcara, District Judge), *aff'd*, 2 F. App'x 157 (2d Cir. 2001) (Hons. Van Graafeiland, McLaughlin, Katzmman).

From 1996 to 2001, I represented the defendant union along with several of its attorneys and officers. This case involved a defamation claim arising out of a union complaint for trusteeship, disciplinary charges, and notices stating that the plaintiffs had committed

conduct that was prohibited under the union constitution. The district court dismissed all claims as pre-empted by federal labor law. On appeal, the Second Circuit affirmed the dismissals. I was lead counsel in both the district court and on appeal, and I wrote or edited all submissions and presented oral argument.

Attorneys for Plaintiffs-Appellants:

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Robert H. Perk, Esq.
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(Solo Practitioner)

9. *Fisher v. Goord*, 981 F. Supp. 140 (W.D.N.Y. 1997) (Hon. Richard J. Arcara, District Judge).

From 1996 to 1997, I represented Mr. Stiles, a prison guard, in a testimonial injunction hearing involving Ms. Fisher, who became infamous in the 1990s as “the Long Island Lolita” and pled guilty to shooting the wife of her lover, Mr. Buttafuoco. Ms. Fisher was incarcerated in an upstate New York prison facility, and she sought a transfer because of what she alleged was sexual harassment by certain prison guards. The district court judge conducted a lengthy testimonial hearing. Because there were numerous attorneys involved for the prison guards, Judge Arcara instructed defense counsel to choose one attorney to present closing arguments, and I was chosen as that attorney. Judge Arcara denied Ms. Fisher’s motion for injunctive relief.

Attorney for Plaintiffs:

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Attorney for Defendant Hemley:
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(Formerly with Rowley, Forrest, O'Donnell & Beaumont, P.C.)

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10. *Blum v. Schlegel*, 1996 U.S. Dist. LEXIS 21598, 1996 WL 925921 (W.D.N.Y. May 9, 1996) (Hon. William M. Skretny, District Judge; Hon. Carol E. Heckman, Magistrate Judge), *aff'd*, 1997 U.S. App. LEXIS 5442 (2d Cir. March 21, 1997) (Hons. Cardamone, Leval, Circuit Judges; Ward, District Judge).

From 1992 until 1997, I represented Ms. Avery, an intervenor, in a lawsuit brought by Mr. Blum, a former law professor at the State University of New York at Buffalo School of Law who was denied tenure. In an attempt to support his lawsuit against the law school, and specifically his argument that his tenure denial was wrongful and discriminatory, the plaintiff requested access to the confidential tenure file of Ms. Avery, a fellow professor. The court granted access under a strict confidentiality order, but the plaintiff violated that order, and we sought sanctions. After a bench trial, the district court sanctioned the plaintiff by dismissing his claim against the law school. The plaintiff then appealed, and the Second Circuit affirmed. I handled all discovery, motion practice, and other pretrial matters; tried this contempt proceeding in the United States District Court; and handled the briefing and oral argument on appeal to the Second Circuit.

Attorneys for Plaintiff-Appellant:
Jeffrey M. Blum, Esq. (pro se)

James Ostrowski, Esq.
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(Solo Practitioner)

Attorney for Respondent-Appellant:
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Attorney for Defendants-Appellees:
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18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In addition to my courtroom experience, I have represented the Roman Catholic Diocese of Buffalo, New York, and have served as a confidential advisor to four bishops on matters that include defalcations by church employees and allegations of abuse against clerics and others associated with the church. I have represented targets or witnesses in a number of federal investigations involving possible False Claims Act or criminal liability. I have been retained as a legal expert on judgment enforcement, age discrimination, and attorney's fees by Buffalo's two largest law firms and by the New York State Attorney General, respectively.

I served as an editor of Litigation Magazine for about 18 years, including two years as Editor-in-Chief. I also served a three-year term as a member of the governing Council of the ABA Litigation Section, as well as a one-year term as Co-Director of Publications of that Section. I currently serve on the New York State Bar Association Committee on Standards of Attorney Conduct, the committee charged with monitoring and evaluating the New York Code of Professional Responsibility and other provisions that regulate lawyers and the practice of law in New York State. I also serve on the Erie County Bar Association Nominating Committee (elected to a three-year term in 2012). That committee screens and chooses candidates to run for contested offices and positions on the board of directors of the Erie County Bar Association.

I have not performed lobbying activities on behalf of any client.

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.

For about five years, from 1982 to 1987, I taught Constitutional Law at Canisius College. Copies of the syllabi for Spring 1983 and Fall 1984 are supplied.

In 1987, I also taught Appellate Practice at the State University of New York at Buffalo School of Law. I took the responsibility of teaching that course after its professor, the Honorable Charles S. Desmond, former Chief Judge of the State of New York, died early in the semester. I do not have a syllabus for that 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.

Other than receipt of my share of law firm profits, which would be computed pro-rata depending on my termination date, and profit sharing and IRA plans to which my spouse and I have contributed, I have no anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts, or other future benefits.

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 currently serve without compensation on the Boards of Trustees of Canisius College and the Irish Classical Theatre Company. I would resign those positions, if necessary, if selected to serve as a district judge. I have no other 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).

See Financial Disclosure Report.

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

See Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest

when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I believe that the ethical rules would preclude me from presiding over cases handled by my current law firm for a period of time. After that time expires, in the interest of candor and fairness to all sides, I would ensure that all parties and counsel know of my prior connection to the firm and partnership with individual attorneys. I also would keep a list of clients of my former firm, and I would do a conflict check to determine whether there are any issues in that regard. Likewise, I would keep a list of my investments and would follow the same conflict check and procedures for those companies as well. It is unlikely that any other persons, categories of litigation, or financial arrangements would present a conflict; if such a conflict arose, however, I would apply the applicable rules and procedures governing recusal.

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

I would meticulously follow the rules in 28 U.S.C. § 455, the procedures in 28 U.S.C. § 144, and Canon 3 of the Code of Conduct for United State Judges and recuse myself when those rules require or when I believe that my impartiality might reasonably be questioned.

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 done pro bono work over the years, but it often has been on an ad hoc basis and I have not kept track of the time spent. For example, I have charged modest retainers to clients in criminal matters and have voluntarily worked pro bono when those retainers ran out. I have advised and worked pro bono for attorneys facing disciplinary charges who could not afford to pay. I recently represented a young couple who were victims of credit card fraud, communicating with their credit card company until the problem was resolved. I also regularly consult with other attorneys in my office to assist with their pro bono cases.

In addition to this pro bono work and the considerable time spent volunteering in bar association activities, I also have given back to the community by volunteering my time on the boards of various organizations. I spent hundreds of hours volunteering for Canisius High School, first as a Board Member and then as Board Chair. While serving as Board Chair, I worked with the president of the high school to help ensure diversity by finding ways to offer financial aid to students who otherwise could not afford to attend. To encourage young people to serve, I have sponsored a partial scholarship at Canisius College for students with demonstrated need and a commitment to service. I also serve

without compensation on the boards of trustees of Canisius College and the Irish Classical Theatre Company. As Chair of the Student Life Committee for Canisius College and former Chair of the Trusteeship Committee for the Irish Classical Theatre Company, I have spent many hours chairing committee meetings and reporting to the boards of those organizations.

26. Selection Process:

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

On June 13, 2014, I submitted a questionnaire to United States Senator Charles E. Schumer's selection commission for vacancies for the Western District of New York. On July 17, 2014, I interviewed with the commission in New York, New York. On July 25, 2014, I interviewed with Senator Schumer and his New York State Director in New York, New York. On August 13, 2014, Senator Schumer called me to advise that he was submitting my name to President Barack Obama as a candidate for the district court opening. Since that day, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 19, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 4, 2015, the President submitted my nomination to the Senate.

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

No.