

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Andrew Lamar Carter, Jr.

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

United States District Judge for the Southern 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.

United States District Court for the Eastern District of New York
225 Cadman Plaza
Brooklyn, New York 11201

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

1969; Albany, Georgia

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.

1991 – 1994, Harvard Law School; J.D., 1994

1987 – 1991, University of Texas at Austin; B.A., 1991

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.

2009 – present

United States District Court for the Eastern District of New York
225 Cadman Plaza
Brooklyn, New York 11201
U.S. Magistrate Judge

2005 – 2009
Federal Defenders of New York
1 Pierrepont Plaza, 16th Floor
Brooklyn, New York 11241
Supervising Attorney (2006 – 2009)
Staff Attorney (2005 – 2006)

1996 – 2005
Legal Aid Society
49 Thomas Street
New York, New York 10013
Staff Attorney, Criminal Defense Division (1996 – 2000)
Staff Attorney, Federal Defenders Division (2000 – 2005)

1994 – 1996
Ford Foundation
320 East 43rd Street
New York, New York 10017
Program Assistant

Summer 1993
Vinson and Elkins, L.L.P.
First City Tower
1001 Fannin Street, Suite 2500
Houston, Texas 77002
Summer Associate

Summer 1992
African Centre for Democracy and Human Rights Studies (sponsored by the Human Rights Program at Harvard Law School)
Zoe Tembo Building
Kerr Sereign
P.O. Box 2728
Serrekunda, The Gambia
Human Rights Fellow

Other Affiliations (uncompensated):

1992 – 1995
BELL Foundation
60 Clayton Street
Dorchester, Massachusetts 02122
Board of Directors

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

I have not served in the military. I have 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.

Harvard Black Law Students Association's Muhammad Kenyatta Distinguished Alumni Award, 1995

Harvard Law School Irving Kaufman Fellow, 1994

Exxon/Mobil Teagle Scholarship, 1991 – 1994

University of Texas Dean's Distinguished Graduate Award, 1991

Kappa Alpha Psi, Brother of the Year, 1990

National Achievement Award, 1987 – 1991

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.

Association of the Bar of the City of New York, Civil Rights Committee
Brooklyn Bar Association
Federal Bar Council
Metropolitan Black Bar Association
National Association of Federal Defenders

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, 1995.

There have been no lapses 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 District Court for the Eastern District of New York, 2000
New York State courts, 1995

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.

In law school, I co-founded the BELL Foundation, which seeks to transform the academic achievements and aspirations of children from inner city communities. Following graduation, I served on the board of directors for the BELL Foundation from 1992 to 1995.

- 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.

This organization did not and does not discriminate on the basis of race, sex, religion or national origin.

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.

None.

- 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.

None.

- 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.

I have searched my files and calendars as well as public databases and the Internet to compile the list of speaking engagements below. I have attempted to generate as complete a list as possible, however it is possible there have been events I have been unable to identify or recall.

July 9, 2009: Investiture Ceremony. Transcript supplied.

April 30, 2009: Harvard Law School Kaufman Fellows Dinner Banquet. The banquet, which celebrates third year law students who are undertaking public interest careers, was held at the Harvard Faculty Club. I spoke about the joys and rewards of public interest work. I have no notes, transcript or recording. The address of HLS is 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

July 26, 2008: At George Washington Law School, I provided introductory remarks at a program sponsored by the Public Defender Services of DC entitled, "The Path to Becoming a Public Defender." The conference was designed to encourage second and third year law students to pursue careers as public defenders. I spoke about the need for intelligent, dedicated lawyers to work on behalf of indigent persons accused of crimes. I have no notes, transcript or recording. The address of PDSDC is 633 Indiana Avenue NW, Washington, DC 20004.

April 24, 2006: Harvard Law School Kaufman Fellows Dinner Banquet. I spoke about the joys and rewards of public interest work. I have no notes, transcript or recording, but HLS coverage is supplied. The address of HLS is 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

- 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.

David Pomerantz, *Psychiatric Test Sought for JFK Plot Suspect*, The New York Sun, Aug. 3, 2007. Copy supplied.

Ernie Naspretto, John Marzulli, Kathleen Lucadamo and Bill Hutchinson, *NY Minute*, The Daily News, July 12, 2007. Copy supplied.

Anthony M. DeStefano, *Not Guilty Plea in Kennedy Terror Plot*, Newsday, July 12, 2007. Copy supplied.

Former JFK Airport Cargo Handler Pleads Innocent in Terror Plot, Associated Press, July 11, 2007. Copy supplied.

Jess Wisloski, John Marzulli, and Dave Goldiner, *He's Diner Catch of the Day, Suspect Taped Moments Before FBI Bust*, The Daily News, June 5, 2007. Copy supplied.

Greg Miller, *A Down-and-Out Terrorism Suspect; It's Alarming, Say JFK Plot Investigators, That a Man of Meager Means Made Such Progress*, The Los Angeles Times, June 4, 2007. Copy supplied.

Daniel J. Goldstein and Patricia Hurtado, *'Hatred' Behind JFK Plot, Police Say; Al-Qaeda-Like Plan Called for Airport to be Bombed*, National Post (Canada), June 4, 2007. Copy supplied.

Matthew Chayes, *JFK Terror Plot: The Accused; Officials: B'klyn Man 'Brainchild'*, Newsday, June 3, 2007. 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.

In June 2009, I was appointed to the position of United States Magistrate Judge for the Eastern District of New York. I primarily handle civil cases filed in the Eastern District. Regarding criminal matters, I handle arraignments, take guilty pleas, and conduct suppression hearings when these matters are referred to me by district judges.

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

One.

- i. Of these, approximately what percent were:

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

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

Zemana v. Associated Deliveries, Inc., No. 10-CV-3806, 2011 U.S. Dist. LEXIS 45384 (E.D.N.Y. Apr. 27, 2011)

Levy v. Marriott Intern., Inc., No. 08-CV-4795, 2011 WL 1542082 (E.D.N.Y. Apr. 21, 2011)

Igartua v. Elmhurst Hosp. D-11 Psychiatric Ward, No. 09-CV-3287, 2011 WL 1337494 (E.D.N.Y. Mar. 17, 2011)

Riascos-Hurtado v. United States, No. 09-CV-0003, 2011 U.S. Dist. LEXIS 28008 (E.D.N.Y. Mar. 17, 2011)

Kingvision Pay-Per-View, Ltd. v. Vibes Sports Bar and Cafe, Inc., No. 10-CV-127, 2011 WL 1331858 (E.D.N.Y. Mar. 15, 2011)

Rolex Watch, U.S.A., Inc. v. Pharel, No. 09-CV-4810, 2011 WL 1131401 (E.D.N.Y. Mar. 11, 2011)

Trustees of Local 7 Tile Industry Welfare Fund v. City Tile, Inc., No. 10-CV-322, 2011 WL 917600 (E.D.N.Y. Feb. 18, 2011)

Facey v. Equinox Holdings, Inc., No. 09-CV-4411, 2011 WL 917571 (E.D.N.Y. Feb. 15, 2011)

Campinha-Bacote v. Tenney, No. 10-CV-3165, 2011 WL 703936 (E.D.N.Y. Jan. 28, 2011)

Duro v. BZR Piping & Heating Inc., No. 10-CV-879, 2011 WL 710449 (E.D.N.Y. Jan. 26, 2011)

Schwartz v. Caravan Trucking, L.L.C., No. 08-CV-5156, 2011 WL 43231 (E.D.N.Y. Jan. 6, 2011).

Brady v. New York Police Dep't, No. 08-CV-3572, 2011 WL 534116 (E.D.N.Y. Jan. 5, 2011).

Morse v. Jetblue Airways Corp., No. 09-CV-5075, 2010 WL 5313745 (E.D.N.Y. Dec. 20, 2010).

Cavette v. Adult Protective Servs., No. 07-CV- 3170, 2010 WL 5069873 (E.D.N.Y. Dec. 7, 2010).

U.S. v. Peldomo, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

Ferrara v. Corona & Son Trucking, Inc., No. 09-CV5352, 2010 WL 5490918 (E.D.N.Y. Oct. 27, 2010).

Wong v. Yoo, No. 04-CV-4569, 2010 WL 4137532 (E.D.N.Y. Oct. 19, 2010).

J & J Sports Productions, Inc. v. Meson de Colombia, Inc., No. 10-CV-1142, 2010 WL 4791771 (E.D.N.Y. Oct. 7, 2010).

U.S. v. Bouchard Transp., No. 08-CV-4490, 2010 WL 3842268 (E.D.N.Y. Sept. 28, 2010).

Board of Trustees of the United Union of Roofers v. Dana Restoration, Inc., No. 09-CV-1076, 2010 WL 3925115 (E.D.N.Y. Sept. 14, 2010).

Hargroves v. The City of New York, No. 03-CV-1668, 2010 WL 3619542 (E.D.N.Y. Sept. 10, 2010).

Kopec v. GMG Constr., No. 09-CV-2187, 2010 WL 3925210 (E.D.N.Y. Sept. 10, 2010).

Yegoryan v. Morales, No. 08-CV-1308, 2010 WL 4038757 (E.D.N.Y. Sept. 10, 2010).

Okeke v. Aviator Sports and Recreation, Inc., No. 08-CV-2343, 2010 WL 3780383 (E.D.N.Y. Aug. 31, 2010).

Orellana v. World Courier, Inc., No. 09-CV-576, 2010 WL 3861002 (E.D.N.Y. Aug. 24, 2010).

Best PayPhones, Inc. v. City of New York, No. 03-CV-192, 2010 WL 3271462 (E.D.N.Y. Aug. 16, 2010).

Hayes v. Cablevision Sys. New York City Corp. for Brooklyn, No. 07-CV-2438, 2010 WL 3156092 (E.D.N.Y. Aug. 9, 2010).

State Farm Mut. Auto. Ins. Co. v. CPT Med. Servs., P.C., No. 04-CV-5045, 2010 WL 3036947 (E.D.N.Y. Aug. 3, 2010).

Continental Ins. Co. v. Huff Enterprises, Inc., No. 07-CV-3821, 2010 WL 2836343 (E.D.N.Y. June 21, 2010).

Orellana v. World Courier, Inc., No. 09-CV-576, 2010 WL 3023664 (E.D.N.Y. June 2, 2010).

Leser v. U.S. Bank Nat'l Ass'n, No. 09-CV-2362, 2010 WL 1945806 (E.D.N.Y. May 13, 2010).

McDermott v. Liberty Maritime Corp., No. 08-CV-1503, 2010 WL 1688477 (E.D.N.Y. Apr. 27, 2010).

U.S. v. Bouchard Transp., No. 08-CV-4490, 2010 WL 1529248 (E.D.N.Y. Apr. 14, 2010).

Saperstein v. Palestinian Authority, No. 09-mc-00619, 2010 WL 1371384 (E.D.N.Y. Apr. 6, 2010).

J & J Sports Productions, Inc. v. Byza Restaurant Corp., No. 09-CV-1773, 2010 WL 889259 (E.D.N.Y. Mar. 10, 2010).

Khait v. Whirlpool Corp., No. 06-CV-6381, 2010 WL 2025106 (E.D.N.Y. Jan. 20, 2010).

Grossi v. City of New York, No. 08-CV-1083, 2009 WL 4456307 (E.D.N.Y. Nov. 30, 2009).

Gregg v. Kennedy, No. 09-CV-2512, 2009 WL 4065043 (E.D.N.Y. Nov. 19, 2009).

Khait v. Whirlpool Corp., No. 06-CV-6381, 2009 WL 6490085 (E.D.N.Y. Nov. 1, 2009).

- 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. *U.S. v. Peldomo*, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

The defendant, who was charged with passport fraud and aggravated identity theft, moved to suppress statements he made to the government. During a meeting with his parole officer, the defendant claimed that the statements were taken in violation of his *Miranda* rights. I held an evidentiary hearing and issued an opinion denying the motion to suppress. The district judge adopted the report and recommendation. The criminal case is still pending before the district judge.

For the Government

Celia Cohen
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza
Brooklyn, NY 11201
(718) 254-7000

Defendant's Counsel

Michael P. Padden
Federal Defenders of New York, Inc.
16 Court Street, 3rd Floor
Brooklyn, NY 11201
(718) 330-1200

2. *United States v. Bouchard Transp.*, No. 08-CV-4490, 2010 WL 1529248 (E.D.N.Y. Apr. 14, 2010).

The plaintiff claimed the defendant caused a spill of over 50,000 gallons of unleaded gasoline into the Arthur Kill Waterway in Staten Island. The suit was brought under the Clean Water Act. The government filed a motion to compel Bouchard Transportation to produce a privilege log for documents withheld by the defendants, which I granted. The district court adopted the report and recommendation. The parties have filed a proposed stipulation regarding settlement with the district judge.

Plaintiff's Counsel

Tiana A. Demas
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6116

Defendants' Counsel

Ronald W. Zdrojeski
Robinson & Cole, LLP
280 Trumbull Street
Hartford, CT 06103
(860) 275-8240

3. *J and J Sports Productions, Inc. v. Byza Restaurant Corp.*, 09-CV-1773, 2010 WL 889259 (E.D.N.Y. Mar. 10, 2010).

Plaintiffs claimed that defendants illegally intercepted and broadcast a 2006 boxing match between Oscar De La Hoya and Ricardo Mayorga. The defendants moved to set aside a default judgment for lack of proper service of the complaint. I held an evidentiary hearing, and subsequently granted the defendants' motion. The district court adopted the report and recommendation, and the complaint was dismissed.

Plaintiff's Counsel

Paul J. Hooten
Paul J. Hooten & Associates
5505 Nesconset Highway, Suite 203
Mt. Sinai, NY 11766
(515) 331-0547

Defendants' Counsel

William M. Spanakos
Spanakos & Spanakos, Esqs.
7207 Fort Hamilton Parkway
Brooklyn, NY 11228
(718) 833-6900

4. *U.S. v Krikheli*, 08-CR-528

A husband and wife were charged with soliciting and receiving bribes in connection with federal health care programs. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. Both defendants were convicted of the first 3 counts in the indictment.

For the Government

Paul A. Tuchmann
United States Attorney's Office
Eastern District Of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6294

Defendants' Counsel

Andrew Citron, Esq.
110 Wall Street, 11th Floor
New York, NY 10005
(212) 804-5759

5. *Maldonado v. MTD*, 08-CV-465 (E.D.N.Y. Mar. 19, 2010). Opinion supplied.

Plaintiffs claimed that Maldonado was injured because the rim of a snow thrower exploded while plaintiff tried to inflate the tire. There were approximately 300 cases filed by other plaintiffs in various jurisdictions related to the rim explosion. Plaintiffs moved to compel defendants to produce deposition transcripts and marked exhibits from other parties in similar actions. I reviewed the parties' submissions, listened to oral arguments, and issued an opinion denying plaintiffs' motion to compel. The parties have settled.

Plaintiffs' Counsel

Deborah A. Trerotola
Bonina & Bonina, P.C.
16 Court Street
Brooklyn, NY 11241
(718) 522-1786

Defendants' Counsel

Jennifer Taina Chavez
Lynch Rowin LLP
630 Third Avenue
New York, NY 10017
(212) 682-4001

6. *U.S. v. Wynaar*, 09-CR-656 (E.D.N.Y. 2009)

In this case, the defendant was charged with a conspiracy to import narcotics. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. The defendant was convicted after trial.

For the Government

Stephen E. Frank
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6143

Defendant's Counsel

Jonathan Marks
220 Fifth Avenue, 3rd Floor
New York, NY 10001
(212) 545-8008

7. *U.S. v. McIntosh*, 10-CR-0267 (E.D.N.Y. 2010)

In this case, the defendant was charged with assaulting a federal officer by attempting to run over the officer with a vehicle. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. The defendant was convicted after trial.

For the Government

Richard M. Tucker
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6204

Defendant's Counsel

Michael K. Schneider
Federal Defenders of New York, Inc.
16 Court Street, 3rd Floor
Brooklyn, NY 11241
(718) 330-1200

8. *Mineo v. City of New York*, 09-CV-2261 (E.D.N.Y. 2010)

Plaintiff claimed that during his arrest police officers sodomized him with an asp. I managed the discovery in the matter, which was conducted on an expedited basis. I helped the parties resolve numerous discovery disputes. The district judge presided over the trial. The jury could not reach a verdict, and the case is still pending.

Plaintiff's Counsel

Stephen C. Jackson
Stephen C. Jackson, Esq.
350 Fifth Avenue, Suite 2310
New York, NY 10118
(212) 643-2394

Defendant's Counsel

Johana Castro
Lester, Schwab, Katz and Dwyer, LLP
120 Broadway
New York, NY 10271
(212) 341-4413

Mitchell Garber
Worth, Longworth & London, LLP
111 John Street Suite 640
New York, NY 10038
(212) 964-8038

9. *U.S. v. Mergen*, 06-CR-352 (E.D.N.Y. 2010)

Defendant was charged with conspiracy to distribute cocaine and marijuana, robbery, and use of a firearm. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. The defendant was convicted after trial on all counts.

For the Government

Evan M. Norris
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6376

Defendant's Counsel

Martin J. Siegel
Law Office of Martin J. Siegel
170 Broadway, Suite 600
New York, NY 10038
(212) 349-9190

10. *Amram v. Marriott Int'l, Inc.*, No. 08-CV-4795 (E.D.N.Y. 2011).

The plaintiff's estate brought suit claiming that the plaintiff suffered third degree burns on his foot while taking a shower in a Courtyard Marriott hotel. The plaintiff claimed that the defendants negligently failed to maintain safe hot water temperatures. The jury determined that the defendants were not negligent.

Plaintiff's Counsel

Lawrence Goldhirsch
Weitz and Luxenberg, P.C.
180 Maiden Lane, 17th Floor
New York, NY 10038
(212) 558-5594

Nicholas Wise
Weitz and Luxenberg, P.C.
180 Maiden Lane, 17th Floor
New York, NY 10038
(212) 558-5500

Defendants' Counsel

John McDonough
Cozen O'Connor
45 Broadway
New York, NY 10006
(212) 908-1226

David Shimkin
Cozen O'Connor
45 Broadway
New York, NY 10006
(212) 509-9400

- 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. *Grossi v. City of New York*, No. 08-CV-1083, 2009 WL 4456307 (E.D.N.Y. Nov. 30, 2009).

Plaintiff's Counsel

Steven A. Morelli
The Law Offices of Steven A. Morelli, P.C.
1461 Franklin Avenue
Garden City, NY 11530
(516) 393-9151

Defendants' Counsel

Susan P. Scharfstein
NYC Law Department
100 Church Street Room 6-119
New York, NY 10007
(212) 227-4071

Judd Cohen
Shaub, Ahmuty, Citrin & Spratt, LLP
1983 Marcus Avenue
New Hyde Park, NY 11042
(516) 488-3300

2. *U.S. v. Peldomo*, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

For the Government

Celia Cohen
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza
Brooklyn, NY 11201
(718) 254-7000

Defendant's Counsel

Michael P. Padden
Federal Defenders of New York, Inc.
16 Court Street, 3rd Floor
Brooklyn, NY 11201
(718) 330-1200

3. *Saperstein v. Palestinian Authority*, No. 09-mc-00619, 2010 WL 1371384 (E.D.N.Y. Apr. 6, 2010).

Plaintiff's Counsel

Robert Joseph Tolchin
Berkman Law Office, LLC
111 Livingston Street, Suite 1928
Brooklyn, NY 11201
(718) 855-3627

Defendant's Counsel

Gary A. Woodfield
Haile Shaw & Pfaffenberger, P.A.
660 US Highway One, Third Floor
North Palm Beach, FL 33408
(561) 627-8100

Counsel for BBC

David S. Korzenick
Miller Korzenick and Sommers, LLP
488 Madison Avenue, 11th floor
New York, NY 10022
(212) 752-9200

4. *Morse v. Jetblue Airways Corp.*, No. 09-CV-5075, 2010 WL 5313745 (E.D.N.Y. Dec. 20, 2010).

Plaintiff's Counsel

Jennifer Lea Smith
Beranbaum Menken Ben-Asher & Bierman
80 Pine Street, 32nd Floor
New York, NY 10005
(212) 509-1616

Defendant's Counsel

Edward Cerasia, II
Seyfarth Shaw LLP
620 Eighth Avenue
New York, NY 10018
(212) 218-5500

5. *Yegoryan v. Morales*, No. 08-CV-1308, 2010 WL 4038757 (E.D.N.Y. Sept. 10, 2010).

Plaintiff's Counsel

Debra J. Millman
302 Fifth Avenue, 8th Floor
New York, NY 10038
(212) 406-4700

Defendant's Counsel

Ronald E. Joseph
Landman Corsi Ballaine & Ford
120 Broadway
New York, NY 10271
(212) 238-4800

Jason A. Buskin
Landman Corsi Ballaine & Ford, P.C.
120 Broadway
New York, NY 10271
(212) 393-7928

6. *Continental Ins. Co. v. Huff Enterprises, Inc.*, No. 07-CV-3821, 2010 WL 2836343 (E.D.N.Y. June 21, 2010).

Plaintiff's Counsel

Aidan M. McCormack
DLA Piper, LLP
1251 Avenue of the Americas
New York, NY 10020
(212) 335-4750

Defendant Carlisle's Counsel

Brian R. Ade
Rivkin Radler LLP
21 Main Street
Court Plaza South – West Wing
Hackensack, NJ 07601
(201) 287-2460

Defendant Rochdale Village's Counsel

Robert L. Bernstein, Jr., Esq.
2099 Bellmore Avenue
Bellmore, New York 11710
(516) 783-3300

7. *Campinha-Bacote v. Tenney*, 10-CV-3165, 2011 WL 703936 (E.D.N.Y. Jan. 28, 2011).

Plaintiff's Counsel

Avonte D. Campinha-Bacote
Campinha-Bacote & Chang, LLC
2651 Marblevista Boulevard
Columbus, OH 43204
(614) 586-8274

Defendant's Counsel

Joanne Filiberti
Leahey & Johnson, P.C.
120 Wall Street
New York, NY 10005

(212) 269-7308

8. *Hargroves v. City of New York*, No. 03-CV-1668, 2010 WL 3619542 (E.D.N.Y. Sept. 10, 2010).

Plaintiff's Counsel

Michael Levine
26 Court Street, Suite 2015
Brooklyn, NY 11242
(718) 855-8404

Defendant's Counsel

Elizabeth M. Daitz
New York City Law Department, Office of the Corporation Counsel
100 Church Street, Room 3-183
New York, NY 10007
(212) 788-0775

9. *Ferrara v. Corona and Son Trucking, Inc.*, No. 09-CV-5352, 2010 WL 5490918 (E.D.N.Y. Oct. 27, 2010).

Plaintiff's Counsel

Michael Seth Adler
Cohen, Weiss and Simon LLP
330 West 42nd Street, 25th Floor
New York, NY 10036
(212) 563-4100

Defendant's Counsel

No appearance

10. *Okeke v. Aviator Sports and Recreation, Inc.*, No. 08-CV-2343, 2010 WL 3780383 (E.D.N.Y. Aug. 31, 2010).

Plaintiff's Counsel

Chidi Anthony Eze
Chidi Eze & Associates
255 Livingston Street, 3rd Floor
Brooklyn, NY 11217
(718) 643-8800

Defendant's Counsel

JaneAnne Murray
Law Office of JaneAnne Murray
Woolworth Building
233 Broadway, 22nd Floor

New York, NY 10279
(212) 941-9266

- 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.

United States v. Labiner, No. 09-CR-807 (E.D.N.Y. Jan. 11, 2010). I conducted a *Curcio* hearing, and I recommended that the Court disqualify counsel due to a conflict of interest. Judge Cogan did not adopt my recommendation. My opinion is supplied. Judge Cogan did not write an opinion.

On November 4, 2009, while on arraignment duty, I ordered a defendant released from custody on bail. The U.S. Attorney's office for the Eastern District of New York did not appeal, but the U.S. Attorney's office for the Southern District of Florida – where the defendant had been indicted – appealed my decision. The district judge in the Southern District of Florida reversed my decision granting bail. A copy of that judge's decision is supplied.

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

All of my decisions are publicly available on the Court's Electronic Filing system. I do not know the percentage of my decisions that are published versus unpublished. As a magistrate judge, I have not marked any decisions or orders, "Not for Publication."

- 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.

Grossi v. City of New York, No. 08-CV-1083, 2009 WL 4456307 (E.D.N.Y. Nov. 30, 2009).

U.S. v. Peldomo, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

Saperstein v. Palestinian Authority, No. 09-mc-00619, 2010 WL 1371384 (E.D.N.Y. Apr. 6, 2010).

Campinha-Bacote v. Tenney, 10-CV-3165, 2011 WL 703936 (E.D.N.Y. Jan. 28, 2011).

- 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:

- 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.

Prior to taking the bench, I was a Supervising Attorney for Federal Defenders of New York. I handled a caseload and supervised other attorneys in the office. Consequently, I recuse from any criminal case in which the defendant had been represented by Federal Defenders of New York from October 2000 until June 2009.

In addition, I recuse from any case in which my wife's employer, J.P. Morgan Chase Bank, is a party. Moreover, I do not allow family members, by blood or marriage, or close friends to appear before me.

I recently recused from a case in which a *pro se* litigant filed a complaint against me, in my capacity as the assigned magistrate judge, and Judge Kiyoo Matsumoto, the district judge assigned to the case, for our handling of her civil case. She also filed a complaint against the chief judge, and the entire Second Circuit. The case is *Myers v. Bimbo Bakeries, USA*, 8-CV-1179 (E.D.N.Y.).

Recently, I was handling a case involving the New York Mets and a kosher hot dog company. After a status conference, one of the attorneys for the kosher hot dog company jokingly remarked that he had previously seen me wearing a Mets cap. They asked if they had anything to worry about. I told them there was not. However, on further reflection, I thought it might interfere with the public's feeling of confidence in the impartiality of the judiciary and I recused myself.

No party has ever requested my recusal from a case.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public office other than judicial office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

I have not held office in or rendered services to a political party or election committee. I have not held a position or played a role in a political campaign.

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 did not serve as a clerk for a judge.

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

I have not practiced alone.

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

1994 – 1996
Ford Foundation
320 East 43rd Street
New York, New York 10017
Program Assistant

1996 – 2005
Legal Aid Society
49 Thomas Street
New York, New York 10013
Staff Attorney, Criminal Defense Division (1996 – 2000)
Staff Attorney, Federal Defenders Division (2000 – 2005)

2005 – 2009
Federal Defenders of New York
1 Pierrepont Plaza, 16th Floor
Brooklyn, New York 11241
Supervising Attorney (2006 – 2009)
Staff Attorney (2005 – 2006)

- 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 an arbitrator or a mediator.

b. Describe:

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

I started practicing criminal law in 1996. My practice changed from a state level criminal practice to a federal criminal practice in 2000. In state court, I primarily handled misdemeanor cases, low level drug cases, and a few violent felonies. In federal court, my typical cases included drug cases, gun cases, and cases involving immigration fraud. In 2009, I became a magistrate judge.

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

From 2000 until 2009, my practice was a trial level, public defender practice. I represented poor people charged with committing federal crimes in the Eastern District of New York. From 1996 until 2000, I also worked as a public defender, except during that period, I worked exclusively in New York Supreme or Criminal Court in Manhattan. In 1994, I received a two-year fellowship with the Ford Foundation. As a Program Assistant (the title has since been changed to Program Associate), I attended meetings and conducted legal research related to many of the foundation's grant-making endeavors.

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

At the Ford Foundation, I did not appear in court, and my position did not involve litigation. However, during my tenure at the Ford Foundation, I handled a pro bono appeal with the Legal Aid Society's Volunteer Division.

At the Legal Aid Society, 100% of my work was criminal litigation, and 100% of my practice occurred in state court. I appeared in court almost daily.

At Federal Defenders, 100% of my practice was criminal litigation, and 100% of my practice occurred in federal court. I appeared in court frequently.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 68% |
| 2. state courts of record: | 32% |
| 3. other courts: | __% |
| 4. administrative agencies: | __% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 0% |
| 2. criminal proceedings: | 100% |

- 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 tried 17 jury trials to verdict as chief counsel. I supervised several additional trials, but I usually did not sit at counsel table with the lead attorney.

- i. What percentage of these trials were:

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

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

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

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

- 1) *People of the State of New York v. Carmona*, Docket No. 10712-96, New York Supreme Court, New York County, New York, Judge Bernard Fred; 1997 – 1998

Mr. Carmona was charged with selling drugs. Another Legal Aid attorney represented him at trial and the jury was hung. The split was eight to four to convict. I was assigned the case for retrial. This was my first felony trial. Mr. Carmona was convicted on all counts and sentenced as a predicate felon.

Opposing counsel

Assistant District Attorney Nigel Farina
Office of the Special Narcotics Prosecutor
80 Centre Street, 6th Floor
New York, NY 10013
(212) 815-0424

- 2) *People of the State of New York v. Vasquez*, Docket No. 06848-97; New York Supreme Court; New York County, New York, Judge Charles Solomon; 1997 – 1998

I started representing Mr. Vasquez in October 1997, after his prior attorney left the Legal Aid Society. Mr. Vasquez was accused of robbing a bodega worker in Manhattan. The man claimed that Mr. Vasquez, a much smaller man, beat him up with no weapon and took twenty dollars from him. Mr. Vasquez testified that he tricked this man into giving him his money. While Mr. Vasquez had no history of violence, he had a long criminal record for tricking people out of their money. I argued to the jury that my client, in

conformity with his long record, did not take this man's money by force, but had tricked him out of his money. Mr. Vasquez was acquitted of Robbery in the Third Degree and Grand Larceny in the Fourth Degree. He was convicted of Petit Larceny, a class A misdemeanor.

Opposing counsel

Raja Chaterjee
Morgan Stanley
1221 Avenue of the Americas Floor 35
New York, NY 10020
(212) 762-7138

- 3) *People of the State of New York v. Braxton*, Docket No. 03451-97; New York Supreme Court, New York county, New York, Judge Renee White; 1997 – 1998

I represented a man accused of possessing stolen credit cards. Mr. Braxton exercised his right to go to trial, but did not testify. I was lead counsel for the defense and was assisted throughout trial by a relatively new lawyer to our office. I conducted the majority of the voir dire, made the legal arguments, delivered the opening statements, examined the People's witnesses, and delivered the summation.

Mr. Braxton was convicted after trial and sentenced to 2-4 years in prison. However, during jury selection, a potential juror expressed doubts over her ability to be fair and impartial. The judge denied my challenge for cause, and I used a peremptory challenge to excuse that juror. To preserve the issue for appeal, I exercised all of my remaining peremptory challenges. A lawyer in the Legal Aid Society's Criminal Appeals Bureau litigated the appeal. The case was reversed and remanded for the judge's failure to excuse this juror. 277 A.D.2d 39; 716 N.Y.S.2d 44; 200 N.Y. App. Div. LEXIS 11281. By the time the case was remanded, I had started working with Federal Defenders of New York. A different lawyer handled the case, and Mr. Braxton was again convicted after trial.

Dates of representation: 1997 – 1998

Opposing counsel

ADA Bonnie Sard
New York County District Attorney's Office
One Hogan Place
New York, NY 10013
(212) 335-4195

Co-counsel

Isaac Hurwitz
638 Montgomery Street
Brooklyn, NY 11225
(646) 706-8289

- 4) *People of the State of New York v. Eljanati*, Docket No. 01569-98; New York Supreme Court, New York County, New York, Judge Ira F. Beal; 1998

I represented, at trial, a man accused of selling drugs and possessing drugs with intent to sell. My client testified that he was not selling drugs, or possessing drugs with the intention to sell them, but rather was purchasing drugs to support his addiction. He was acquitted on all counts.

Opposing counsel

Support Magistrate Cheryl Joseph-Cherry
400 Carleton Avenue
Central Islip, NY 11722
(631) 853-4098

- 5) *People of the State of New York v. Britt*, Docket No. 6376-99; New York Supreme Court, New York County, New York, Judge Ira F. Beal; 1999 – 2000

I represented a man accused of Attempted Robbery in the First Degree. The complainant, a parking lot attendant, claimed that my client tried to rob him in a small parking lot booth at gunpoint. Mr. Britt testified that he regularly parked his company van at the lot, and that he owed the complainant money. He claimed that the complainant made up the robbery story to get Mr. Britt arrested. Mr. Britt was acquitted on all counts.

Opposing Counsel

ADA Elliot Felig
200 East 58th Street, Apt. 11H
New York, NY 10022
(646) 554-7953

- 6) *United States v. Millet*, Docket CR-00-1040; Eastern District of New York, Judge John Gleeson; 2000

I represented, at trial, a woman charged with importing cocaine into the United States. I was assigned the case after Ms. Millet turned down a plea offer from the government. At the time of my assignment to the case, I had been working at Federal Defenders for about one month. This was my first federal trial. Ms. Millet testified at trial that she did not know that the bags she checked had drugs in them. She was acquitted.

Opposing counsel

Suzanne McDermott
Halcyon Asset Management, LLC
477 Madison Avenue, Floor 8
New York, NY 10022
(212) 303-9498

- 7) *United States v. Gonzalez*, Docket No. CR-03-1161; Eastern District of New York, Judge Raymond Dearie; 2004

I took over the representation of Mr. Gonzalez after his prior attorney left Federal Defenders of New York. Mr. Gonzalez was charged, along with his brother, of possession with intent to distribute a controlled substance. I represented Mr. Gonzalez; co-counsel represented his brother.

My client was a lawful permanent resident who was working two jobs. He testified at trial; his brother did not. Mr. Gonzalez told the jury that he was doing a favor for his girlfriend's cousin, who had asked him to pick up a female friend at the airport for him. I argued that Mr. Gonzalez did not know that the bag contained drugs or that the woman was a drug courier. Both Mr. Gonzalez and his brother were acquitted.

Opposing counsel

Gurbir Grewal
16 Reagan Way
Kinnelton, NJ 10022
(973) 492-1017

Counsel for the Co-Defendant

Joyce David
16 Court Street, Suite 3604
Brooklyn, NY 11241
(718) 875-2000

- 8) *United States v. Marshall*, Docket No. CR-04-811; Eastern District of New York, Judge Allyne Ross; 2004 – 2006

Mr. Marshall is a veteran of the armed services who was working for a government services provider in the Middle East in support of U.S. national security and foreign policy objectives. He was very proud of the work he was doing, and on a flight home he brought some armaments on the plane with him. He was charged with intentionally placing explosive devices on an aircraft. When he was arrested, he indicated to the agents that he believed it was safe to bring the items on the plane, and that he was bringing them home as souvenirs.

After a motion to transfer venue was denied, we conducted a hearing to suppress his statements on February 2, 2006. It became readily apparent that the Court would deny our motion to suppress, and the discovery we gained through the hearing was not favorable. Mr. Marshall pled guilty and was sentenced to probation.

Opposing counsel

John Nathanson
Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022
(212) 848-8611

- 9) *United States v. Defreitas*, Docket CR-07-543; Eastern District of New York, Judge Dora Irizarry; 2007 – 2009

Mr. Defreitas was charged with plotting to blow up fuel tanks at JFK airport. I represented him at arraignment in June 2007 until approximately June 2009. The co-defendants were not extradited from abroad until June 2008. I left the office before the case was tried and before most of the substantive motions were filed. I filed a motion to have Mr. Defreitas moved from the special housing unit to general population in order to better address his health concerns. That motion was denied. Eventually, Mr. Defreitas was convicted and sentenced to life.

Opposing Counsel

Jeffrey Knox
United States Department of Justice
Fraud Section
1400 New York Avenue, N.W.
Washington, DC 20530
(202) 616-2634

Marshall L. Miller
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6421

Co-Defendants' Counsel

Michael O. Hueston
350 Fifth Avenue, Suite 4810
New York, NY 10118
(212) 643-2900

Kafahni Nkrumah
Sankofa Law Firm
116 West 111th Street
New York, NY 10026
(212) 864-4445

Daniel Nobel
401 Broadway, 25th Floor
New York, NY 10013
(212) 219-2870

Toni Marie Messina
100 Lafayette Street, Suite 502
New York, NY 10013
(646) 207-4705

Co-Counsel
Mildred M. Whalen
Federal Defenders of New York, Inc.
16 Court Street
Brooklyn, NY 11201
(718) 330-1290

- 10) *United States v. Pierce*, Docket No. CR-06-42; Eastern District of New York, Judge Dora Irizarry; 2006 – 2008

Mr. Pierce was charged with possessing a firearm. The government claimed that they found the gun in Mr. Pierce's pocket. Mr. Pierce had a lengthy criminal record, and was being prosecuted under the Armed Career Criminal statute. An Armed Career Criminal is an individual who has been convicted of possessing a firearm after sustaining three prior felonies for crimes of violence or drug trafficking offenses. We moved to exclude one of Mr. Pierce's prior convictions from consideration under the statute, and we conducted a hearing on a motion to suppress his statements. Judge Irizarry published a decision denying both motions. *See* 2007 U.S. Dist. LEXIS 28988 (E.D.N.Y. Apr. 19, 2007). Subsequently, Mr. Pierce went to trial, and I tried the case alone. Mr. Pierce was convicted after trial, and our motion for a new trial was denied. *See* 2008 U.S. Dist. LEXIS 2315 (E.D.N.Y. Jan. 11, 2008).

We continued to litigate whether some of Mr. Pierce's other convictions could count as predicates for a sentencing enhancement under the Armed Career Criminal statute. In 2008, the U.S. Supreme Court decided *Begay v. United States*, 553 U.S. 137, 128 S. Ct. 1581, L. Ed. 2d 490 (2008). After briefing, Judge Irizarry determined that Mr. Pierce was not an Armed Career Criminal. On September 23, 2008, Mr. Pierce was sentenced to the statutory maximum of ten years in prison.

Opposing counsel
AUSA Daniel Spector
Office of the United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6345

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

As a public defender, my work usually began at arraignment. My client had already been charged with a crime and the government had certainly begun, if not completed, its investigation. My job was to meet with the client, represent the client at arraignment, and make a determination as to what legal or factual issues, if any, would be in dispute, and to begin investigating them immediately. Following my investigation, I would meet with my client to advise him/her as to whether they should consider pleading guilty, filing a dispositive motion, or going to trial. The overwhelming majority of my clients chose to plead guilty. In state court, I would negotiate a promised sentence with the prosecutor. In federal court, I would negotiate non-binding plea agreements. I would also advise clients about the potential benefits of cooperating with the government. In federal court, the majority of my advocacy concerned sentencing. After the guilty plea, I would work with my client regarding any factual or legal issues for sentencing. After sentencing, I would encourage my clients to make better choices if they were ever going to be released from prison. I would also encourage them to take full advantage of any educational, occupational, or substance abuse programs available in prison.

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

I have not taught any courses.

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

None.

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

I have no such plans.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

A potential conflict of interest would be presented in any case in which my wife's employer, J.P. Morgan Chase, is a party. In addition, prior to taking the bench, I was a Supervising Attorney for Federal Defenders of New York. I handled a caseload and supervised other attorneys in the office. I recuse and would continue to recuse from any criminal case in which the defendant was represented by Federal Defenders of New York from October 2000 until June 2009. Moreover, I do not and would not allow family members, by blood or marriage, or close friends to appear before me.

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

The clerk's office in the Eastern District of New York is aware of my conflict policy regarding persons previously represented by Federal Defenders and my recusal policy regarding J.P. Morgan Chase as a party. Regarding friends and family members, I deal with those matters as they arise. If confirmed as a district judge, I would employ the same procedure in the Southern District of New York, and I would continue to comply with the Code of Conduct for United States Judges.

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.

Throughout my adult life, I have been committed to advancing the cause of equal justice under law. At Harvard Law School, I tutored junior high school students through the “I Have a Dream” program. After the end of my first year, another law student and I launched the BELL Foundation. BELL is an operating foundation that provided college scholarships to graduating high school students and currently provides tutoring and mentoring services to elementary school students from disadvantaged backgrounds.

After graduating from law school, I was chosen to be in the inaugural class of program assistants at the Ford Foundation. I worked in what was then known as the Rights and Social Justice Program. At the Ford Foundation, I conducted legal research and provided grant-making support to organizations concerned with the Community Reinvestment Act, Higher Education, and the Voting Rights Act. In addition, while working at the Ford Foundation, I volunteered to handle an appeal with the Legal Aid Society on a *pro bono* basis. The appeal was based on a judge’s decision to deny the suppression of contraband. I filed the appeal and argued before New York’s Appellate Division for the Second Department.

Following this experience, I decided to pursue a full-time career in public service, first with the Criminal Defense and Federal Defenders Divisions of the Legal Aid Society and then with the Federal Defenders of New York.

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 December 6, 2010 I submitted a judicial questionnaire to Senator Charles Schumer regarding potential openings in the Eastern and Southern Districts of New York. On January 12, 2011, I met with Senator Schumer. On February 3, 2011, I met with Senator Schumer’s Judicial Screening Panel. On February 15, 2011, I received notice that Senator Schumer was recommending me for nomination to the President.

Since February 17, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 29, 2011, I interviewed with officials from the White house Counsel’s Office and the Department of Justice in Washington, D.C. On May 19, 2011, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

I, Andrew L. Carter, Jr., do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

May 17, 2011

(DATE)

Andrew L. Carter, Jr.

(NAME)

Alexei Martinez

(NOTARY)

