

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Joseph Frank Bianco

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

United States Court of Appeals Judge for the Second Circuit

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

United States District Court for the Eastern District of New York
Alfonse M. D'Amato United States Courthouse
100 Federal Plaza, Courtroom 1040
Central Islip, New York 11722

Residence: Nassau County, New York

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

1966; Flushing, 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.

2009 – 2013: Seminary of the Immaculate Conception; M.A., 2013

1988 – 1991: Columbia University School of Law; J.D., 1991

1984 – 1988: Georgetown University; B.A. (*magna cum laude*), 1988

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.

2006 – present
United States District Court for the Eastern District of New York
Alfonse M. D’Amato United States Courthouse
100 Federal Plaza, Courtroom 1040
Central Islip, New York 11722
United States District Judge

2006 – present
St. John’s University School of Law
8000 Utopia Parkway
Queens, New York 11439
Adjunct Professor of Law

2007 – 2014
Jacob D. Fuchsberg Law Center
Touro College
225 Eastview Drive
Central Islip, New York 11722
Adjunct Professor of Law

2009 – 2013
Maurice A. Deane School of Law
Hofstra University
121 Hofstra University
Hempstead, New York 11549
Adjunct Professor of Law

2004 – 2006
United States Department of Justice
Criminal Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Senior Counsel/Deputy Assistant Attorney General

2002 – 2004
Fordham University School of Law
150 West 62nd Street
New York, New York 10023
Adjunct Professor of Law

2003 – 2004
Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022
Counsel

1994 – 2003

United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Assistant United States Attorney

1990; 1991 – 1992; 1993 – 1994

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Summer Associate/Associate

1992 – 1993

Honorable Peter K. Leisure
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007
Law Clerk

1989

Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
Summer Associate

1988

United States Department of the Navy
Unisys Corporation, NAVPRO Contracts Division
Great Neck, New York 11021
Clerk/Typist

Other affiliations (unpaid)

2009 – present

Diocese of Rockville Centre
50 North Park Avenue
Rockville Centre, New York 11571
Diaconate Studies/Deacon

2016 – present

Federal Bar Association
1220 North Fillmore Street, Suite 444
Arlington, Virginia 22201
Civics Education Coordinator

2012 – 2013
Long Island Council on Alcoholism & Drug Dependence
114 Old Country Road, Suite 114
Mineola, New York 11501
Mentor

1991
Honorable Kenneth Conboy
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007
Law Intern

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

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

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

Adjunct Professor of the Year, St. John's University School of Law (2015 – 2016; 2017 – 2018)

Best Adjunct Professor, Touro College Jacob D. Fuchsberg Law Center (2013)

St. Thomas More Award, Nassau County Catholic Lawyer's Guild (2011)

J. Edward Lombard Award, United States Attorney's Office for the Southern District of New York (2010)

Flag Recipient, North Shore Elks Lodge 1458 Flag Day Ceremony (2010)

Adjunct Professor of the Year, Touro College Jacob D. Fuchsberg Law Center (2008)

Editor, Columbia Law Review (1991)

James Kent Scholar, Columbia Law School (1989 – 1990; 1990 – 1991)

Lawrence S. Greenbaum Prize for Best Oral Presentation, Harlan Fiske Stone Moot Court Competition, Columbia Law School (1990)

Harlan Fiske Stone Scholar, Columbia Law School (1988 – 1989)

James A. Elkins Prize for Outstanding Work in Legal Method, Columbia Law School (1989)

Phi Beta Kappa, Georgetown University (1988)

Degree from Georgetown University conferred *magna cum laude*.

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.

Eastern District of New York Grievance Committee (2007 – present)

Second Circuit Judicial Council Committee on Civic Education & Public Engagement, Advocacy Skills Subcommittee Chair (2015 – present)

Federal Bar Association Civics Education Coordinator for the Eastern District of New York (2016 – present)

Committee on Court Administration and Case Management of the Judicial Conference of the United States (2018 – present)

Second Circuit Judicial Conference Program & Planning Committee (2010 – 2011)

Federal Bar Council American Inn of Court (2007 – 2008)

American Bar Association (early 1990s)

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 (1992)

There has been no lapse in my membership. As a judge, I am considered retired from the practice of law since my appointment in 2006.

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

United States Court of Appeals for the Second Circuit (1998)

United States District Court for the Southern District of New York (1994)

I am considered inactive in the Second Circuit.

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.

The Federalist Society for Law and Public Policy Studies (2004 – present)

Deacon, Catholic Church, Diocese of Rockville Centre (2013 – present)

Knights of Columbus (I joined in the 1980s, and have been an inactive member for many years)

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 Knights of Columbus is a Catholic fraternal organization limited to men, although there is a corresponding organization for women. To the best of 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.

Beginning in 2013, I have served as a Deacon in the Diocese of Rockville Centre. In that capacity, I have delivered homilies and sermons. A number of those sermons have been reprinted in my parish’s magazine. In addition, I have provided other of my written submissions that were published in a bulletin or religious periodical. Copies are supplied.

God Bless ABC’s “Amerika”, Geo. Hoya, Feb. 1987. Copy supplied.

While a student at Georgetown University I also wrote a few sports and entertainment articles for student publications. I have been unable to locate copies of these articles.

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.

On November 1, 2005, I appeared before the United States Senate Committee on the Judiciary at my confirmation hearing to be a United States District Judge for the Eastern District of New York. However, I did not testify at the hearing.

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.

2006 – present

Since becoming a United States District Judge in 2006, I have given hundreds of formal and informal presentations at the courthouse and other locations to middle school, high school, and undergraduate students, law school classes, civic groups, and bar associations. I have not always used or kept notes or information about the presentations. I have compiled the list below of formal presentations from a review of my calendar and other records, and have supplied notes, transcripts, and recordings that I was able to locate. There may be additional events that I am unable to recall.

October 26, 2018: Speaker, Supreme Court Review, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. Video available at:
[Http://videos.tourolaw.edu/media/0_vby8hcw1](http://videos.tourolaw.edu/media/0_vby8hcw1).

October 22, 2018: Speaker, Columbia Law School Federalist Society, New York, New York. PowerPoint and press report supplied.

October 12, 2018: Speaker, Syosset Public Library, Syosset, New York. PowerPoint supplied. As noted below, I have spoken at several public libraries on Long Island since June 2, 2017. I have supplied the full set of PowerPoint slides that I have used during

these presentations, although I often use less than the full set during a particular presentation.

October 9, 2018: Speaker, West Islip Public Library, West Islip, New York. Library PowerPoint supplied.

August 27, 2018: Speaker, "Schools and the Constitution," U.S. Military Academy, West Point, New York. PowerPoint supplied.

July 13, 2018: Speaker, Introduction of Honorary Guest Mitsue Salador, Justice Institute, United States District Court for the Eastern District of New York, Central Islip, New York. Speech supplied.

July 13, 2018: Judge, Justice Institute Mock Trial Competition, United States District Court for the Eastern District of New York, Central Islip, New York. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of New York is Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722

July 9, 2018: Speaker, Justice Institute: Crime, the Constitution, and the Courts, Central Islip, New York. PowerPoint supplied. I also utilized this PowerPoint during numerous other civics education presentations.

July 2, 2018: Panelist, "Challenges Facing American Democracy in the 21st Century," Summer Teachers' Institute, United States Court of Appeals for the Second Circuit, New York, New York. Notes supplied.

June 11, 2018: Speaker, Great Neck Public Library, Great Neck, New York. Library PowerPoint supplied.

June 4, 2018: Speaker, Northport-East Northport Public Library, Great Neck, New York. Library PowerPoint supplied.

May 16, 2018: Panelist, Nassau County Bar Association Federal Courts Update hosted by the Federal Courts Committee, the Corporations, Banking and Securities Committee, and the Criminal Court Law and Procedure Committee, Mineola, New York. PowerPoint and video supplied.

May 4, 2018: Speaker, Guild of Catholic Lawyers of the Archdiocese of New York First Friday Breakfast, New York, New York. Speech supplied.

April 25-29, 2018: Television sermon, aired on *The Word*, Telecare Network, Uniondale, New York. Video supplied.

April 16, 2018: Panelist, Federal Bar Association Resume and Interview Program, Garden City, New York. Notes supplied.

April 10, 2018: Judge, Hardt Cup Moot Court Finals, Duke University Law School, Durham, North Carolina. Video available at:
https://www.youtube.com/watch?time_continue=2780&v=PtjHT18xIaQ.

April 4, 2018: Speaker, FBI Youth Academy Community Outreach Program, Central Islip, New York. Civics education PowerPoint supplied.

March 19, 2018: Panelist, Federal Bar Association Criminal Practice Update, United States District Court for the Eastern District of New York, Central Islip, New York. Notes supplied. The address of the United States District Court for the Eastern District of New York is Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722.

February 7, 2018: Speaker, Western Suffolk Board of Cooperative Educational Services Social Studies Coordinators' Network, Dix Hills, New York. PowerPoint supplied.

January 31, 2018: Speaker, Criminal Procedure Class, Fordham University School of Law, New York, New York. PowerPoint supplied.

November 21, 2017: Speaker, Course on the Supreme Court, Northeastern University, Boston, Massachusetts. PowerPoint supplied.

November 20, 2017: Speaker, Northeastern University Pre-Law Society, Boston, Massachusetts. PowerPoint supplied.

November 16, 2017: Judge, Long Island Mentor Moot Court Competition Finals, Central Islip, New York. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of New York is Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722.

November 14, 2017: Judge, Nassau County Long Island Mentor Moot Court Competition, Mineola, New York. I have no notes, transcript, or recording. The address of the New York Supreme Court for Nassau County is 100 Supreme Court Drive, Mineola, New York 11501.

November 13, 2017: Judge, Suffolk County Long Island Mentor Moot Court Competition, Central Islip, New York. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of New York is Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722.

November 9, 2017: Speaker, "Building a Federal Case: Proving the Elements of Federal Crimes," U.S. Military Academy, West Point, New York. PowerPoint supplied.

October 30, 2017: Speaker, "Interview Tips for Law Students," Federal Bar Association, St. John's University School of Law, Queens, New York. Notes supplied.

October 27, 2017: Speaker, Supreme Court Review, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. Video available at:
[Http://videos.tourolaw.edu/media/0_x2tx9w9g](http://videos.tourolaw.edu/media/0_x2tx9w9g).

October 26, 2017: Speaker, Visiting law students from Puerto Rico who had been displaced by Hurricane Maria, Central Islip, New York. Civics education PowerPoint supplied.

October 24, 2017: Speaker, "Judicial Restraint," Columbia Law School Federalist Society, New York, New York. Notes and PowerPoint supplied.

October 19, 2017: Speaker, "Judicial Decisionmaking: Researching the Law and Facts," Fordham University School of Law, New York, New York. PowerPoint supplied.

September 26, 2017: Speaker, Nassau County Bar Association Civil Rights Committee Meeting, Mineola, New York. Notes supplied.

September 21, 2017: Speaker, Dayton Chapter, Federal Bar Association, Dayton, Ohio. PowerPoint supplied.

July 14, 2017: Judge, Justice Institute Mock Trial Competition, United States District Court for the Eastern District of New York, Central Islip, New York. I have no notes, transcript, or recording.

July 10, 2017: Speaker, Justice Institute: Crime, the Constitution, and the Courts, Central Islip, New York. Civics education PowerPoint supplied.

July 6, 2017: Panelist, "The Role of the President and the Supreme Court," Summer Teachers' Institute, United States Court of Appeals for the Second Circuit. Notes supplied.

June 2, 2017: Speaker, Port Washington Public Library, Port Washington, New York. Library PowerPoint supplied.

May 24, 2017: Panelist, "Reflections Upon the Jurisprudence of Justice Antonin Scalia," Nassau County Bar Association, Mineola, New York. Notes supplied.

May 7, 2017: Speaker, Unitarian Universalist Congregation of Central Nassau, Garden City, New York. Speech supplied.

May 4, 2017: Speaker, "Law in the Workplace," Suffolk County Bar Association, Hauppauge, New York. Notes supplied.

May 1, 2017: Speaker, Nassau County Bar Association Law Day, Mineola, New York. Speech supplied.

April 19, 2017: Panelist, Nassau County Bar Young Lawyers Panel, Mineola, New York. I have no notes, transcript, or recording. The subject matter was how to become a federal judge. The address of the Nassau County Bar Association is 15 West Street, Mineola, New York 11501.

April 19, 2017: Speaker, Sagamore Middle School, Holtsville, New York. I have no notes, transcript, or recording. The subject matter was civics education. The address of Sagamore Middle School is 57 Division Street, Holtsville, New York 11742.

April 12, 2017: Honoree and speaker, Suffolk County Bar Association, Hauppauge, New York. Speech supplied.

April 5, 2017: Judge, New York State Bar Association New York State High School Mock Trial, Central Islip, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

March 27, 2017: Judge, Moot Court Competition, Maurice A. Deane School of Law at Hofstra University, Hempstead, New York. I have no notes, transcript, or recording. The address for the Maurice A. Deane School of Law is 121 Hofstra University, Hempstead, New York 11549.

March 18, 2017: Speaker, Federal Bar Association Mid-Year Meeting, Washington, D.C. Notes supplied.

March 8, 2017: Panelist, Federal Bar Association Criminal Practice Update, United States District Court for the Eastern District of New York, Central Islip, New York. Notes supplied.

March 1-5, 2017: Television sermon, aired on *The Word*, Telecare Network, Uniondale, New York. Video supplied.

January 11, 2017: Panelist, "The Second Circuit and Terrorism," Federal Bar Council, New York, New York. Notes supplied.

December 1, 2016: Speaker, "The War on Terror: Are the Law Enforcement Powers Used to Combat Terrorism in the U.S. Necessary and Legal?" Constitutional Law Class, Northeastern University, Boston, Massachusetts. PowerPoint supplied.

November 17, 2016: Judge, Long Island Mentor Moot Court Competition Finals, Central Islip, New York. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of New York is Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722.

November 14, 2016: Speaker, Benjamin N. Cardozo School of Law Federalist Society, New York, New York. PowerPoint supplied.

November 10, 2016: Judge, Nassau County Long Island Mentor Moot Court Competition, Mineola, New York. I have no notes, transcript, or recording. The address of the New York Supreme Court for Nassau County is 100 Supreme Court Drive, Mineola, New York 11501.

November 4, 2016: Speaker, “The Confrontation Clause and National Security Cases,” U.S. Military Academy, West Point, New York. PowerPoint supplied.

November 2, 2016: Judge, Moot Court Competition, Maurice A. Deane School of Law at Hofstra University, Hempstead, New York. I have no notes, transcript, or recording. The address for the Maurice A. Deane School of Law is 121 Hofstra University, Hempstead, New York 11549.

October 13, 2016: Judge, Moot Court Competition, St. John’s University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John’s University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

September 30, 2016: Speaker, Supreme Court Review, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. Video available at: http://videos.tourolaw.edu/media/0_slvvg32q.

September 28, 2016: Panelist, “Appointment Process for New York State Court of Claims and for Federal Magistrate Judges and District Judges,” Symposium on “Everything You Need to Know About Becoming a Judge,” Suffolk County Bar Association, Hauppauge, New York. I have no notes, transcript, or recording. The address of the Suffolk County Bar Association is 560 Wheeler Road, Hauppauge, New York 11788.

September 16, 2016: Speaker, Constitution Day, Sagamore Hill National Historic Site, Oyster Bay, New York. Speech supplied.

July 22, 2016: Judge, Justice Institute Mock Trial Competition, United States District Court for the Eastern District of New York, Central Islip, New York. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of New York is Alfonse M. D’Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722

July 20, 2016: Speaker, Justice Institute: Crime, the Constitution, and the Courts, Central Islip, New York. Video available at: https://videos.tourolaw.edu/media/The+Justice+Institute+-+Remarks+by+Hon.+Joseph+Bianco/0_6ejhf112.

July 18, 2016: Speaker, Justice Institute: Crime, the Constitution, and the Courts, Central Islip, New York. Civics education PowerPoint supplied.

July 5, 2016: Panelist, "The Role of Political Parties in our Constitutional Democracy & How the Civil War Tested Federalism," Summer Teachers' Institute, United States Court of Appeals for the Second Circuit, New York, New York. Notes supplied.

June 7, 2016: Speaker, Henry L. Stimson Medal Ceremony, New York City Bar Association, New York, New York. Speech supplied.

May 10, 2016: Speaker, Reception Honoring United States Magistrate Judge Arlene R. Lindsay, Federal Bar Council, United States District Court for the Eastern District of New York, Central Islip, New York. Speech supplied.

May 3, 2016: Speaker, Nassau County Bar Association Community Relations and Public Education Committee, Mineola, New York. I have no notes, transcript or recording. The subject matter was civics education. The address of the Nassau County Bar Association is 15 West Street, Mineola, New York 11501.

April 29, 2016: Speaker, "The War on Terror: Are the Law Enforcement Powers Used to Combat Terrorism in the United States Necessary and Legal?" U.S. Military Academy, West Point, New York. PowerPoint supplied.

April 20, 2016: Speaker, Supreme Court Justice Antonin Scalia Memorial Program, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. Notes supplied.

April 13, 2016: Judge, New York State Bar Association Nassau County High School Mock Trial Competition, Mineola, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

April 11, 2016: Judge, New York State Bar Association New York City High School Mock Trial Competition, New York, New York. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

April 6, 2016: Judge, New York State Bar Association Suffolk County High School Mock Trial Competition, Central Islip, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

March 9, 2016: Panelist, Federal Bar Association Criminal Practice Update, United States District Court for the Eastern District of New York, Central Islip, New York. Notes supplied.

February 4, 2016: Speaker, Nassau County Bar Association Community Relations and Public Education Committee, Mineola, New York. I have no notes, transcript or recording. The subject matter was civics education. The address of the Nassau County Bar Association is 15 West Street, Mineola, New York 11501.

November 25-29, 2015: Television sermon, aired on *The Word*, Telecare Network, Uniondale, New York. Video supplied.

November 5, 2015: Panelist, "Ethical Issues in Jury Trials," Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

October 9, 2015: Moderator, Panel on "Settling White Collar Crimes," Symposium on "Government Enforcement in the Financial Sector," Columbia Law School Federalist Society, New York, New York. Notes supplied.

June 24, 2015: Panelist, "Dos and Don'ts of Social Media and Jury Selection & Proffer and Proffer Agreements: Risks and Rewards," The CJA Panel Committee of the Eastern District of New York and Federal Defenders of New York, Inc., United States District Court for the Eastern District of New York, Brooklyn, New York. Notes supplied.

June 10-14, 2015: Television sermon, aired on *The Word*, Telecare Network, Uniondale, New York. Video unavailable (prepared remarks supplied).

April 28, 2015: Judge, Advanced Trial Advocacy Class Mock Trial Finals, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

April 13, 2015: Speaker, "The Art of Advocacy," Nassau County Bar Association, Mineola, New York. Notes supplied.

March 18, 2015: Panelist, Federal Bar Association Criminal Practice Update, United States District Court for the Eastern District of New York, Central Islip, New York. Notes supplied.

November 19, 2014: Panelist, "Ethical Issues in Jury Trials," Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

October 16, 2014: Speaker, "The Constitution and National Security in the Post-9/11 World," Columbia Law School Federalist Society, New York, New York. I have no notes, transcript, or recording. The subject matter was the use of law enforcement tools to combat terrorism in the post-September 11th world. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

October 1, 2014: Speaker, Suffolk County Catholic Lawyer's Guild Annual Red Mass Dinner, Melville, New York. Speech supplied.

September 30, 2014: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

September 15, 2014: Speaker, Dinner Honoring United States District Judge Arthur D. Spatt, Nassau County Bar Association Labor & Employment Law Committee, Mineola, New York. Speech supplied.

June 29, 2014: Speaker, Commencement, St. Aidan's Elementary School, Williston Park, New York. Speech supplied.

June 1, 2014: Speaker, Invocation and Commencement, St. John's University School of Law, Queens, New York. Prayer supplied.

May 14, 2014: Honoree, Federal Bar Council, United States District Court for the Eastern District of New York, Central Islip, New York. Speech and PowerPoint supplied.

May 1, 2014: Judge, Moot Court Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

April 3, 2014: Panelist, Annual Career Panel, St. Mary's High School, Manhasset, New York. Prepared responses to potential questions supplied.

March 27, 2014: Panelist, Federal Bar Association Criminal Practice Update, United States District Court for the Eastern District of New York, Central Islip, New York. I have no notes, transcript, or recording. Agenda supplied.

February 18, 2014: Speaker, "The War on Terror: Are the Law Enforcement Powers Used to Combat Terrorism in the U.S. Necessary and Legal?" Course on Terrorism and National Security, Williams College, Williamstown, Massachusetts. Notes and PowerPoint supplied.

February 17, 2014: Speaker, "Crime and Punishment: Why People Turn to Crime and How the Justice System Detects and Prosecutes Them," Course on Crime, Williams College, Williamstown, Massachusetts. Notes and PowerPoint supplied.

February 10, 2014: Speaker, Honorable Peter K. Leisure Memorial Service, United States District Court for the Southern District of New York, New York, New York. Speech supplied.

January 30, 2014: Speaker, Nassau County Bar Association Civil Rights Committee, Mineola, New York. I have no notes, transcript, or recording. The address of the Nassau County Bar Association is 15 West Street, Mineola, New York 11501.

November 20, 2013: Panelist, "Ethical Issues in Jury Trials," Practising Law Institute, New York, New York. Video supplied.

November 8, 2013: Speaker, Honorable Peter K. Leisure Memorial Service, St. James Church, New York, New York. Speech supplied.

November 1, 2013: Speaker, Supreme Court Review, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. Notes supplied.

October 23, 2013: Panelist, "Judges, Judging and Faith," hosted by the Catholic Lawyers Guild of Kings County, the Columbian Lawyers Association of Brooklyn, the Jewish Lawyers Guild and the Church of St. Boniface at St. Francis College, Brooklyn, New York. I have no notes, transcript, or recording. Press report supplied. The subject matter was how religious faith may or may not affect judging. The address of the Catholic Lawyers Guild of Kings County is 142 Joralemon Street, 2nd Floor, Brooklyn, New York 11201.

October 7, 2013: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

April 8, 2013: Speaker, "Crime and Punishment: Why People Turn to Crime and How the Justice System Detects and Prosecutes Them," Course on Crime, Williams College, Williamstown, Massachusetts. Notes and PowerPoint supplied.

April 17, 2013: Judge, Mock Trial Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

March 20, 2013: Panelist, Federal Bar Association Criminal Practice Update, United States District Court for the Eastern District of New York, Central Islip, New York. Notes supplied.

September 19, 2012: Judge, Moot Court Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

September 10, 2012: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

May 8, 2012: Speaker, New York State Bar Association Executive Committee Meeting, New York, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

April 16, 2012: Judge, Mock Trial Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

April 11, 2012: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

March 31, 2012: Judge, Nassau County Bar Association Moot Court Competition, Mineola, New York. I have no notes, transcript, or recording. The address of the Nassau County Bar Association is 15 West Street, Mineola, New York 11501.

October 27, 2011: Panelist, Federal Court Clerk Externship Class, Columbia Law School, New York, New York. I have no notes, transcript or recording. The subject matter was criminal law in federal courts. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

October 24, 2011: Speaker, New York Law School Federalist Society, New York, New York. I have no notes, transcript, or recording. I believe the topics may have been national security and/or being a federal judge. The address of New York Law School is 185 West Broadway, New York, New York 10013.

October 17, 2011: Judge, Moot Court Competition, Maurice A. Deane School of Law at Hofstra University, Hempstead, New York. I have no notes, transcript, or recording. The address for the Maurice A. Deane School of Law is 121 Hofstra University, Hempstead, New York 11549.

October 4, 2011: Honoree and speaker, St. Thomas More Award, Nassau County Catholic Lawyer's Guild Annual Red Mass Dinner, Mineola, New York. Speech supplied.

April 13, 2011: Judge, New York State Bar Association Suffolk County High School Mock Trial Competition, Central Islip, New York. I have no notes, transcript, or recording. The address for the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

March 23, 2011: Judge, Nassau Academy of Law Moot Court Competition, Nassau County Bar Association, Mineola, New York. I have no notes, transcript, or recording. The address of the Nassau County Bar Association is 15 West Street, Mineola, New York 11501.

February 2, 2011: Panelist, "The Intersections of National Security, Public Safety, and Health, Immigration, and Labor and Employment Law," St. John's University School of Law Federalist Society, Queens, New York. Notes supplied.

November 18, 2010: Panelist, Federal Court Clerk Externship Class, Columbia Law School, New York, New York. I have no notes, transcript or recording. The subject matter was criminal law in federal courts. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

October 7, 2010: Panelist, "Prosecution Tactics in Terrorism Trials," St. John's University School of Law Frank S. Polestino Trial Advocacy Institute, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

September 27, 2010: Honorary speaker and recipient of the J. Edward Lumbard Award, awarded by the United States Attorney's Office for the Southern District of New York, New York, New York. Notes supplied.

April 28, 2010: Judge, New York State Bar Association Nassau County High School Mock Trial Competition, Mineola, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

March 18, 2010: Speaker, Criminal Procedure Class, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

February 27, 2010: Moderator, "National Security and the Role of the Executive Branch, Congress and the Courts: A Discussion with the Honorable Michael B. Mukasey, 81st Attorney General of the United States," Federal Bar Council 2010 Winter Bench & Bar Conference, Hualailai, Kona, Hawaii. Notes supplied.

In approximately 2010, I spoke at a Flag Day celebration hosted by The Benevolent and Protective Order of Elks of the United States of America in Port Washington, New York. Notes supplied.

September 30, 2009: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

September 23, 2009: Judge, Moot Court Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

March 13, 2009: Judge, Moot Court Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

November 6, 2008: Panelist, Federal Court Clerk Externship Class, Columbia Law School, New York, New York. I have no notes, transcript or recording. The subject matter was criminal law in federal courts. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

October 1, 2008: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

September 25, 2008: Speaker, Nassau County Columbian Lawyers Association, Westbury, New York. Speech supplied.

September 24, 2008: Judge, Moot Court Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

May 29, 2008: Speaker, Federal Bar Association Salute to the Senior Judges, United States District Court for the Eastern District of New York, Brooklyn, New York. Speech and PowerPoint supplied.

April 15, 2008: Judge, Moot Court Competition, Touro College Jacob D. Fuchsberg Law Center, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

March 13, 2008: Panelist, Federal Court Clerk Externship Class, Columbia Law School, New York, New York. I have no notes, transcript, or recording. The subject matter was criminal law in federal courts. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

On March 6, 2008, I participated in a civics education video for high school students in conjunction with the Annenberg Institute for Civics and the Administrative Office of the U.S. Courts. Video supplied.

February 29, 2008: Panelist, "Trying Terrorists: Courts, Tribunals, or Commissions?" St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. Notes supplied.

December 1, 2007: Honoree and speaker, Queens County Columbian Lawyers Association Christmas Luncheon, Queens, New York. Speech supplied.

October 3, 2007: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

May 17, 2007: Moderator, "Immigration Law: Where are We Supposed to Be?" Federal Bar Council Central Islip United States Courthouse Committee, United States District Court for the Eastern District of New York, Central Islip, New York. I have no notes, transcript, or recording. An outline of topics and questions supplied. The address for the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

March 22, 2007: Panelist, Federal Court Clerk Externship Class, Columbia Law School, New York, New York. I have no notes, transcript or recording. The subject matter was criminal law in federal courts. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

March 22, 2007: Speaker, "The Role of Terrorism on Judges and Judicial Activism," Columbia Law School Federalist Society, New York, New York. I have no notes, transcript, or recording. The subject matter was the prosecution of terrorism cases in federal court, and my experiences as a new judge. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

March 7, 2007: Judge, Moot Court Competition, Columbia Law School, New York, New York. I have no notes, transcript, or recording. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027. Press report supplied.

March 5, 2007: Speaker, International Criminal Law Class, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address of Fordham Law School is 150 West 62nd Street, New York, New York 10023.

December 13, 2006: Panelist, "Are Federal Prosecutors Going Too Far in Prosecuting Corporate Fraud?" Federal Bar Association, Central Islip, New York. I have no notes, transcript, or recording. The address for the Federal Bar Association is United States District Court, 100 Federal Plaza, Central Islip, New York 11722.

November 15, 2006: Speaker, Federal Bar Council Court Committee, New York, New York. I have no notes, transcript, or recording. The subject matter was my experiences and practices as a new judge. The address for the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

November 7, 2006: Speaker, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The subject matter was being a new federal judge. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

October 27, 2006: Judge, Moot Court Competition, Columbia Law School, New York, New York. I have no notes, transcript, or recording. The address of Columbia Law School is 435 West 116th Street, New York, New York 10027.

October 15, 2006: Judge, Moot Court Competition, St. John's University School of Law, Queens, New York. I have no notes, transcript, or recording. The address of St. John's University School of Law is 8000 Utopia Parkway, Queens, New York 11439.

May 23, 2006: Speaker, New York County Lawyers Association, New York, New York. I have no notes, transcript, or recording. The subject matter was being a new judge. The address of the New York County Lawyers Association is 14 Vesey Street, New York, New York 10007.

April 6, 2006: Panelist, Continuing Legal Education Program on Federal Privilege Issues, United States District Court for the Eastern District of New York, Brooklyn, New York. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of New York is Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722

March 30, 2006: Inductee and speaker, Induction Ceremony for United States District Judge Joseph F. Bianco, United States District Court for the Eastern District of New York, Brooklyn, New York. Transcript supplied.

I have presided over 250 Naturalization Ceremonies since becoming a judge in 2006, and have naturalized over 36,000 individuals at those ceremonies. I have supplied a copy of the speech I typically use for this occasion. A press report from one of those ceremonies is also supplied.

I spoke once to students at Touro Law Center about intellectual property law. I do not recall the approximate year and do not have any notes. The address of Touro Law Center is 225 Eastview Drive, Central Islip, New York 11722.

I also have supplied notes for speeches that I believe I gave at some point after becoming a judge. My records do not indicate when the speeches occurred or whether they correspond with any of the events listed above.

Pre-2006

Before becoming a United States District Judge, I occasionally spoke to students, bar associations, and other groups in the legal profession. I did not always keep notes or information about those presentations. I have compiled the list below from a review of my records, and have supplied notes that I was able to locate. There may be additional events that I am unable to recall.

April 14, 2005: Panelist, "Prosecuting Terrorism: The National Challenge," Center on Law and Security, New York University Law School, New York, New York. Transcript of opening remarks supplied (question and answer portion not provided by New York University).

During my tenure at the Department of Justice in Washington, D.C. (2004 – 2005), I was

on a panel in Aspen, Colorado relating to national security issues for an association of defense lawyers conference, and on a panel in New York City regarding corporate crimes, organized by the Federalist Society. I do not recall the specific dates or topics I discussed, and did not retain notes.

I also lectured at Williams College in Williamstown, Massachusetts, and possibly other schools, on several occasions. Although I am unable to recall the exact dates of those lectures, I have supplied notes that I was able to locate.

I was a guest speaker at a class (I believe regarding computer crimes) at Harvard Law School in the early 2000s. I do not recall the specific topics I discussed, and did not retain notes. The address of Harvard Law School is 1585 Massachusetts Avenue, Cambridge, Massachusetts 02138.

In approximately the late 1990s or early 2000s, I spoke once or twice at Opus Dei in Manhattan. I believe the topic was about being a federal prosecutor. I have no notes, transcript, or recording. The address of Opus Dei is 139 East 34th Street, New York, New York 10016.

In approximately the late 1980s/early 1990s, I spoke several times to a professional responsibility class at Cardozo Law School. I have no notes, transcript, or recording. The address of Cardozo Law School is 55 5th Avenue, New York, New York 10003.

In approximately 1987 to 1988, I gave a few informal talks on college campuses in Washington, D.C. in support of Congressman Jack Kemp's presidential campaign. I have no notes, transcript, or recording.

I spoke on one occasion to a class at University of Pennsylvania Law School. I do not recall the approximate year, or the name of the class. I believe I may have spoken about legal writing and advocacy. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, Pennsylvania 19104.

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.

James M. Wicks, *Judicial Profile, Honorable Joseph F. Bianco, U.S. District Judge, Eastern District of New York*, Fed. Law., Aug. 2018. Copy supplied.

In approximately 2016 or 2017, I was interviewed by a reporter for the United States Courts about a one-week summer program I co-created called The Justice Institute: Crime, the Constitution, and the Courts. Video available at: <http://www.uscourts.gov/news/2017/01/12/courts-institute-teaches-students-navigate-law-and-life>.

In approximately 2011, I was asked to provide, and drafted, written answers to several questions about effective trial advocacy. I do not recall which publication or association asked for my responses, nor do I recall whether an article including my responses was ever published. I have supplied my written answers to the questions.

Michelle Zeitler, *First-year Law Students in the Courtroom: An Experiment in Practical Legal Education at the Touro Law Center*, Sept. 2009. Copy supplied.

Katherine Mangan, *All Rise. Welcome to Law School*, Chron. Higher Ed., Jan. 11, 2008. Copy supplied.

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

I was appointed a United States District Court Judge for the Eastern District of New York on January 3, 2006. I was nominated by President George W. Bush on July 28, 2005, and confirmed by the United States Senate on December 21, 2005.

The United States District Court for the Eastern District of New York has jurisdiction as set forth principally at Chapter 85 of Title 28 of the United States Code.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? Approximately 80 cases (including hung juries)

i. Of these, approximately what percent were:

jury trials:	<u>90%</u>
bench trials:	<u>10%</u>
civil proceedings:	<u>70%</u>
criminal proceedings:	<u>30%</u>

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

A list of citations to opinions I have written is included at Appendix 13.b.

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. *United States v. Prado*, No. 10 Cr. 0074 (E.D.N.Y.).

In this case, twenty-seven defendants were charged with participating in numerous acts of violence in connection with the MS-13 street gang, including 11 murders. There were two separate trials. Defendant Adalberto Ariel Guzman was convicted after trial of charges relating to the murder of a 19-year old woman and her 2-year old son. Guzman was sentenced to life imprisonment. Defendant Heriberto Martinez was convicted after trial of, among other offenses, three murders. Martinez was joined for purposes of trial with Carlos Ortega (No. 12 Cr. 0293), who was convicted of two murders. The remaining defendants all pleaded guilty. Defendant Martinez was sentenced to a mandatory sentence of life plus 60 years' imprisonment, and defendant Ortega was sentenced to a mandatory sentence of life plus 35 years' imprisonment.

Case Citations

United States v. Prado, No. 10 Cr. 0074, 2011 WL 3472509 (E.D.N.Y. Aug. 5, 2011)

United States v. Guzman, 879 F. Supp. 2d 312 (E.D.N.Y. 2012)

United States v. Martinez, 978 F. Supp. 2d 177 (E.D.N.Y. 2013)

United States v. Prado, 634 F. App'x 323 (2d Cir. 2016)

United States v. Guzman, 664 F. App'x 120 (2d Cir. 2016)

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2. *United States v. Alvarenga*, No. 12 Cr. 0063 (E.D.N.Y.).

In this case, seventeen defendants were charged with participating in numerous acts of violence in connection with the MS-13 street gang, including five murders. One defendant, Edwin Hernandez, was convicted after trial of assault with a dangerous weapon and discharge of a firearm during a crime of violence. Nine defendants have been sentenced, and the cases of the remaining defendants are still pending. Defendant Hernandez was sentenced to 25 years' imprisonment. The Second Circuit affirmed this sentence on appeal. *United States v. Hernandez*, 894 F. 3d 496 (2d Cir. 2018).

Case Citation

United States v. Ayala, 64 F. Supp. 3d 446 (E.D.N.Y. 2014)

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3. *United States v. Romano*, No. 09 Cr. 0170 (E.D.N.Y.).

United States v. Romano, No. 09 Cr. 0168 (E.D.N.Y.).

These were two related cases charging ten defendants with participating in a telemarketing fraud scheme pursuant to which victims were fraudulently induced to purchase millions of dollars in gold coins. Defendants Michael Romano and William Kearney were convicted after trial of fraud charges. One defendant passed away before the conclusion of the cases. The remaining defendants pleaded guilty. After the trial, but before the conclusion of the cases, I recused myself from both cases because Michael Romano's brother, Joseph Romano, was charged with conspiring to murder me and a federal prosecutor assigned to the cases. Thus, Michael Romano and William Kearney were sentenced by another judge. The convictions and sentences were affirmed by the Second Circuit. *United States v. Romano*, 794 F.3d 317 (2d Cir. 2018).

Case Citation

United States v. Romano, 859 F. Supp. 2d 445 (E.D.N.Y. 2012)

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4. *United States v. Graziano*, No. 07 Cr. 0508 (E.D.N.Y.).

In this case, defendant Carmine Graziano was convicted after trial of charges related to the arson of a card store in Nassau County. I granted a Rule 29 motion on one count following the trial. Graziano was sentenced to 15 years' imprisonment on the remaining counts.

Case Citations

United States v. Graziano, 558 F. Supp. 2d 304 (E.D.N.Y. 2008)

United States v. Graziano, 616 F. Supp. 2d 350 (E.D.N.Y. 2008)

United States v. Graziano, No. 12 Civ. 0738, 2013 WL 298116 (E.D.N.Y. Jan. 25, 2013)

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5. *United States v. Stambler*, No. 11 Cr. 0812 (E.D.N.Y.).

In this case, a Long Island medical doctor was convicted after trial of charges related to the illegal distribution of oxycodone. He was sentenced to 10 years' imprisonment.

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6. *Rexall Sundown, Inc. v. Perrigo Co.*, No. 07 Civ. 3397 (E.D.N.Y.).

This case involved false advertising claims brought by Rexall, the manufacturer of the Osteo Bi-Flex brand of joint-care products, against Perrigo Co. in connection with the labels on store-brand glucosamine-chondroitin joint-care supplements. Perrigo brought a counterclaim for false advertising in connection with Rexall's label. The jury found in favor of Perrigo on Rexall's claims, and awarded \$75,000 on Perrigo's counterclaim.

Case Citations

Rexall Sundown, Inc. v. Perrigo Co., 651 F. Supp. 2d 9 (E.D.N.Y. 2009)
Rexall Sundown, Inc. v. Perrigo Co., 707 F. Supp. 2d 357 (E.D.N.Y. 2010)

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7. *Crews v. County of Nassau*, No. 06 Civ. 2610 (E.D.N.Y.).

This was a civil rights action brought against the County of Nassau and Detective Nicholas Lemma in connection with plaintiff's arrest and prosecution for a robbery that, it was later determined, he did not commit. The jury returned a verdict in plaintiff's favor on the malicious prosecution claim against Detective Lemma and awarded \$175,000 in damages.

Case Citations

Crews v. County of Nassau, No. 06 Civ. 2610, 2007 WL 316568 (E.D.N.Y. Jan. 30, 2007)
Crews v. County of Nassau, No. 06 Civ. 2610, 2007 WL 4591325 (E.D.N.Y. Dec. 27, 2007)
Crews v. County of Nassau, 612 F. Supp. 2d 199 (E.D.N.Y. 2009)
Crews v. County of Nassau, 996 F. Supp. 2d 186 (E.D.N.Y. 2014)

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8. *Houston v. Cotter*, No. 07 Civ. 3256 (E.D.N.Y.).

This was a civil rights action in which an inmate at the Suffolk County jail asserted that he was assaulted by a prison guard and that the prison used suicide watch (without justification) as a form of punishment for inmates who had disputes with guards. The jury found in favor of the plaintiff on his excessive force and due process claims, and awarded \$30,000 in damages.

Case Citations

Houston v. Cotter, 7 F. Supp. 3d 283 (E.D.N.Y. 2014)
Houston v. Cotter, No. 07 Civ. 3256, 2016 WL 1253391 (E.D.N.Y. Mar. 30, 2016)
Houston v. Cotter, 234 F. Supp. 3d 392 (E.D.N.Y. 2017)

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9. *Marini v. Adamo*, No. 08 Civ. 3995 (E.D.N.Y.).

This was a civil fraud action in which the plaintiffs asserted that the defendants made false representations to them in connection with their substantial investment in coins over a period of years. After a bench trial, I concluded that plaintiffs had proven several of their federal and state claims, and awarded over \$11 million in damages. The Second Circuit affirmed the judgment. *Marini v. Adamo*, 644 F. App'x 33 (2d Cir. 2016)

Case Citations

Marini v. Adamo, 812 F. Supp. 2d 243 (E.D.N.Y. 2011)
Marini v. Adamo, 995 F. Supp. 2d 155 (E.D.N.Y. 2014)
Marini v. Adamo, 12 F. Supp. 3d 549 (E.D.N.Y. 2014)

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10. *Sloup v. Loeffler*, No. 05 Civ. 1766 (E.D.N.Y.).

This was a civil rights action in which a commercial fisherman asserted that the Town of Islip, through its officials, violated his constitutional rights by banning him from fishing and crabbing in certain waters. After a trial, the jury awarded \$1.8 million in compensatory damages and \$300,000 in punitive damages. I granted defendants' motion for a new trial on damages. The case settled before the new trial on damages.

Case Citations

Sloup v. Loeffler, No. 05 Civ. 1766 , 2006 WL 767869 (E.D.N.Y. Mar. 13, 2006)
Sloup v. Loeffler, No. 05 Civ. 1766 , 2008 WL 3978208 (E.D.N.Y. Aug. 21, 2008)
Sloup v. Loeffler, 745 F. Supp. 2d 115 (E.D.N.Y. 2010)

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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. *United States v. Graziano*, 558 F. Supp. 2d 304 (E.D.N.Y. 2008).

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2. *United States v. Romano*, 859 F. Supp. 2d 445 (E.D.N.Y. 2012).

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3. *United States v. Guzman*, 879 F. Supp. 2d 312 (E.D.N.Y. 2012).

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4. *In re Grand Jury Subpoena dated February 2, 2012*, 908 F. Supp. 2d 348 (E.D.N.Y. 2012).

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5. *United States v. Jacobson*, 4 F. Supp. 3d 515 (E.D.N.Y. 2014).

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6. *Shinnecock Indian Nation v. Kempthorne*, No. 06 Civ. 5013, 2008 WL 4455599
(E.D.N.Y. Sept. 30, 2008).

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7. *Izaguirre v. Lee*, 856 F. Supp. 2d 551 (E.D.N.Y. 2012).

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8. *Brezler v. Mills*, 220 F. Supp. 3d 303 (E.D.N.Y. 2016).

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9. *Doe v. United States Merchant Marine Academy*, 307 F. Supp. 3d 121 (E.D.N.Y. 2018).

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10. *Human Res. Research & Mgmt. Grp., Inc. v. County of Suffolk*, 687 F. Supp. 2d 237 (E.D.N.Y. 2010).

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

A list of cases for which I have records where certiorari was requested or granted is provided at Appendix 13.e.

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.

In re Tender Loving Care Health Servs., 377 B.R. 798 (E.D.N.Y. 2007), *rev'd*, 562 F.3d 158 (2d Cir. 2009). This was a bankruptcy appeal involving a calculation error of over \$500,000 by the bankruptcy court due to improperly including post-petition interest. I affirmed the bankruptcy court's decision reconsidering its calculation, concluding that the reconsideration was not time-barred and that cause existed for reconsideration of the order containing the undisputed calculation error. The Second Circuit reversed and remanded. It concluded that, given that the debtors initially filed an objection to the creditor's claim in the bankruptcy proceedings, the claim was time-barred because it was not "entered without a contest" within the meaning of the one-year limitation for bringing motions for reconsideration.

Holster v. Gateco, Inc., 485 F. Supp. 2d 179 (E.D.N.Y. 2007), *aff'd*, 2008 U.S. App. LEXIS 23203 (2d Cir. 2008), *rev'd and remanded*, 559 U.S. 1060 (2010), *aff'd on other grounds*, 618 F.3d 214 (2d Cir. 2010). In this diversity jurisdiction case, I concluded that state substantive law applied to the plaintiff's Telephone Consumer Protection Act claims, and that New York's statutory bar on class actions (unless authorized by an underlying New York statute) divested the Court of jurisdiction. The Second Circuit affirmed my decision in a summary order. The United States Supreme Court vacated and remanded for reconsideration in light of their intervening decision in *Shady Grove Orthopedic Associates, P.A. v. Allstate Insurance Co.*, 559 U.S. 393 (2010). On remand, the Second Circuit again affirmed on alternative grounds – namely, because of the unique nature of the federal action the TCPA created, Congress intended to let a state determine which causes of action lie under the TCPA and, thus, New York could bar class actions for statutory damages under the TCPA.

United States v. Meszaros, No. 06 Cr. 0290, 2008 WL 5113425 (E.D.N.Y. Nov. 11, 2008), *aff'd in part, rev'd in part, and remanded*, 381 F. App'x 55 (2d Cir. 2010). In a summary order, the Second Circuit affirmed my decision that the wire fraud counts were properly joined and affirmed the defendant's 108-month sentence, except the sentence on Count Two (which was fully concurrent to the other counts). With respect to that count, the Second Circuit concluded the sentence should have been limited to the statutory maximum at the time of the offense – specifically, 60 months. Thus, the case was remanded for that correction on Count Two, which did not impact the total sentence.

United States v. Magner, No. 09-cr-0748 (no written decision), *aff'd in part and vacated in part*, 455 F. App'x 131 (2d Cir. 2012) and 518 F. App'x 36 (2d Cir. 2013). On February 7, 2011, I sentenced the defendant to 108-months' imprisonment and a five-year term of supervised release for receiving child pornography. In a summary order, the Second Circuit held that the 108-month sentence and five years' supervised release was procedurally and substantively reasonable. However, the Second Circuit held that, although there was no objection at the time of sentencing, the supervised release

condition prohibiting the defendant from accessing any website with images of nude adults or children was unwarranted. Following the Second Circuit's decision, I entered an order modifying the supervised release restriction consistent with the Second Circuit's summary order. In the second appeal, although again no objection was made at the resentencing, the Second Circuit held that it was error to impose a supervised release restriction on texting, and that the restriction should be stricken.

New York v. Shinnecock Indian Nation, 523 F. Supp. 2d 185 (E.D.N.Y. 2007), *vacated and remanded*, 686 F.3d 133 (2d Cir. 2012). After concluding that jurisdiction existed and conducting a month-long bench trial, I held that the Shinnecock Indian Nation was enjoined from building a casino in the Town of Southampton because the Nation's aboriginal title to the land at issue had been extinguished and the proposed development was barred by the *Sherrill* doctrine. The Second Circuit reversed and held that federal subject matter jurisdiction did not exist because the complaint did not raise an issue of federal law and the substantial federal question exception to the well-pleaded complaint rule did not apply.

United States v. Bailey, 468 F. Supp. 2d 373 (E.D.N.Y. 2006), *aff'd*, 652 F.3d 197 (2d Cir. 2013), *rev'd and remanded*, 568 U.S. 186 (2013), *aff'd on other grounds*, 743 F.3d 322 (2d Cir. 2014). I held that the stop and subsequent detention of the defendant after he left the residence that was about to be searched was permissible pursuant to *Michigan v. Summers*, 452 U.S. 692 (1981). I alternatively concluded that the stop and detention were supported by reasonable suspicion and were therefore lawful under *Terry v. Ohio*, 392 U.S. 1 (1968). The Second Circuit affirmed that decision. However, the Supreme Court reversed and remanded, holding that the *Summers* rule is spatially limited to the immediate vicinity of the premises to be searched. On remand, the Second Circuit affirmed the conviction on alternative grounds, holding that (1) the stop and detention was supported by reasonable suspicion and (2) although the district court erred in ruling that the handcuffing of defendant was permissible under *Terry*, the admission of defendant's subsequent statements was harmless.

Wurtz v. Rawlings Co. LLC, 933 F. Supp. 2d 480 (E.D.N.Y. 2013), *vacated and remanded*, 761 F.3d 232 (2d Cir. 2014). I concluded (following the reasoning of the Third, Fourth, and Fifth Circuits) that the plaintiffs' claims (seeking to enjoin insurers under New York General Obligation Law Section 5-335 from obtaining reimbursement of medical benefits from plaintiffs' tort settlements) were preempted by ERISA and that, because the plaintiffs had not exhausted their administrative remedies and because the terms of their plans allowed for reimbursement, the claims could not proceed. The Second Circuit reversed, concluding that the Class Action Fairness Act provided a basis for federal subject matter jurisdiction and that the plaintiffs' claims were neither expressly nor completely preempted by ERISA.

Paulsen ex rel. N.L.R.B. v. Remington Lodging & Hosp., LLC, No. 13 Civ. 2539, 2013 WL 4119006 (E.D.N.Y. Aug. 14, 2013), *aff'd in part, rev'd in part, and remanded*, 773 F.3d 462 (2d Cir. 2014). I held, in relevant part, that an injunction under Section 10(j) of the National Labor Relations Act ordering the immediate reinstatement of certain

discharged employees was unwarranted because of the delay in seeking the injunction and because the defendant had already offered (or would soon offer) reinstatement to the discharged employees. The Second Circuit concluded that I should have granted the injunction, but that the injunction was unnecessary by the time of the Second Circuit's decision because each of the eligible employees had been offered reinstatement. However, the Second Circuit concluded that it was error to decline to order the reinstatement of a specific employee (or re-employment on the same terms and conditions as her prior employment) who, at the time of the motion for a preliminary injunction, had not been offered reinstatement and was not within the group of employees that the defendant intended to offer reinstatement.

Fishman ex rel. Fishman v. Daines, No. 09 Civ. 5248, 2014 WL 4638962 (E.D.N.Y. Sept.16, 2014), *rev'd sub nom. Fishman v. Paolucci*, 628 F. App'x 797 (2d Cir. 2015). In this case, Medicaid recipients brought an action against New York State officials alleging that the termination of their benefits without post-default notice violated the Due Process Clause of the Fourteenth Amendment and the Medicaid Act's fair hearing provision, 42 U.S.C. § 1396a(a)(3). In denying plaintiffs' motion for a preliminary injunction, I concluded, *inter alia*, that the standard for determining whether plaintiffs were likely to succeed on the merits was the same under the Due Process Clause and the Medicaid Act's fair hearing provision. The Second Circuit concluded that I erroneously held that the standards were the same, and remanded for a determination as to whether the scope of the Medicaid Act's provision was broader than the Due Process Clause with respect to the immediate dismissal of appeals and termination of benefits when a beneficiary defaults.

United States v. Martinez, 978 F. Supp. 2d 177 (E.D.N.Y. 2013), *aff'd in part and vacated in part sub nom. United States v. Prado*, 815 F.2d 93 (2d Cir. 2016) and *United States v. Prado*, 634 F. App'x 323 (2d Cir. 2016). The Second Circuit affirmed the convictions of two defendants for, *inter alia*, murder in aid of the MS-13 street gang, with the exception of one firearm count because the jury instruction on that count was erroneous in light of the United States Supreme Court's intervening decision in *Rosemund v. United States*, 134 S. Ct. 1240 (2014).

Zarda v. Altitude Express, Inc., No. 10 Civ. 4334 (oral decision), *aff'd*, 855 F.3d 76 (2d Cir. 2017), *rev'd en banc*, 883 F.3d 100 (2d Cir. 2018). Consistent with binding Second Circuit precedent (*Simonton v. Runyon*, 232 F.3d 33 (2d Cir. 2000)), I held that claims based on sexual orientation cannot be brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* The Second Circuit affirmed, and noted that *Simonton* could be overturned only by an en banc determination to do so. The Second Circuit also affirmed my decision to deny the plaintiff's motion for a new trial on his state law sexual orientation discrimination claim (on which the jury found in favor of the defendant). The Second Circuit then granted rehearing en banc, overturned *Simonton*, and held that Title VII prohibits discrimination based on sexual orientation.

Conte v. County of Nassau, No. 06 Civ. 4746, 2013 WL 3878738 (E.D.N.Y. July 26, 2013), *aff'd in part and vacated in part*, 596 F. App'x 1 (2d Cir. 2014), *on remand* 2015

WL 1529787 (E.D.N.Y. Apr. 2, 2015), *vacated and remanded*, 647 F. App'x 13 (2d Cir. 2016), *on remand* 2017 WL 837691 (E.D.N.Y. Mar. 3, 2017), *rev'd and remanded*, 895 F.3d 168 (2d Cir. 2018). After a jury found in favor of plaintiff, I granted the defendants' Rule 50(b) motion, finding that one defendant was entitled to judgment as a matter of law on a false arrest claim and other defendants were entitled to judgment as a matter of law on tortious interference claims (on statute of limitations grounds). The Second Circuit affirmed my decision with respect to the false arrest claim, but reversed the decision on the tortious interference claims because the defendants' "late-raised statute of limitations defense" required factual questions to have been submitted to the jury. The Second Circuit concluded that "because the defendants do not raise any reason for a new trial on appeal, we see no reason to deprive [Conte] of the benefit of the jury's verdict," and remanded for the district court to consider plaintiff's motion for a new trial on damages. On remand, I denied plaintiff's motion for a new trial on damages and declined to consider defendants' other Rule 50 arguments challenging the jury's verdict because they were waived and were beyond the Second Circuit's remand directive. On appeal, the Second Circuit affirmed the denial of plaintiff's motion for a new trial, but concluded that I should consider defendants' remaining Rule 50 arguments. In concluding that I erred in finding that the mandate was limited, the Second Circuit noted that "the district court's confusion is understandable given the drafting and arguable resulting ambiguity of our summary order." On remand, I denied defendants' remaining Rule 50 arguments because defendants had waived them by not raising them with specificity during the trial. On appeal, the Second Circuit reversed and held that plaintiff had waived the waiver argument, and that the evidence at trial was insufficient for the jury to rationally find (1) that defendants acted with the purpose of inducing third parties to breach the contracts at issue or (2) that, but for their actions, the third party contracts would not have been breached.

Leskinen v. Halsey, No. 12 Civ. 0623, 2013 WL 801128 (E.D.N.Y. Mar. 5, 2013), *aff'd on other grounds*, 571 F. App'x 36 (2d Cir. 2014). I adopted a report and recommendation from the magistrate judge assigned to the case, which recommended that the case be dismissed for lack of subject matter jurisdiction. The Second Circuit concluded that subject matter existed, but affirmed on the grounds that the plaintiff had failed to state a federal claim for relief and that diversity jurisdiction was lacking.

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 opinions I have issued are available in the court records maintained by the Clerk of the Court for the Eastern District of New York or (for those cases where I have sat by designation) the Clerk of the Court for Second Circuit Court of Appeals. These opinions are generally available through PACER. With respect to oral rulings from the bench, PACER has docket entries for such rulings whereby a person can request a transcript of the oral ruling.

Some of my opinions are available through electronic databases including Westlaw and LEXIS. A search of Westlaw conducted October 29, 2018, lists 1,344 opinions, 356 (approximately 26%) of which are reported. A search of LEXIS conducted October 29, 2018, lists 1,538 opinions, 364 (approximately 23%) of which are reported.

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. In addition to the opinions already identified in response to other questions, the following are significant opinions on constitutional issues.

United States v. Juvenile Male, 968 F. Supp. 2d 490 (E.D.N.Y. 2013).
Genovese v. Town of Southampton, 921 F. Supp. 2d 8 (E.D.N.Y. 2013).
United States v. Schaefer, 859 F. Supp. 2d 397 (E.D.N.Y. 2012).
DeFabio v. East Hampton Union Free Sch. Dist., 658 F. Supp. 2d 461 (E.D.N.Y. 2009),
aff'd, 623 F.3d 71 (2d Cir. 2010).
Kelly v. Huntington Union Free Sch. Dist., 675 F. Supp. 2d 283 (E.D.N.Y. 2009).
Vassallo v. Lando, 591 F. Supp. 2d 172 (E.D.N.Y. 2008).
Mac Ineirghe v. Bd. of Educ. of East Islip Union Free Sch. Dist., No. 05 Civ. 4324, 2007 WL 2445152 (E.D.N.Y. Aug. 22, 2007).

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

I have sat by designation on the United States Court of Appeals for the Second Circuit.

I authored the following opinion:

Leibowitz v. Cornell Univ., 584 F.3d 487 (2d Cir. 2009).

In this case, the plaintiff brought claims against the defendant, Cornell University, under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, and various state laws. The district court granted the defendant's motion for summary judgment. In my opinion vacating the district court's decision in part and remanding the case for further proceedings, I determined that the non-renewal of plaintiff's employment contract was an adverse employment action, that the plaintiff had established a prima facie case of age and gender discrimination, and that the plaintiff had raised genuine issues of material fact regarding discriminatory pretext.

Below is a list of citations to all cases where I sat by designation but did not author the court's opinion.

Thomas v. iStar Fin., Inc., 652 F.3d 141 (2d Cir. 2011)
United States v. Reed, 421 F. App'x 113 (2d Cir. 2011)
Beekhan v. Holder, 634 F.3d 723 (2d Cir. 2011)

Bernheim v. Elia, 410 F. App'x 407 (2d Cir. 2011)
In re Wilson, 410 F. App'x 409 (2d Cir. 2011)
Thomas v. iStar Fin., Inc., 629 F.3d 276 (2d Cir. 2010)
Close-Up Int'l, Inc. v. Berov, 382 F. App'x 113 (2d Cir. 2010)
Lindsay v. Ass'n of Prof'l Flight Attendants, 581 F.3d 47 (2d Cir. 2009)
D'Jamoos v. Griffith, 340 F. App'x 737 (2d Cir. 2009)
H.C. ex rel. L.C. v. Colton-Pierrepoint Cent. Sch. Dist., 341 F. App'x 687 (2d Cir. 2009)
Gates v. Astrue, 338 F. App'x 46 (2d Cir. 2009)
Palacio v. Goord, 338 F. App'x 37 (2d Cir. 2009)
United States v. Stahl, 337 F. App'x 31 (2d Cir. 2009)
Harry v. Rodriguez, 337 F. App'x 17 (2d Cir. 2009)
Transportes Navieros y Terrestres S.A. de C.V. v. Fairmount Heavy Transport, N.V., 572 F.3d 96 (2d Cir. 2009)
Berrios v. New York City Hous. Auth., 564 F.3d 130 (2d Cir. 2009)
Jenn-Ching Luo v. Town of Hempstead, 316 F. App'x 77 (2d Cir. 2009)
In re Doe, 317 F. App'x 54 (2d Cir. 2009)
John v. New York City Dep't of Educ., 313 F. App'x 404 (2d Cir. 2009)
Johnson v. United States, 313 F. App'x 405 (2d Cir. 2009)
United States v. Tito, 313 F. App'x 402 (2d Cir. 2009)
Butler v. Cunningham, 313 F. App'x 400 (2d Cir. 2009)
Scott v. Celco P'ship, 312 F. App'x 436 (2d Cir. 2009)
Bogle-Assegai v. Cent. Conn. State Univ., 312 F. App'x 435 (2d Cir. 2009)
Grant v. Woods, 313 F. App'x 376 (2d Cir. 2009)
Kin Long Ko v. Holder, 312 F. App'x 429 (2d Cir. 2009)
Briarpatch Ltd. LP v. Phoenix Pictures, Inc., 312 F. App'x 433 (2d Cir. 2009)
Coastal Distribution, LLC v. Town of Babylon, 216 F. App'x 97 (2d Cir. 2007)
Bernas v. Cablevision Sys. Corp., 215 F. App'x 64 (2d Cir. 2007)
Versace v. Versace, 213 F. App'x 34 (2d Cir. 2007)
Gao Yan Chen v. Gonzoles, 211 F. App'x 57 (2d Cir. 2007)
Hartford Aircraft Lodge 743, Int'l Ass'n of Machinists & Aerospace Workers v. Hamilton Sundstrand Corp., 213 F. App'x 31 (2d Cir. 2007)
Hossain v. Gonzales, 211 F. App'x 35 (2d Cir. 2007)
Huangyan Import & Export Corp. v. U.S., 211 F. App'x 43 (2d Cir. 2007)
United States v. Aspinall, 211 F. App'x 41 (2d Cir. 2007)

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.

As a federal district judge, consistent with the Code of Conduct for United States Judges and 28 U.S.C. Section 455, I disqualify myself in specific circumstances mandated by the statute, as well as in any case where my impartiality might reasonably be questioned.

My court has available an “automatic” electronic recusal system by which my docket can be monitored to assess whether any of the cases assigned to me involves a party who is listed on a standard recusal list because of a financial or personal relationship. However, because I have owned no stock during my judicial tenure and have no relatives who are attorneys, this system is of limited value in my situation and, therefore, I have not utilized it. Instead, I review each case that is assigned to me to determine whether there is some basis for recusal. I recuse myself in any case where I have a significantly close relationship or other association with an attorney, a party, or a witness (whether personal or business). This includes relationships that exist based upon my adjunct teaching positions at area law schools, as well as my position as a Catholic Deacon in the Diocese of Rockville Centre. Almost all of these recusals are *sua sponte* based upon my own review of the case.

In preparing this application, I have searched for recusal orders and formal recusal motions in our electronic court filing system. If an informal request for recusal was made in a case, I have no mechanism (other than memory) by which to identify such requests among the over 4,000 cases that I have presided over. If I had a memory of any such requests, I included them in the list. Moreover, we are not required to state the reason for recusal in the recusal order and, for one of my *sua sponte* recusals, I cannot identify from the docket (or my own memory) what the basis was for my *sua sponte* recusal. However, it would have fallen into one of the categories identified above.

A list of cases where I recused is supplied at Appendix 14.

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.

None.

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 was a volunteer for Students for Jack Kemp for President (1988). In approximately 1987 to 1988, in that capacity, I assisted in recruiting college students to support Congressman Kemp's campaign, including by giving a few talks on college campuses in the Washington, D.C. area. I was also a volunteer intern in college at the Fund for an American Renaissance, which is a foundation that Congressman Kemp founded.

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 clerked for the Honorable Peter K. Leisure in the United States District Court for the Southern District of New York from 1992 to 1993.

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

I have never practiced alone.

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

1991 – 1992; 1993 – 1994
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Associate

1994 – 2003
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Assistant United States Attorney

2003 – 2004
Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022

Counsel in the Litigation Department

2002 – 2004

Fordham University School of Law
150 West 62nd Street
New York, New York 10023
Adjunct Professor

2004 – 2006

United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Senior Counsel to the Assistant Attorney General (2004)
Deputy Assistant Attorney General (2004 – 2006)

2007 – 2014

Touro College Jacob D. Fuchsberg Law Center
225 Eastview Drive
Central Islip, New York 11722
Adjunct Professor

2009 – 2013

Maurice A. Deane School of Law at Hofstra University
121 Hofstra University
Hempstead, New York 11549
Adjunct Professor

2006 – present

St. John's University School of Law
8000 Utopia Parkway
Queens, New York 11439
Adjunct Professor

2006 – present

United States District Court for the Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722
United States District Judge

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

I have never served as a mediator or arbitrator.

b. Describe:

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

Upon graduating from Columbia University Law School, I worked as an associate in the Litigation Department of Simpson Thacher & Bartlett. In that capacity, I was involved in all types of general litigation matters in various areas of law, including securities, insurance, and contracts. I also returned to the firm in October 1993 (after my clerkship) and continued with that same type of litigation work until I became a federal prosecutor.

As an Assistant United States Attorney in the Criminal Division, I participated in the prosecution of criminal matters from inception to completion, including grand jury presentations, pre-trial hearings, trials, and briefs and oral arguments in the United States Court of Appeals for the Second Circuit. The subject matters of the prosecutions included, among other things, white collar fraud, narcotics, organized crime, and terrorism.

I also served as the Deputy Chief (2000 to 2002) and then Chief (2002 to 2003) of the Organized Crime and Terrorism Unit. In that capacity, I participated in, and supervised attorneys responsible for, the investigation and prosecution of complex organized crime and terrorism cases, including the investigations and/or prosecutions relating to the September 11th terrorist attacks, the anthrax attacks, the Lynne Stewart case, the Millennium bombing plot, and the activities of various members and associates of the al Qaeda terrorist network.

I also served as the Deputy Chief of the General Crimes Section in 1999. In that position, I supervised new prosecutors on all types of criminal investigations and prosecutions.

In February 2003, I joined Debevoise & Plimpton LLP as Counsel in the Litigation Department. At Debevoise, I participated in internal investigations on behalf of corporations regarding allegations of, among other things, various fraudulent or improper accounting practices. I also participated in the representation of large corporations and individual corporate executives in connection with both civil and criminal investigations by various entities, including the U.S. Department of Justice, the Securities and Exchange Commission, and the New York State Attorney General's Office. I was also involved in representing companies on complex civil litigation matters, including securities-related claims and breach of contract claims. Finally, I assisted a partner (who was assigned to the Criminal Justice Act Panel) in representing indigent defendants in several federal criminal cases in the Southern District of New York.

In 2004, I joined the Criminal Division of the United States Department of Justice. I served as Senior Counsel from September 2004 to December 2004, and

as Deputy Assistant Attorney General from December 2004 to January 2006. As a Deputy Assistant Attorney General in the Criminal Division, I supervised and managed the following Criminal Division components under the direction of the Assistant Attorney General: (1) Counterterrorism Section (investigates and prosecutes international and domestic terrorism matters); (2) Fraud Section (litigates major fraud matters, including corporate fraud, securities fraud, and health care fraud); (3) Appellate Section (reviews all government appeals in criminal cases and handles other complex legal issues); and (4) Capital Case Unit (coordinates Department's capital case review process). In that capacity, I supervised sections involved in the investigation and prosecution of hundreds of criminal matters.

Finally from 2002 through the present, I have served as an Adjunct Professor at Fordham Law School, St. John's University School of Law, the Maurice A. Deane School of Law at Hofstra University, and the Touro Jacob D. Fuchsberg Law Center. I have taught courses on Counterterrorism, National Security, and Criminal Procedure, among other topics.

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

In private practice, I was involved primarily in the representation of large U.S. corporations or individuals employed at such corporations. While serving at the United States Attorney's Office for the Southern District of New York and at the United States Department of Justice in Washington, D.C., my client was the United States of America.

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.

As an Assistant United States Attorney from 1994 to 2003, I appeared in court frequently.

As counsel at Debevoise & Plimpton LLP, I appeared in court occasionally on Criminal Justice Act matters representing indigent defendants.

As an associate at Simpson Thacher & Bartlett LLP in the early 1990s, I did not appear in court with the exception of one state appellate court matter.

With respect to my positions in the Department of Justice in Washington, D.C., from 2004 to 2006, I did not appear in court.

i. Indicate the percentage of your practice in:

1. federal courts:	<u>100</u> %
2. state courts of record:	___%

- 3. other courts: _____%
- 4. administrative agencies: _____%

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 25%
- 2. criminal proceedings: 75%

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. What percentage of these trials were:

- 1. jury: 100%
- 2. non-jury: _____%

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.

None.

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. Haouari*, No. 00 Cr. 0015 (S.D.N.Y. 2001).

I was one of two prosecutors who participated in the trial of Mokhtar Haouari in connection with, among other things, Haouari's participation in a conspiracy to provide material support to Ahmed Ressam in a failed plot to bomb LAX airport around the time of the Millennium. Haouari was convicted at trial of the material support conspiracy and various fraud charges, and sentenced to 24 years' imprisonment.

Judge: Honorable John F. Keenan

Co-Counsel

Robin L. Baker

[formerly with the United States Attorney's Office for the Southern District of New York]

JPMorgan Chase & Co.

4 Chase Metrotech Center, Floor 22

Brooklyn, New York 11245

(718) 242-0748

Defense Counsel

Daniel J. Ollen

Law Offices of Daniel J. Ollen

1140 Avenue of the Americas, 9th Floor

New York, New York 10036

(212) 619-1245

2. *United States v. Sattar*, No. 02 Cr. 0395 (S.D.N.Y. 2002).

Prior to leaving the United States Attorney's Office in 2003, I was the lead prosecutor in the case involving defendant Ahmed Sattar and two co-defendants (including Lynne Stewart), charging them with providing material support to a terrorist organization called the Islamic Group by, among other things, passing messages from the imprisoned spiritual leader to the terrorist group. Sattar and his two co-defendants were convicted at trial in February 2005.

Judge: Honorable John G. Koeltl

Co-Counsel

Chris Morvillo

[formerly with the United States Attorney's Office for the Southern District of New York]

Clifford Chance

31 West 52nd Street

New York, New York 10019

(212) 878-8000

Robin L. Baker

[formerly with the United States Attorney's Office for the Southern District of New York]

JPMorgan Chase & Co.

4 Chase Metrotech Center, Floor 22

Brooklyn, New York 11245

(718) 242-0748

Defense Counsel

Kenneth Paul

140 Broadway, Suite 4610

New York, New York 10005

(212) 587-8000

Barry M. Fallick (deceased)

3. *United States v. James*, No. 97 Cr. 0185 (S.D.N.Y. 1998).

I was co-counsel for the United States in the trial of Kent Adam James for, among other things, his illegal possession and manufacture of explosives, including hand grenades, pipe bombs, and firearms. James was convicted at trial and sentenced to approximately 30 years' imprisonment.

Judge: Honorable Sonia M. Sotomayor

Co-Counsel

Eric S. Seidel

[formerly with the United States Attorney's Office for the Southern District of New York]

DeVore & DeMarco, LLP

99 Park Avenue, Suite 1100

New York, New York 10016

(212) 922-9499

Defense Counsel

Howard R. Leader

Law Office of Howard R. Leader

381 Park Avenue South

New York, New York 10016

(212) 753-3794

4. *United States v. Bokun*, No. 95-2037-cr (2d Cir. 1995).

I represented the United States in an appeal before the United States Court of Appeals for the Second Circuit and successfully argued that the District Court's reduction of the defendant's sentence was without legal authority. William Bokun was charged and convicted along with nine co-defendants in connection with their membership in the "Westies," a violent organized crime group that operated primarily in the Hell's Kitchen neighborhood on the West Side of Manhattan.

District Judge: Honorable Percy Whitman Knapp

Circuit Judges: Honorable Jon O. Newman, Honorable J. Edward Lumbard, Honorable Ellsworth Van Graafeiland

Defense Counsel

Austin Campriello

Bryan Cave LLP

1290 Avenue of the Americas

New York, New York 10104

(212) 541-2000

5. *United States v. Ermichine*, No. 99 Cr. 0419 (S.D.N.Y. 2001).

I was the lead prosecutor in the trial of Vasily Ermichine and a co-defendant who were charged with participating in a conspiracy to rob a jewelry store in New Jersey. Both defendants were convicted at trial.

Judge: Honorable Lawrence M. McKenna

Co-Counsel

Michael McGovern
Ropes & Gray
1211 6th Avenue
New York, New York 10036
(212) 841-8860

Defense Counsel

Valerie Amsterdam
Amsterdam Solutions
(877) 637-9599

6. *United States v. Defede*, No. 98 Cr. 0373 (S.D.N.Y. 1998)

I represented the United States in the prosecution of the Acting Boss of the Luchese Organized Crime Family (as well as numerous co-defendants) in connection with the racketeering activity related to the extortion of businesses in New York City's Garment Center. Joseph Defede pleaded guilty and subsequently became an important cooperating witness for the Government.

Judge: Honorable Lewis A. Kaplan

Defense Counsel

Stanley Teitler (deceased)

Barry J. Teller
5353 Quailridge Drive
Camarillo, California 93012
(917) 841-3687

7. *United States v. Tortorello*, No. 97 Cr. 0056 (S.D.N.Y. 1997)

I represented the United States in the prosecution of Luchese Family captain Anthony Tortorello, along with numerous co-defendants, for his participation in a robbery crew from 1995 through 1997 that was involved in a series of armed robberies in the New York City area. Tortorello pleaded guilty and was sentenced to approximately 10 years' imprisonment.

Judge: Honorable Thomas P. Griesa

Defense Counsel

Mathew J. Mari
Law Offices of Mathew J. Mari
30 Wall Street, 8th Floor
New York, New York 10005
(212) 227-5335

Gail E. Laser
Law Office of Gail E. Laser
Post Office Box 566
Park City, Utah 84060
(435) 608-0304

8. *United States v. Solomon*, No. 95 Cr. 0154 (S.D.N.Y. 1996)

I was co-counsel for the United States in the prosecution of Amir Solomon and his wife in connection with a massive marriage fraud ring designed to evade immigration laws. Both defendants were convicted after trial.

Judge: Honorable Loretta A. Preska

Co-Counsel

Thomas Rubin
Quinn Emmanuel Urquhart & Sullivan LLP
600 University Street, Suite 2800
Seattle, Washington 98101
(206) 328-9669

Defense Counsel

Paul J. Madden (deceased)

Anthony Ricco
20 Vesey Street, Room 400
New York, New York 10007
(212) 791-3919

9. *United States v. Chen*, No. 97 Cr. 0190 (S.D.N.Y. 1997)

I represented the United States in the prosecution of Hang Sen Chen in connection with an indictment charging him with participating in the gang murder of an individual at a supermarket in the Chinatown section of Manhattan. The defendant pleaded guilty to his participation in the murder.

Judge: Honorable John E. Sprizzo

Defense Counsel

Martin R. Stolar
80 Eighth Avenue, 8th Floor
New York, New York 10011
(212) 219-1919

10. *United States v. Sheng*, No. 97 Cr. 0100 (S.D.N.Y. 1997)

I represented the United States in the prosecution of Zheng Wei Sheng and his co-defendants who were charged in connection with the kidnapping of an 11-year old boy from his home in Meriden, Connecticut. Zheng Wei Sheng (and his co-defendants) pleaded guilty.

Judge: Honorable Kimba M. Wood

Defense Counsel

Lawrence D. Gerzog
Law Offices of Lawrence D. Gerzog
40 Fulton Street, 23rd Floor
New York, New York 10038

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 the cases set forth above, I have been involved in numerous other significant investigations and prosecutions in connection with terrorist activities, including the investigations arising from the September 11th attacks. I have also personally participated in, and supervised, numerous investigations and prosecutions into various organized crime groups in the New York City area, including Asian gangs, Russian organized crime, and La Cosa Nostra. I also prosecuted numerous narcotics cases while in the United States Attorney's Office for the Southern District of New York.

I have also participated in significant civil litigation, including Securities and Exchange Commission investigations and complex litigation between private litigants relating to a variety of areas of the law, including securities law, contract law, and insurance law.

With respect to non-litigation matters, I have taught (and continue to teach) Counterterrorism Law, among other courses.

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.

Advanced Trial Advocacy: Argumentation, St. John's University School of Law – 2016.
Syllabus supplied.

Counterterrorism Law, St. John's University School of Law – 2011, 2012, 2013, 2014, 2016,
2017, 2018. Syllabi supplied.

Criminal Procedure: Adjudication, St. John's University School of Law – 2017, 2018. Syllabus
supplied.

Criminal Procedure: Sentencing/Post-Conviction, St. John's University School of Law – 2015,
2016, 2017, 2018. Syllabi supplied.

Drafting: Federal Criminal Practice, St. John's University School of Law – 2011, 2014, 2015.
Syllabi supplied.

National Security and the Law, Maurice A. Deane School of Law at Hofstra University – 2009,
2010, 2012, 2013. Syllabi supplied.

National Security and the Law, St. John's University School of Law – 2006, 2007, 2008, 2009,
2010. Syllabi supplied.

National Security and the Law, Touro Law Center – 2007, 2008 (spring and summer), 2009,
2010, 2011, 2012, 2013, 2014. Syllabi supplied.

Terrorism and the Law, Fordham University School of Law – 2002, 2003, 2004. I have supplied
the syllabus that I believe I utilized for each semester I taught at Fordham.

Over the past ten years, I also have taught, on a voluntary basis, religious education to
elementary school students once a week, and one summer course to Catholic school teachers. I
do not have a syllabus for these courses.

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

I am a participant in the Federal Employees Retirement System as a result of my government
service in the United States Department of Justice.

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 expect to continue teaching as an Adjunct Professor at St. John's University School of Law, as well as to continue my involvement in the various civics education programs that I have organized on Long Island.

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

When my nomination is formally submitted to the Senate and I file my Financial Disclosure Report, I will supplement this Questionnaire with a copy of that Report.

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

Please see attached financial 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.

Having served as a United States District Court Judge since 2006, I expect to have few conflicts, other than cases involving the law school(s) at which I teach, the law firm where my son will be employed, and the Roman Catholic Church (including its affiliated entities). In the event that any of those entities is a party to litigation pending before me, I would recuse myself consistent with the Code of Conduct for United States Judges, and any other laws, rules, and practices governing such circumstances.

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

I will continue to carefully review and address any actual or potential conflicts of interest by reference to the Code of Conduct for United States Judges, and any other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

In 1989, as a summer associate at Fried, Frank, Harris, Shriver & Jacobson LLP, I dedicated approximately 25 to 50 hours to conducting legal research in connection with representing an indigent defendant in a death penalty case in Florida.

As an associate at Simpson Thacher & Bartlett LLP from 1991 to 1992, I spent approximately 30 to 40 hours working with Brooklyn high school students in connection with the New York City Board of Education's Mentor Law Partnership. More specifically, I visited Sheepshead Bay High School on multiple occasions to assist students in preparing for a moot court and a mock trial competition. I also worked on other pro bono matters at Simpson Thacher.

From 2003 to 2004, while I was Counsel at Debevoise & Plimpton LLP, I dedicated approximately 50 to 75 hours to assisting in the representation of indigent defendants in federal court under the Criminal Justice Act.

I have not engaged in the practice of law since my appointment in 2006. Moreover, my role as a judge generally prohibits my involvement in traditional pro bono legal work. However, since becoming a judge in 2006, I have been actively involved in creating and organizing civics education programs on Long Island, as part of the Second Circuit's *Justice for All* initiative, including (among other things) the following: (1) creating a one-week summer program in 2016 at the Central Islip federal courthouse called The Justice Institute: Crime, the Constitution, and the Courts, which is run by the federal court in partnership with the Touro Law Center and the Federal Bar Association; (2) creating the Long Island Mentor Moot Court Competition in 2016 for high school students through a partnership between the Nassau County Bar Association, Hofstra University Law School, the Federal Bar Association, and the Justice Resource Center; (3) hosting hundreds of elementary school field trips (involving over 10,000 students) over the last ten years at the Central Islip federal courthouse for students throughout Long Island; and (4) giving presentations at public libraries on Long Island about the federal courts.

26. **Selection Process:**

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

In June 2018, I received a telephone call from the White House Counsel's Office requesting that I interview in Washington, D.C. for an upcoming vacancy on the Second Circuit Court of Appeals. On June 13, 2018, I met with representatives from the White House Counsel's Office and the Department of Justice. On June 25, 2018, I was told that a background check would be conducted by the Federal Bureau of Investigation, and was asked to begin the processing of completing the Senate Judiciary Committee

Questionnaire for Judicial Nominees and other relevant documentation. Since then, I have been periodically in contact with representatives from the Department of Justice and the White House Counsel's Office regarding the nomination process.

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.