

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Hala Yalda Jarbou

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

United States District Court Judge for the Western District of Michigan

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.

Oakland County Circuit Court  
1200 North Telegraph Road  
Pontiac, Michigan 48341

Residence: West Bloomfield, Michigan.

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

1971; Telkif, Iraq

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.

1994 – 1997, Wayne State University Law School; J.D., 1997

1990 – 1994, The University of Michigan - Dearborn; B.B.A. (with *High Distinction*)

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.

2015 – Present  
Sixth Judicial Circuit, Oakland County  
1200 North Telegraph Road

Pontiac, Michigan 48341  
Circuit Court Judge

2010 – 2015  
United States Attorney's Office, Eastern District of Michigan  
211 West Fort Street  
Detroit, Michigan 48226  
Assistant United States Attorney

1997 – 2010  
Oakland County Prosecutor's Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
Assistant Prosecuting Attorney

2005  
Oakland University, Paralegal Program  
2200 North Squirrel Road  
Rochester, Michigan 48309  
Associate Professor

1997; 1996  
Wayne County Prosecutor's Office  
1441 St. Antoine  
Detroit, Michigan 48226  
Contract Attorney (1997)  
Intern Supervisor (1996)  
Intern (1996)

1996  
Carson Fischer, P.L.C.  
4111 Andover Road, West – 2nd Floor  
Bloomfield Hills, Michigan 48302  
Summer Associate

1995 – 1996  
Wayne State University Law School – Free Legal Aid Clinic  
5425 Woodward Avenue  
Detroit, Michigan 48202  
Student Attorney (uncompensated)

1995  
Oakland County Probate Court, Hon. Joan E. Young  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
Law Clerk

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

I have not served in the military. I have not registered for selective service; I am female and am not required to register.

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.

Chaldean American Bar Association's Pillar of Justice Award (2018)

2018 International Women's Day Honoree, ATA National Title Group, LLC (2018)

United States Attorney's Office for the Eastern District of Michigan Service Award (2015)

Top Ten Oralist, Wayne State University Law School Law Day Moot Court Competition (1996)

Top Ten Brief Writer, Wayne State University Law School Arthur Neef Memorial Moot Court Competition (1995)

High Pass, Wayne State University Law School Legal Research & Writing Class (1995)

Board of Governors Scholarship, Wayne State University Law School (1994 – 1997)

Ruth & Mitchell Bacow Scholarship, Wayne State University Law School (1994 – 1995)

Honors Program, The University of Michigan - Dearborn (1990 – 1994)

Chancellor's Medallion, The University of Michigan - Dearborn (1994)

Michigan Association of Governing Boards Outstanding Student Award, The University of Michigan - Dearborn (1994)

Undergraduate Excellence Award, The University of Michigan - Dearborn (1994)

Dean's List Honors, The University of Michigan - Dearborn (1990 – 1994)

Class Honors, The University of Michigan - Dearborn (1990 – 1994)

Chancellor's Scholarship, The University of Michigan - Dearborn (1990 – 1994)

William J. Branstrom Freshman Prize, The University of Michigan - Dearborn (1990 – 1991)

James B. Angell Scholar Award, The University of Michigan - Dearborn (1990 – 1991)

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

American Bar Association, Member (2018 – Present)

Chaldean American Bar Association, Member (1995 – 2010)

Federal Bar Association – Detroit Chapter, Member (2010 – Present)

Executive Board Member (2013 – 2018; 2018 – 2021)

Co-Chair Legal Ethics Committee (2017 – Present)

Co-Chair Criminal Practice Committee (2012 – Present)

Federalist Society, Member (2011 – Present)

Michigan Judges Association, Member (2015 – Present)

Michigan Supreme Court Committee on Model Criminal Jury Instructions, Member (2016 – Present)

Michigan Supreme Court, Michigan Judicial Institute Benchbook Editorial Advisory Committee (2018)

Michigan Supreme Court, Michigan Judicial Institute Circuit Court & Court of Appeals and District Court Academic Advisory Committee, Member (2017 – Present)

Oakland County Bar Association, Member (2015 – Present)

Oakland County Bar Foundation, Member (2015 – Present)

Inns of Court, Team Leader (2016 – 2019)

Oakland County Circuit Court, Adult Treatment Court, Presiding Judge (Male Participants), (2016 – 2018)

Oakland County Circuit Court, Criminal Assignment Committee (2018 – Present)

State Bar of Michigan, Member (1997 – Present)

State Bar of Michigan Foundation, Fellow (2015 – Present)  
Character & Fitness Committee (District I), Member (2017 – Present)  
Diversity & Inclusion Advisory Committee, Advisor (2015 – 2017)

State of Michigan Attorney Discipline Board, Hearing Panelist (2013 – 2015)

Women Lawyer's Association of Michigan, Member (2016 – Present)

10. **Bar and Court Admission:**

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

Michigan, 1997

There has been no lapse in my Michigan Bar membership.

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

United States District Court for the Eastern District of Michigan, 2010

From 2010 – 2015 when I practiced in the United States District Court for the Eastern District of Michigan, there was no lapse in my membership. I assume my membership lapsed in 2015 because I was appointed as a state trial court judge in 2015 and I was no longer practicing before the court.

11. **Memberships:**

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

Chaldean American Chamber of Commerce, Member (2017 – Present)

Chaldean American Ladies of Charity, Member (2000 – Present)

The University of Michigan School of Management Board of Governors (1997 – 2002)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

**12. Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Hon. Hala Jarbou, Testimonial, Chaldean Chamber of Commerce Website.  
January 11, 2019. Copy supplied.

Hon. Hala Jarbou, "Lessons Learned," Laches (Oakland County Bar Association publication), May 2016. Copy supplied.

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

None.

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

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the

date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

June 6, 2019: Panelist, Roundtable Question & Answer, "Springboard," State Bar of Michigan's Labor and Employment Law Section, Birmingham, Michigan. I have no notes, transcripts, or recordings. I answered questions from labor lawyers about the volume and type of labor law cases that come before me. The address for the State Bar of Michigan is 306 Townsend Street, Lansing, Michigan 48933.

May 23, 2019: Speaker (along with Assistant United States Attorney Saima Mohsin), "Building Confidence," Grosse Pointe South High School Softball Team, Grosse Pointe, Michigan. I have no notes, transcripts, or recordings. The discussion was about our history, career path, and how we have dealt with successes and failures as we've progressed through our profession. The address for Grosse Pointe South High School is 11 Grosse Pointe Boulevard, Grosse Pointe Farms, Michigan 48236.

May 9, 2019: Panelist, "Sentencing Law Update," Michigan Judges Conference, Michigan Supreme Court, Michigan Judicial Institute, Traverse City, Michigan. PowerPoint Presentation supplied.

April 15, 2019: Speaker, "Congratulations," Citizenship/Naturalization Ceremony (Magistrate Judge for the Eastern District of Michigan Anthony Patti presiding), United States District Court for the Eastern District of Michigan, Detroit, Michigan. I have no notes, transcripts, or recordings. The speech was about my immigrant roots and the opportunities available for all citizens. The address for the United States District Court for the Eastern District of Michigan is 211 West Lafayette Boulevard, Detroit, Michigan 48226.

March 22, 2019: Panelist, Importance of Pro Bono Work, Sterling Heights, Chaldean Community Foundation, Michigan. I have no notes, transcripts, or recordings. I, along with other judges, encouraged Chaldean lawyers to do more pro bono work with the Chaldean community. The address of the Chaldean Community Foundation is 3601 15 Mile Road, Sterling Heights, Michigan 48310. Press coverage supplied.

March 13, 2019: Moderator, Federal Bar Association Legal Ethics Committee Panel Discussion, "Ethics of Social Media & Technology," Detroit, Michigan. Copy of PowerPoint outline supplied.

October 25, 2018: Swearing-In Ceremony for New Chaldean Lawyer & Congratulatory Remarks, Oakland County Circuit Court, Pontiac, Michigan. I

have no notes, transcripts, or recordings. I swore in new lawyers and congratulated them. The address for the Oakland County Circuit Court is 1200 North Telegraph Road, Pontiac, Michigan 48341.

October 3, 2018 & October 12, 2016: Panelist, The University of Michigan Political Science Program, Politics & the Legal Profession, Ann Arbor, Michigan. I have no notes, transcripts, or recordings. The panel included two attorneys (David Williams and Robert Morad, both of whom are friends and former colleagues) and I discussing our backgrounds and our legal practices; the class was taught by David Williams' wife, Deborah Horner. The address for The University of Michigan, Ford School of Government is 735 South State Street, Ann Arbor, Michigan 48109.

September 28, 2018: Panelist, Careers in Law & Criminal Justice, Wayne State University's Warrior Vision and Impact Program (VIP), Detroit, Michigan. I have no notes, transcript, or recordings. The address for Wayne State University is 42 West Warren Avenue, Detroit, Michigan 48202.

June 13, 2018: Honoree, Pillar of Justice Award, Chaldean American Bar Association's (CABA) 25th Anniversary Scholarship & Awards Dinner, West Bloomfield, Michigan. Remarks supplied. Press coverage supplied.

March 8, 2018: Honoree, 2018 International Women's Day Honoree, ATA National Title Group, LLC, Bloomfield Hills, Michigan. Notes supplied.

January 4, 2018: Speaker & Officiated Swearing-In of the President of the Southeastern Michigan Association of Chiefs of Police, Shelby Township, Michigan. Remarks supplied.

August 30, 2017: Roundtable Question & Answer, "Professionalism in Action," Cooley Law School First Year Orientation, Auburn Hills, Michigan. I have no notes, transcripts, or recordings. I led a discussion at a table of first year law students discussing ethics and reputation in the legal profession. The address to Cooley Law School is 2630 Featherstone Road, Auburn Hills, Michigan 48326.

August 17, 2017: Speaker, Meridian Conference Regarding Treatment Courts, "Building a Bridge," Flint, Michigan. PowerPoint Presentation supplied.

May 23, 2017: Speaker, Oakland County Bar Association & Oakland County Circuit Court Mass Swearing-In of New Lawyers, Pontiac, Michigan. Remarks supplied.

March 1, 2017: Panelist (Question & Answer format), Chaldean Chamber of Commerce Industry Outlook: Women Leaders in the Chaldean Community, Birmingham, Michigan. I have no notes, transcripts or recordings. I, along with other panelists, discussed the obstacles we encountered as females in our



profession. The address of the Chaldean Chamber of Commerce is 30095 Northwestern Highway, Suite 101, Farmington Hills, Michigan 48334. Press coverage supplied.

February 9, 2017: Panelist, "Introduction to Practice in Oakland County Circuit Court," Oakland County Bar Association, Bloomfield Hills, Michigan. I have no notes, transcripts, or recordings. I was on a panel with other judges from my bench discussing the "dos and don'ts" of practice in our court. The address for the Oakland County Bar Association is 1760 South Telegraph Road Suite #100, Bloomfield Hills, Michigan 48302.

January 11, 2017: Remarks, Michigan Judicial Institute New Judges Seminar, Dos & Don'ts for New Judges, Lansing, Michigan. I have no notes, transcripts, or recordings. As a new judge myself, I gave brief remarks about my experience and advice on what to do and what not to do as a new judge. The address for the Michigan Supreme Court is 925 West Ottawa Street, Lansing, Michigan 48915.

June 8, 2016: Mock Trial Judge (for 3rd graders), Brooklands Elementary School, Rochester Hills, Michigan. I have no notes, transcripts, or recordings. I acted as a judge in a mock trial in a class of 3rd graders; the students acted out a scenario their teachers had prepared. I also discussed with the children what careers they wanted to pursue when they grew up and answered questions about my job. The address for Brooklands Elementary School is 490 East Auburn Road, Rochester Hills, Michigan 48307.

March 22, 2016: Remarks, Rochester Bar Association, Rochester, Michigan. I have no notes, transcripts, or recordings. I discussed my background and my courtroom protocol with members of the Rochester Bar Association. The address for the Rochester Bar Association is 420 West University Drive, Rochester, Michigan 48307.

January 20, 2016: Speaker, Judicial Investiture Ceremony of the Honorable Hala Jarbou, Pontiac, Michigan. Available at <https://www.youtube.com/watch?v=MrRG9hLeeHo>

September & March 2015: Lecture, "Cooperating & Accomplice Witnesses," The National Advocacy Center, Columbia, South Carolina. Copy of lecture supplied.

May 2014: Lecture, "Direct Examination," The National Advocacy Center, Columbia, South Carolina. I have no notes, transcripts, or recordings. I discussed effective direct examinations. The address of the National Advocacy Center is 1620 Pendleton Street, Columbia, South Carolina 29201.

2001 – 2008: Lecture, "Basic Constitutional Law," Oakland Police Academy, Auburn Hills, Michigan. I have no notes, transcripts, or recordings. Every year, I

gave a one-to-two-hour lecture on the basics of constitutional law. The address of Oakland Police Academy is 2900 Featherstone Road, Auburn Hills, Michigan 48326.

August 2005: Speaker, "Know the Risks," Colombiere Christian Conference Center, Clarkston, Michigan. I have no notes, transcripts, or recordings. This was at a church retreat for a youth group from my uncle's church (Father Stephen Kallabat). I discussed my job and some of the issues I saw teenage girls encountering in the criminal justice system, whether as a victim or as an offender. The address for the Colombiere Christian Conference Center is 9075 Big Lake Road, Village of Clarkston, Michigan 48346.

- 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.

Rachel Sedlacek, *Q&A with Judge Jarbou*, Institute of Continuing Legal Education (ICLE). November 2019. Copy supplied.

Aileen Wingblad, *Three Oakland County judges recognized for volunteer efforts*, The Oakland Press, January 8, 2019. Copy supplied.

*Judge Hala Jarbou: Higher Education Warrior*, Michigan Supreme Court, January 7, 2019. Copy supplied.

Interview, Dr. Robin D. Young, *Chaldean Heritage Oral History Project*, The Catholic University of America, School of Theology and Religious Studies, January 2017. To my knowledge, I am unaware of anything being published or posted. I was never given any follow up information as to the status of the project after the interview was completed.

Linda Laderman, *Judicial Journey, A native of Iraq, circuit judge relishes challenge of new role*, Detroit Legal News, February 26, 2016. Copy supplied.

Linda Laderman, *A native of Iraq, circuit judge relishes challenge of new role*, Oakland County Legal News, February 25, 2016. Copy supplied.

Vanessa Denha Garmo, *another chaldean on the bench, Hala Jarbou reflects on her new role*, Chaldean News, January 2016. Copy supplied.

Dave Phillips, *Newly-appointed judge feels at home at Oakland County Circuit Court*, The Oakland Press, December 29, 2015. Copy supplied.

Steve Stein, *Women Power: Four who help*, Chaldean News, August 2006. Copy supplied.

Charlie Cain, *Cheney questions Kerry's ability to lead – He tells Michigan supporters country needs Bush at helm*, Detroit News, September 22, 2004. Copy supplied.

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

Circuit Judge, Oakland County/State of Michigan, 2015 – Present. I was appointed by then-Michigan Governor Rick Snyder to this position in 2015 and, following an election, was elected in 2016. The Oakland County Circuit Court has jurisdiction over felony criminal cases and civil cases in which the amount in controversy exceeds \$25,000. I have served from the time of my appointment to the present (2015 – Present) in both the civil and criminal divisions.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 77
- i. Of these, approximately what percent were:

To date:

jury trials:	93 %
bench trials:	7 % [total 100%]
civil proceedings:	38 %
criminal proceedings:	62 % [total 100%]

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

All the opinions I issue are unpublished. The opinions are electronically filed with the case.

As a state trial court judge presiding over a civil and criminal docket, I hear and rule on a large volume of matters. My total number of active cases averages between 450 to 500 cases at any given time. I also hear and rule on matters post-judgment, post-settlement, and post-sentencing. On average, I hear and rule on four summary disposition motions every week; opinions are usually written and filed soon after. I sometimes will issue opinions on other civil matters, as well as on criminal matters. All opinions are electronically filed in the case the opinion pertains to (with counsel receiving those opinions electronically as the attorneys of record). Opinions are sent via United States mail to those individuals who are not listed on the electronic filing system for that case (for example, a defendant in prison who files an in pro per matter).

The list below are my decisions as published on Westlaw.

*Vigh, Sr. v. Milford Country Day, Inc.*, 2019 WL 6973784 (July 31, 2019)

*People v. Thompson*, 2019 WL 7860358 (May 03, 2019)

*Haniak v. Otto*, 2019 WL 2482842 (March 20, 2019)

*Haniak v. Otto*, 2019 WL 2482844 (March 20, 2019)

*Everett v. Oakland*, 2019 WL 7602483 (February 13, 2019)

*Everett v. McLaren Oakland*, 2019 WL 7818771 (February 6, 2019)

*Everett v. Neuro Pain Consultants*, 2019 WL 7818772 (January 30, 2019)

*Bruce E. Ruben, M.D., P.C. v. Allstate Ins. Co.*, 2019 WL 4732820 (January 09, 2019)

*Vigh, Jr. v. Milford Country Day, Inc.*, 2019 WL 6973785 (January 09, 2019)

*People v. Thompson*, 2018 WL 10426043 (December 13, 2018)

*Taylor v. Unique Lady, Inc.*, 2018 WL 6163929 (May 29, 2018)

*Migdalewicz v. Hollie*, 2018 WL 6928259 (May 23, 2018)

*Taylor v. Unique Lady, Inc.*, 2018 WL 6163928 (April 12, 2018)

*Schafer and Weiner, PLLC v. Dreyfuss*, 2018 WL 8804900 (March 29, 2018)

*Migdalewicz v. Hollie*, 2018 WL 6928257 (March 28, 2018)

*Dailey v. Harris*, 2018 WL 4906881 (February 28, 2018)

*Kahn v. Darwiche, M.D.*, 2018 WL 6577406 (February 27, 2018)

*People v. Colville*, 2018 WL 6584958 (January 30, 2018)

*Kahn v. Darwiche, M.D.* 2018 WL 6577407 (January 22, 2018)

*Talan v. Stewart*, 2018 WL 6305554 (January 22, 2018)

*Maggard v. Pioneer State Mut. Ins. Co.*, 2017 WL 10607682 (October 4, 2017)

*Kindig v. Herkowitz, M.D.*, 2017 WL 10541353 (August 31, 2017)

*Talan v. Stewart*, 2017 WL 10604077 (August 24, 2017)

*Robinson v. Mt Clark, Inc.* 2017 WL 10668042 (August 17, 2017)

*Talan v. Stewart*, 2017 WL 10604078 (August 14, 2017)

*Maggard v. Pioneer State Mut. Ins. Co.*, 2017 WL 10573970 (August 10, 2017)

*Alexander v. Kallabat*, 2017 WL 10299098 (June 20, 2017)

*Talan v. Sheilah Marie Stewart*, 2017 WL 10604076 (June 14, 2017)

*Cunningham, III v. Stratton*, 2017 WL 10398254 (June 14, 2017)

*Kindig v. Herkowitz, M.D.*, 2017 WL 10541351 (June 7, 2017)

*Winthrop v. Deck*, 2017 WL 10779110 (June 1, 2017)

*Robinson v. MT Clark, Inc.*, 2017 WL 10668045 (April 26, 2017)

*Kindig v. Herkowitz, M.D.*, 2017 WL 10541357 (April 24, 2017)

*Kindig v. Herkowitz, M.D.*, 2017 WL 10541355 (April 24, 2017)

*Kindig v. Herkowitz, M.D.*, 2017 WL 10541360 (April 24, 2017)

*Oak Valley Estates Homeowners Ass'n v. Livingstone*, 2017 WL 10906995 (April 18, 2017)

*Oak Valley Estates Homeowners Ass'n v. Livingstone*, 2017 WL 10906993 (April 3, 2017)

*Kindig v. Herkowitz, M.D.*, 2017 WL 10541354 (March 15, 2017)

*Kowalski v. Kadzielawski*, 2017 WL 10442152 (March 2, 2017)

*Toteff v. Hemming*, 2017 WL 9803268 (February 13, 2017)

*Cunningham, III v. Stratton*, 2017 WL 10398256 (January 20, 2017)

*Oak Valley Estates Homeowners Ass'n v. Livingstone*, 2017 WL 10906996 (January 19, 2017)

*Oak Valley Estates Homeowners Ass'n v. Livingstone*, 2017 WL 10906998 (January 4, 2017)

*Toteff v. Hemming*, 2016 WL 11371759 (November 29, 2016)

*Dorr v. Smith*, 2016 WL 11483718 (November 23, 2016)

*Toteff v. Hemming*, 2016 WL 11371761 (November 17, 2016)

*Cunningham, III v. Stratton*, 2016 WL 11501462 (November 2, 2016)

*Dorr v. Smith*, 2016 WL 11483717 (November 1, 2016)

*Toteff v. Hemming*, 2016 WL 11371760 (October 17, 2016)

*Coan v. Jackson, III*, 2016 WL 11513680 (August 8, 2016)

*Coan v. Jackson, III*, 2016 WL 11513681 (August 8, 2016)

*Cunningham v. Stratton*, 2016 WL 11505212 (August 3, 2016)

*Toteff v. Hemmina*, (correct spelling “Hemming”) 2016 WL 11383993 (July 13, 2016)

*People v. Colville*, 2016 WL 11529815 (July 6, 2016)

*Coan v. Jackson, III*, 2016 WL 11513677 (July 5, 2016)

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

1. *People of the State of Michigan v. Bennie L. Layton*, Oakland County Circuit Court Case No. 1996-143720-FC

Mr. Layton was convicted of first-degree murder after a jury trial in 1996, when he was 17 years old. He was sentenced to mandatory life in prison. After the United States Supreme Court’s decisions in *Miller v. Alabama*, 567 U.S. 460 (2012) and *Montgomery v Louisiana*, 136 S.Ct. 718, 577 U.S. \_\_\_ (2016), Mr. Layton, as a “juvenile lifer,” was eligible for resentencing. I did not preside over Mr. Layton’s trial in 1996; I took over his case when I took the bench in 2015. On December 18, 2017, I resentenced Mr. Layton to 35 to 60 years with the Michigan Department of Corrections. Prior to resentencing, I reviewed everything associated with the case, including but not limited to: the entirety of the trial transcripts, the probation department’s recommendation, the parties’ sentencing memoranda, the presentence investigation report, the Michigan Department of Corrections central file, and Mr. Layton’s recent psychological

evaluation. The resentencing was appealed to the Michigan Court of Appeals, which affirmed the sentence. Mr. Layton has filed an application with the Michigan Supreme Court.

Counsel for the People:

Jason D. Pernick  
Assistant Prosecuting Attorney  
Oakland County Prosecutor's Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-858-5556

Counsel for the Defendant:

Patricia A. Maceroni  
26711 Woodward Avenue, Suite 200  
Huntington Woods, Michigan 48070  
248-541-5200

*2. Novi Hospitality LLC v. Central Ceiling & Partition, Inc. and Gaman Group, Inc.*, Oakland County Circuit Court Case No. 2013-133660-CK

Novi Hospitality filed a breach of contract lawsuit related to the alleged improper construction of a hotel, specifically improper installation of drywall that caused unacceptable noise levels in the guest rooms of the hotel. The case had been pending for a period before I took the bench. I ruled on motions before and during the two week-long jury trial that involved expert witness testimony. The jury returned a verdict of No Cause. The case was appealed, and the judgment was affirmed; the case was reversed and remanded on the issue of attorney fees only. The Court of Appeals remanded for an entry of an order awarding attorney fees for the work performed by an associate attorney of the Defendant.

Counsel for the Plaintiff:

Mayer Morganroth  
Morganroth & Morganroth, PLLC  
344 North Old Woodward Avenue, Suite 200  
Birmingham, Michigan 48009  
248-864-4000

Counsel for the Defendant:

James T. Mellon  
David A. Kowalski  
Mellon Pries  
2150 Butterfield Drive, #100

Troy, Michigan 48084  
248-649-1330

3. *Scottsdale Insurance Company, as subrogee of Basketball America, Inc., v. Charter Township of Orion, Village of Lake Orion, L.R. Mullins Contracting, Inc., All Building Services, LLC, Mathisen Mechanical, Inc., Mathisen Company*, Oakland County Circuit Court Case No. 2013-134852-CZ

Scottsdale Insurance Company filed suit, as subrogee of Basketball America, Inc., against various entities alleging breach of contracts related to the connection of a municipal water supply to its premises resulting in a failure of that water line that caused damage to the premises. Ultimately only the plaintiff and All Building Services proceeded to a week-long jury trial. The case had been ongoing when I took the bench; I ruled on motions before and during the trial. Ultimately the jury found No Cause.

Counsel for the Plaintiff:

Christopher S. Frescoln  
Fausone Bohn, LLP  
41700 West Six Mile Road, Suite 101  
Northville, Michigan 48168  
248-380-0000

Counsel for the Defendant:

Timothy J. Clifford (for All Building Services)  
1441 West Long Lake Road, Suite 305  
Troy, Michigan 48098  
248-312-7939

4. *Trevor J. Schleicher v. Preferred Solutions, Inc.*, Oakland County Circuit Court Case No. 2015-147214-CD

Plaintiff, an employee of Defendant, filed suit after his discharge alleging sex discrimination in violation of the Elliott-Larsen Civil Rights Act, breach of contract, quantum meruit or unjust enrichment, and promissory estoppel. Plaintiff alleged his gender was a factor in defendant's decision to reduce his compensation. Plaintiff believed he had an oral or implied contract regarding his compensation package and that defendant was unjustly enriched as a result of plaintiff's labor. Plaintiff argued that defendant made promises to him regarding his compensation that he relied on when deciding on other employment opportunities. The case had extensive filings before trial and motions during trial. After a week-long jury trial, the jury returned with a verdict of No Cause. Plaintiff appealed and the verdict was affirmed.



Counsel for the Plaintiff:

James C. Baker  
Sterling Attorneys at Law, P.C.  
33 Bloomfield Hills Parkway, Suite 250  
Bloomfield Hills, Michigan 48304  
248-644-1500

Counsel for the Defendant:

David M. Cessante  
Connie M. Cessante  
Clark Hill P.L.C.  
500 Woodward Avenue, Suite 3500  
Detroit, Michigan 48226  
313-965-8574

5. *Jennifer Grzebyk, Guardian of Cedric Grzebyk, a legally incapacitated individual v. Automobile Club Insurance Association*, Oakland County Circuit Court Case No. 2015-148519-NF

Ms. Grzebyk's son was involved in a motor vehicle accident where he suffered a traumatic brain injury that required attendant care services. She sued on her son's behalf seeking damages under Michigan's No-Fault Automobile Insurance Act contesting the delay and denial of payments of insurance benefits. The case had been ongoing when I took the bench in 2015. The parties were before me on a weekly basis on a variety of motions including motions to compel, motions to strike witnesses, and even motions to schedule deposition dates (parties were unable to agree on dates). The case was contentious. The case ultimately settled in 2017, but over the course of approximately two years the parties were constantly in court regarding various issues.

Counsel for the Plaintiff:

Nicholas S. Andrews  
Arthur Liss  
Liss, Seder, & Andrews, P.C.  
39400 Woodward Avenue, Suite 200  
Bloomfield Hills, Michigan 48304  
248-647-9700

Counsel for the Defendant:

Thomas J. Dombrowski  
Michael G. Kramer  
Hom, Killeen, Arene, Hoehn & Bachrach

1685 North Opdyke  
Auburn Hills, Michigan 48326

6. *People of the State of Michigan v. Kristopher Allen Hughes*, Oakland County Circuit Court Case No. 2016-260154-FC

The victim in the case testified that he was walking on Baldwin Avenue in the City of Pontiac, when he encountered a woman with whom he had previously exchanged sexual favors. They went to the victim's home where the victim paid the woman for another sexual encounter. The woman then left and went to the store. When she returned to the victim's home, the woman asked the victim if he wanted to get high. The victim agreed and the woman called a drug dealer. When the dealer arrived with the drugs, the victim and the woman were engaged in sexual activity, so he left. It was alleged that Mr. Hughes came in and robbed the victim of the money he had in a safe. Mr. Hughes was charged with one count of armed robbery. After nearly a week-long jury trial, the jury hung and could not come to a decision. Mr. Hughes was retried approximately a month later and was found guilty as charged.

Counsel for the People:

Kelly Marie Collins  
Assistant Prosecuting Attorney  
Oakland County Prosecutor's Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-452-8690

Counsel for the Defendant:

Richard T. Taylor  
P.O. Box 430696  
Pontiac, Michigan 48343  
(586) 481-5981

7. *People of the State of Michigan v. Brandon Kynard Gohagen*, Oakland County Circuit Court Case No. 2016-260782-FC

In August of 1994, the body of the victim was discovered in a park in the City of Pontiac. Her body was naked and bound in drapery and appeared to have been dumped and hidden at that location. Upon investigation, it was determined that the victim had been subjected to a brutal beating, leaving her with multiple sharp and blunt force injuries. An autopsy was conducted, and a rape kit completed as part of that procedure. In 2015, Mr. Gohagen, who had been a prisoner of the Michigan Department of Corrections since 1998, was identified as a contributor of some of the DNA material recovered from the victim's body during the

autopsy. I ruled on various motions, including a motion regarding “other acts” evidence. Mr. Gohagen was convicted of First Degree Felony Murder and First Degree Criminal Sexual Conduct after a jury trial. He was sentenced to natural life in prison without the possibility of parole.

Counsel for the People:

Kelly Marie Collins  
Assistant Prosecuting Attorney  
Oakland County Prosecutor’s Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-452-8690

Counsel for the Defendant:

Michael J. McCarthy  
26001 Five Mile Road  
Redford, Michigan 48239  
313-535-1300

8. *People of the State of Michigan v. Henry Lee Smith*, Oakland County Circuit Court Case No. 2017-262222-FC

Mr. Smith was charged with one count of assault with the intent to murder, and three firearms charges. This was related to a shooting and attempted murder of the victim that occurred in the City of Pontiac. The victim was shot multiple times. I ruled on various motions made by the parties, including conducting a due diligence hearing regarding law enforcement’s efforts to secure a material witness for the defense. Mr. Smith was found not guilty on all charges.

Counsel for the People:

Kelly Marie Collins  
Assistant Prosecuting Attorney  
Oakland County Prosecutor’s Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-452-8690

Counsel for the Defendant:

Marsha M. Kosmatka  
261 East Maple Road  
Birmingham, Michigan 48009  
248-895-8225

9. *People v. Jason William Garlow*, Oakland County Circuit Court No. 2017-264384-FH

Mr. Garlow was alleged to have committed Third Degree Criminal Sexual Conduct against a neighbor's minor daughter. The minor's parents had divorced, and it was alleged she had other mental health issues; as a result, the minor was in therapy. There were various motions filed including a motion by the defense to allow the introduction of the victim's therapy records as relevant discovery. I granted Mr. Garlow's motion in limine seeking a court order to provide the therapy records. Thereafter, I conducted an in-camera review of the records and denied their disclosure. Mr. Garlow was found not guilty on all charges.

Counsel for the People:

Heather H. Brown  
Assistant Prosecuting Attorney  
Oakland County Prosecutor's Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-452-9177

Counsel for the Defendant:

Martin E. Crandall  
Clark Hill PLC  
500 Woodward Avenue, Suite 3500  
Detroit, Michigan 48226  
313-965-8300

10. *People of the State of Michigan v. William Lewis Taylor*, Oakland County Circuit Court Case No. 2018-267384-FC

Mr. Taylor was charged with First Degree Criminal Sexual Conduct, Assault by Strangulation, Domestic Violence and firearms charges related to an alleged assault on someone he had been dating. I granted motions to remand the case to district court twice – once because the defendant got new counsel and argued he was not fully informed of his right to hold a preliminary examination, and a second time after evidence the district court judge used at bind over for trial had changed. After a week-long jury trial, Mr. Taylor was found not guilty on all charges.

Counsel for the People:

Stephen T. Frey  
Assistant Prosecuting Attorney

Oakland County Prosecutor's Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-452-9157

Counsel for the Defendant:

Mitchell T. Ribitwer  
Ribitwer & Sabbota, LLP  
26862 Woodward Avenue, Unit 200  
Royal Oak, Michigan 48067  
248-543-8000

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

1. *People of the State of Michigan v. Erik Nathaniel Muehlenbein*, Oakland County Circuit Court Case No. 2002-182924-FC. Copy of opinion supplied.

Counsel for People:

Louis F. Meizlish  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-858-0687

Counsel for Defendant:

Phillip D. Comorski  
1300 Broadway Street, Suite 800  
Detroit, Michigan 48226  
313-963-5101

2. *Lynn Goldberg v. 10034 Huntington Woods Investment, LLC, Andrew Kattula v. John D. Hertzberg*, Oakland County Circuit Court Case No. 2015-148781-CK. Copy of opinion supplied.

Counsel for Plaintiff/Counter-Defendant:

Michael I. Zousmer  
4190 Telegraph Road, Suite 3000  
Bloomfield Hills, Michigan 48302  
248-351-0099

Counsel for Defendants/Counter-Plaintiff and Third-Party Plaintiff:

David M. Black  
One Towne Square, Suite 1700  
Southfield, Michigan 48076  
248-355-0300

Counsel for Third Party Defendant:

Phillip E. Seltzer  
3910 Telegraph Road, Suite 200  
Bloomfield Hills, Michigan 48302  
248-593-5000

3. *Susan V. Lambrecht v. Ernest K. Bateson, Twilight Trace, LLC, Bateson Farms & Co., and Ann Arbor Supersoils, Inc.*, Oakland County Circuit Court Case No. 2016-152705-CH. Copy of opinion supplied.

Counsel for Plaintiff:

Kim D. Corbin  
15206 Mack Avenue  
Grosse Pointe Park, Michigan 48230  
313-886-4466

Counsel for Defendants:

Thomas L. Stringer  
203 South Zeeb Road, Suite 206  
Ann Arbor, Michigan 48103  
734-585-0090

4. *People of the State of Michigan v. Brandon Kynard Gohagen*, Oakland County Circuit Court Case No. 2016-260782-FC. Copy of opinion supplied.

Counsel for People:

Kelly Marie Collins  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
248-452-8690

Counsel for Defendant:

Michael J. McCarthy  
26001 5 Mile Road

Redford, Michigan 48239  
313-535-1300

5. *Daniel T. McCaw v. Charter Township of Waterford, Waterford Township Supervisor Gary Wall, Waterford Township Trustees Sue Camilleri, Margaret Birch, Anthony Batolotta, Julie Brown, Karen Joliat, and Donna F. Kelley*, Oakland County Case No. 2017-157986-CD. Copy of opinion supplied.

Counsel for Plaintiff:

Todd F. Flood  
401 North Main Street  
Royal Oak, Michigan 48067  
248-547-1032

Co-Counsel for Plaintiff:

Teresa J. Gorman  
5700 Crooks Road, Suite 200  
Troy, Michigan 48098  
248-763-6943

Counsel for Defendants:

Sam G. Morgan  
30500 Northwestern Highway, Suite 425  
Farmington Hills, Michigan 48334  
248-865-0001

6. *Fayrine Robinson v. Newland Medical Associates, P.C., Anibal Drelichman, M.D.*, Oakland County Circuit Court Case No. 2017-160406-NH. Copy of opinion supplied.

Counsel for Plaintiff:

Steven Christopher Hurbis  
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313-961-4400

Counsel for Defendants:

Keith P. Felty  
25800 Northwestern Highway Suite 1000  
Southfield, Michigan 48075  
248-746-2726

Jill H. Vandercook  
25800 Northwestern Highway, Suite 1000  
Southfield, Michigan 48075  
248-746-2724

7. *Rebecca Andrews and John Andrews v. Mark Ian Wittenberg, M.D., Neuro Pain Consultants, P.C., Prospira Michigan, LLC, NPC Michigan Services, LLC*, Oakland County Circuit Court Case No. 2018-164992-NH. Copy of opinion supplied.

Counsel for Plaintiffs:

Matthew G. Curtis  
1 Towne Square, 17th Floor  
Southfield, Michigan 48076  
248-746-4038

Counsel for Defendants:

James E. Tamm  
40701 Woodward Avenue, Suite 105  
Bloomfield Hills, Michigan 48304  
248-433-2005

Kevin Andrew McQuillan  
40701 Woodward Avenue, Suite 105  
Bloomfield Hills, Michigan 48304  
248-433-2000

8. *Kenneth Napier v. Cohen Scrap Metal, Inc.*, Oakland County Case No. 2018-169975-CZ. Copy of opinion supplied.

Counsel for Plaintiff:

Jennifer Lossia McManus  
25892 Woodward Avenue  
Royal Oak, Michigan 48067  
248-542-6300

Counsel for Defendant:

Daniel G. Helton  
300 River Place Drive, Suite 5600  
Detroit, Michigan 48207  
313-259-1865



9. *People of the State of Michigan v. Kristine Elizabeth Kaip*, Oakland County Case No. 2019-175205-AR. Copy of opinion supplied.

Counsel for People:

Louis F. Meizlish  
1200 North Telegraph  
Pontiac, Michigan 48341  
248-858-0687

Counsel for Defendant:

Edward Earl Duke II  
180 High Oak Road, Suite 205  
Bloomfield Hills, Michigan 48304  
248-409-0484

10. *People of the State of Michigan v. James Montgomery*, Oakland County Case No. 2019-270295-FC. Copy of opinion supplied.

Counsel for People:

Shannon E. O'Brien  
1200 North Telegraph  
Pontiac, Michigan 48341  
248-452-9849

Counsel for Defendant:

Michael J. McCarthy  
26001 5 Mile Road  
Redford, Michigan 48239  
313-535-1300

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

To my knowledge, none of my cases has been the subject of a petition for certiorari to the Supreme Court of the United States.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Cases Reversed:

*Cichewicz v. Salesin*, Michigan Court of Appeals No. 330301 (Oakland County Circuit Court Case No. 2011-120900-NH). Unpublished opinion supplied. In this wrongful-conception case, plaintiff appealed by leave granted on my order granting defendants' motion in limine precluding testimony or evidence regarding her claim for emotional distress damages. These arose from her knowledge that her child would be born with Down Syndrome. The Court of Appeals issued an opinion in a prior appeal finding that although plaintiff could not seek damages for raising the child, she was entitled to recover traditional medical-malpractice damages related to the alleged wrongful conception. *Cichewicz v. Salesin*, 306 Mich App 14, 33; 854 NW2d 901 (2014). Plaintiff argued that the damages she sought fell within the prior ruling, and the Court of Appeals agreed. The Court of Appeals held that plaintiff's claim for emotional distress arising from her knowledge that her child would be born with Down Syndrome fell within traditional medical malpractice damages. The case was reversed and remanded.

*Novi Hospitality v. Central Ceiling*, Michigan Court of Appeals No. 333086 (Oakland County Circuit Court Case No. 2013-133660-CK). Unpublished opinion supplied. In this breach of contract action involving the construction of a Holiday Inn Express Hotel and Suites in Novi, Michigan, plaintiff, Novi Hospitality, LLC, appealed as of right a judgment of no cause of action, which I entered following a nine-day jury trial. The jury returned a verdict finding that defendants, Central Ceiling & Partition, Inc. and Gaman Group, Inc., did not breach their respective construction contracts with Novi Hospitality. The Court of Appeals affirmed my order denying Novi Hospitality's motion for judgment notwithstanding the verdict, or, in the alternative, for a new trial, and affirmed the jury's verdict. The Court of Appeals also affirmed my order regarding case evaluation sanctions on the issues of attorney fees awardable to LeFevre, non-expert litigation costs, and expert costs. The Court of Appeals reversed, however, my order regarding case evaluation sanctions on the issue of attorney fees awardable to Mellon and Kowalski and remanded for entry of an order awarding the bifurcated rates charged by Mellon Pries and awarding attorney fees for the work performed by attorneys Heid and Solman.

*Bass v. Peters*, Michigan Court of Appeals No. 332217 (Oakland County Circuit Court Case No. 2015-150655-NM). Unpublished opinion supplied. Plaintiff appealed my dismissal of her case when I granted the defendant's motion for summary disposition on grounds of res judicata. The Court of Appeals held that the purpose of res judicata is to relieve the parties of the cost of multiple lawsuits, conserve judicial resources, and prevent inconsistent decisions thereby encouraging reliance on adjudication. The Court of Appeals found that none of the purposes underlying res judicata applied in the case. The case was reversed and remanded.

*Nielsen v. Safeguard*, Michigan Court of Appeals No. 333244 (Oakland County

Circuit Court Case No. 2015-149178-NZ). Unpublished opinion supplied. Defendant, Safeguard Properties, works with mortgage companies nationwide to secure properties that have been vacated following a mortgagor's default. In this case, Safeguard's agents entered a home that was occupied but secured it anyway, resulting in inconvenience and expense to the homeowner. I granted the defendant's motion for summary disposition. Plaintiff appealed the dismissal of his trespass and conversion counts, as well as his challenges based on the federal Fair Debt Collection Practices Act, 15 USC 1692 *et seq.* (FDCPA), the Michigan Regulation of Collection Practices Act, MCL 445.251 *et seq.* (MRCPA), and the Michigan Occupational Code, MCL 339.901 *et seq.* (MOC) through the granting of defendant's motion for summary disposition. The Court of Appeals held that I properly dismissed the claims under the FDCPA, MRCPA, and MOC as Safeguard is not a debt collector. However, the Court of Appeals held that I erred in dismissing the trespass and conversion claims because the evidence supported that Safeguard and its contractor acted in concert pursuant to a common design (agency). Further, the Court of Appeals held that I did not abuse my discretion in denying plaintiff's motion to amend its complaint. The opinion affirmed my decision in part, vacated in part, and remanded for further proceedings.

*Comerica Bank v. Kelman*, Michigan Court of Appeals No. 336637 (Oakland County Circuit Court No. 2012-124821-CK). Unpublished opinion supplied. Defendant appealed as of right my order denying his objection to the writ of garnishment issued to garnishee-defendant, Birmingham Bloomfield Credit Union ("BBCU"). Plaintiff, Comerica Bank, issued a writ of garnishment to BBCU after Kelman defaulted on a home equity loan. Kelman objected to the writ of garnishment, arguing that the account funds included disability payments that were exempt from garnishment pursuant to MCL 600.6023(1)(f) and that the garnishment exceeded the statutory maximum under the federal Consumer Credit Protection Act ("CCPA"), 15 USC 1671 *et seq.* The Court of Appeals held that to the extent that the disability payments were the source of the account funds, the disability payments deposited into Kelman's BBCU account were exempt under MCL 600.6023(1)(f). Accordingly, the exemption applies even after the disability payment is deposited into an account. The Court of Appeals found that I did not make factual findings as to whether the BBCU account contained exempt funds, including what amount of the BBCU account reflected disability payments. Therefore, the case was remanded for me to determine what amount of the BBCU account balance, if any, was subject to garnishment. The Court of Appeals vacated my order denying Kelman's objection to the writ of garnishment issued to BBCU and remanded for further proceedings. A partial concurrence/dissent in the case agreed with the majority to the extent that the majority concluded that any disability payments deposited into Kelman's BBCU account were exempt under MCL 600.6023(1)(f). However, the concurring/dissenting judge wrote separately to point out that review of the record did not yield any documentary evidence supporting Kelman's contention that his disability payments were deposited into his BBCU account. The judge dissented, finding the remand unnecessary.

*Toteff v. Hemming*, Michigan Court of Appeals No. 337182 (Oakland County Circuit Court No. 2015-147155-NM). Unpublished opinion supplied. Defendants, Joseph H. Hemming and Law Offices of Joseph H. Hemming, appealed as of right a judgment for plaintiff, Thomas Toteff, following a jury trial in this legal malpractice action. Hemming argued that I erred by excluding court-ordered psychological evaluations, a personal protection order (PPO), and evidence that Toteff failed to file tax returns. The Court of Appeals held that I abused my discretion by excluding the PPO and the psychological reports on the basis of hearsay. The Court of Appeals held that the PPO and psychological reports were not being offered to prove the truth of the allegations that Toteff abused his ex-wife but rather to establish that Hemming had a reasonable basis for advising Toteff to settle the divorce case given that the abuse allegations would have been damaging to him at trial. A limiting instruction could have been provided to ensure that the jury in this case only considered the evidence for the purpose of determining whether Hemming's advice to Toteff was reasonable. The case was reversed, retried again before a jury and the plaintiff was awarded a larger judgment than after the first trial.

*Schafer and Weiner PLLC v. Dreyfuss*, Michigan Court of Appeals No. 343371 (Oakland County Circuit Court Case No. 2015-145121-CK). Unpublished opinion supplied. Plaintiff appealed from my order granting summary disposition in favor of garnishee defendant, Oakridge Manor Nursing & Rehabilitation Center pursuant to MCR 2.116(C)(10). The Court of Appeals held that I had addressed the wrong question. I addressed the question of whether there was legally adequate consideration to prevent the contract from failing for a lack of consideration. But the Court of Appeals held that I should have addressed the question of whether there was a genuine issue of material fact regarding whether there was "reasonably equivalent value" given and whether plaintiff could establish a right to a remedy under Uniform Fraudulent Transfer Act (UFTA), MCL 566.31 *et seq.* The Court of Appeals reversed and remanded for further proceedings.

*Van Fleteren Jr v. Shugar*, Michigan Court of Appeal No. 341458 (Oakland County Circuit Court Case No. 2017-159547-CK). Unpublished opinion supplied. Plaintiff appealed as of right my order granting defendants, Thomas J. Shugar and Kelsey A. Shugar, summary disposition. Additionally, plaintiff argued that I erred after granting defendants summary disposition by failing to take evidence to determine whether plaintiff was entitled to compensation for any improvements that he made to the real property under MCR 3.411(F). The Court of Appeal held that I committed error when I failed to follow the procedure provided in MCR 3.411(F) and hold a hearing to determine whether plaintiff had a right to recover any value corresponding to the improvements that he made to the property. The Court of Appeals affirmed my opinion and order granting defendants summary disposition but reversed to the extent that my order denied plaintiff the opportunity to claim the value of improvements. The matter was

remanded for a hearing in accordance with MCR 3.411(F). This case settled prior to the scheduled hearing date.

*Life Skills Village, PLLC, and Life Skills Residential, LLC v. Nationwide Mutual Fire Insurance Company*, Michigan Court of Appeals No. 345237 (Oakland County Circuit Court Case No. 2017-160986-NF). Unpublished opinion supplied. Plaintiff Life Skills Residential, LLC, (LSR) appealed my granting of defendant Nationwide Mutual Fire Insurance Company's (Nationwide) summary disposition ruling on the grounds that plaintiff LSR was operating as an unlicensed adult foster care facility. LSR had also filed a summary disposition motion as the nonmoving party entitled to judgment. At issue was whether under the statutory definition of adult foster care, LSR provided "personal care" and "room and board" to the underlying claimant. The Court of Appeals reversed my ruling granting summary disposition in favor of Nationwide holding that LSR was not required to be licensed as a foster care facility but affirmed my ruling to deny LSR summary disposition. The opinion affirmed my ruling in part, reversed my ruling in part, and remanded for further proceeding.

To my knowledge, I have not had any judgments affirmed with significant criticism of my substantive or procedural rulings.

- 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 the opinions I issue are unpublished. The opinions are electronically filed with the case.

As a state trial court judge presiding over a civil and criminal docket, I hear and rule on a large volume of matters. My total number of active cases averages between 450 to 500 cases at any given time. I also hear and rule on matters post judgement, post settlement, and post sentencing. On average, I hear and rule on four summary disposition motions every week; opinions are usually written and filed soon after. I sometimes will issue opinions on other civil matters, as well as on criminal matters. All opinions are electronically filed in the case the opinion pertains to (with counsel receiving those opinions electronically as the attorneys of record). Opinions are sent via United States mail to those individuals who are not listed on the electronic filing system for that case (for example, a defendant in prison who files an in pro per matter).

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not issued any significant opinions on federal or state constitutional issues.

- i. Provide citations to all cases in which you sat by designation on a federal court of

appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

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

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

In determining the necessity or propriety of recusal, I follow the guidance and rules provided by: (i) Michigan Court Rule 2.003; and (ii) the Michigan Code of Judicial Conduct.

I have recused myself from the following cases:

*Guy Barron v. Lori Barron*, Oakland County Circuit Court No. 19-175255-PD. I noticed this case on my list of upcoming summary disposition motions and recused myself sua sponte, on the record, the next day on August 7, 2019. The case involves a lawsuit related to alleged marital property by Guy and Nora Barron against their daughter-in-law, the defendant, who is in the middle of a divorce case with their son, Judge Marc Barron. Judge Barron is a former colleague of mine from the Oakland County Prosecutor's Office. I personally know all the parties and have socialized with all of them. To avoid the appearance of impropriety, I recused myself.

*People of the State of Michigan v. Melvin Jarbo*, Oakland County Circuit Court Case No. 2018-268400-FH. At the arraignment, when the defendant first appeared before me, I recused myself sua sponte. The case involved drug charges and although I did not know or recognize the defendant, there was some distant familial relationship, according to the defendant.

*People of the State of Michigan v. Kevin Jay Jarbo*, Oakland County Circuit Court Case No. 2018-268419-FH. At the arraignment, when the defendant first appeared before me, I recused myself sua sponte. The case involved drug charges and although I did not know or recognize the defendant, there was some distant familial relationship, according to the defendant.

*Keith Jay Vanwagner v. Yousif G. Jarbo and Ghassan N. Jarbo*, Oakland County Circuit Court Case No. 2019-174639-NI. This civil case was filed sometime in 2019 but first came to my attention on February 19, 2020 when the attorneys appeared before me on a motion. Although I did not believe I knew the defendants, there was a possibility of some familial relationship. To prevent even an appearance of impropriety, I recused myself sua sponte.

*Winning Strategies v. Kathleen Ryan and Kathleen Ryan For Probate Judge*, Oakland County Circuit Court Case No. 2020-179162-CZ. This is a civil case filed against one of the judges in my courthouse. Although I felt that I could preside over the case fairly and impartially, to prevent even an appearance of impropriety, I recused myself sua sponte.

I have declined recusal in the following case:

*Bank of the West v. Patrick Smorra, Anita Smorra, the Smorra 2004 Revocable Trust*, Oakland County Circuit Court No. 2018-169078-CZ. I did not realize until after the parties argued a summary disposition motion in front of me on October 23, 2019 that I had met one of the attorneys at my judicial investiture (he was a guest of one of my brothers and had done some legal work for him). That attorney (Miroslav Vlcko) called my office the afternoon after the motion was heard, asked to speak with me on a personal matter, and when I returned the call, he told me of meeting me previously at my judicial investiture. That evening I inquired of my brother who the attorney was. My brother informed me that he brought Mr. Vlcko to my judicial investiture and Mr. Vlcko was doing some legal work for him at the time. My brother also informed me that he was involved in a pending lawsuit with Mr. Vlcko regarding legal fees. Immediately the next day October 24, 2019, I revealed the conversation to all the parties on the record, I informed all parties of the very brief meeting and my inability to recall meeting him until he told me; I also informed them of the very brief telephone conversation the day before, and revealed that there was a pending lawsuit between Mr. Vlcko and my brother. Mr. Vlcko withdrew from the case the morning I held a status conference on the record to inform everyone. Mr. Vlcko had co-counsel on the case who maintained representation. The other side moved to recuse me. I declined the recusal on October 25, 2019. I did not feel the brief meeting at my judicial investiture was grounds for recusal; I also stated on the record that there were attorneys from the moving party's firm at my judicial investiture and one of those attorneys was the master of ceremonies. I also did not feel that the pending lawsuit between my brother and Mr. Vlcko (that I did not

know about until that time) was a basis to recuse myself, especially considering Mr. Vlcko's withdrawal from the case. I did not feel any of this would prevent me from being fair and impartial to both sides. The case settled weeks later.

15. **Public Office, Political Activities and Affiliations:**

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

I have not held public office other than judicial office.

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

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

In 2000, a friend and colleague, Diane D'Agostini, (an assistant prosecuting attorney with the Oakland County Prosecutor's Office) ran for judge. In 2004, three of my friends and colleagues (all assistant prosecuting attorneys with the Oakland County Prosecutor's Office) ran for various positions; two ran for judge (Marc Barron and Cheryl Matthews); one ran for state representative (David Law). In 2008, another friend and colleague (another assistant prosecuting attorney with the Oakland County Prosecutor's Office) ran for judge (Lisa Gorcyca). In 2012, another friend and former colleague, Jason Pernick, (another assistant prosecuting attorney with the Oakland County Prosecutor's Office) ran for judge. I helped all of them as an unpaid campaign volunteer with a variety of things: collecting signatures, picking up and dropping off campaign materials and supplies, walking neighborhoods door to door, and working the polls.

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

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

I have not served as a clerk to a judge since graduating from law school.

- 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.

1997

Wayne County Prosecutor's Office  
1441 Saint Antoine  
Detroit, Michigan 48226  
Contract Attorney

1997 – 2010

Oakland County Prosecutor's Office  
1200 North Telegraph Road  
Pontiac, Michigan 48341  
Assistant Prosecuting Attorney

2010 – 2015

United States Attorney's Office, Eastern District of Michigan  
211 West Fort Street  
Detroit, Michigan 48226  
Assistant United States Attorney

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

I have never served as a mediator or arbitrator.

b. Describe:

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

Following the summer of 1997 when I studied and took the bar examination, from October of 1997 to December of 1997, I worked as a contract attorney for the Wayne County Prosecutor's Office. I worked in the Child and Family Abuse Bureau (where I previously worked as an intern and an intern supervisor while in law school) helping with drafting complaints and appearing in court on personal protection order hearings and misdemeanor domestic violence matters.

In December of 1997, I was hired as an Assistant Prosecuting Attorney by the Oakland County Prosecutor's Office. I represented the People of the

State of Michigan in criminal prosecutions from December of 1997 to April of 2010. I started in that office with an assignment in the Warrants Division, reviewing and authorizing complaints; I was then assigned to the District Court Division, prosecuting misdemeanor cases and holding preliminary examinations on felony matters in various district courts in the county; I was then assigned to the Parole Appeal Section, where I appeared at parole hearings and appealed the decision of the parole board, where appropriate; I then held various assignments in the Circuit Court Division – in the General Circuit Court Division handling general felony matters through trial and sentencing; in the Child Sexual Assault Section handling specialized child sexual assault cases through trial and sentencing; in the Major Crimes Unit handling murder and high profile cases through trial and sentencing.

In 2005, I taught a domestic violence class for one semester with another attorney at Oakland University. It was an introductory class in the university's paralegal program.

I left the Oakland County Prosecutor's Office in April 2010 for a position with the United States Attorney's Office in Detroit. I represented the United States in federal criminal prosecutions before the United States District Court for the Eastern District of Michigan and the United States Court of Appeals for the Sixth Circuit. From 2010 to 2012 I was assigned to the General Crimes Unit (which is now known as the Major Crimes Unit) handling cases involving gun violence, general drug trafficking, and child exploitation. From 2012 to 2015, I was assigned to the Drug Task Force handling cases involving major drug trafficking.

I left the United States Attorney's Office in November of 2015 after I was appointed to my current position as an Oakland County Circuit Court Judge.

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

Aside from teaching an introductory course in the paralegal program for one semester at Oakland University in 2005, my entire career after law school and up to the time I was appointed as an Oakland County Circuit Court Judge, I have practiced in the field of criminal prosecution at the state and federal levels.

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

At the Wayne County Prosecutor's Office in 1997, one hundred percent of my

work was in litigation. I practiced in court occasionally under a court rule that allowed students to practice with an attorney's supervision and later after passing the bar, practiced by myself.

At the Oakland County Prosecutor's Office from 1997 to 2010, one hundred percent of my work was in litigation and I was in court almost every day.

At the United States Attorney's Office from 2010 to 2015, one hundred percent of my work was in appellate and trial litigation, and I was in court almost every day.

i. Indicate the percentage of your practice in:

1. federal courts: 30 %
2. state courts of record: 70 %
3. other courts: 0 %
4. administrative agencies: 0 %

ii. Indicate the percentage of your practice in:

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

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Excluding appeals and cases that concluded with a plea of guilty, I tried 68 cases (according to records I have; there might be more that I do not have a record of) to verdict while an Assistant Prosecuting Attorney at the Oakland County Prosecutor's Office. I believe all but two were as sole counsel. I assisted other assistant prosecutors in the other two cases. All 68 cases were jury trials. I did conduct a few bench trials, but I do not have a record of the number of bench trials I tried.

Excluding appeals and cases that concluded with a plea of guilty, I tried approximately seven to ten cases (I do not have any records of the total number of trials I tried) while an Assistant United States Attorney at the United States Attorney's Office for the Eastern District of Michigan. All but four were sole counsel; the others I was co-counsel on. All were jury trials; I did not have any bench trials.

i. What percentage of these trials were:

1. jury: 99 %
2. non-jury: 1 %

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

oral argument transcripts before the Supreme Court in connection with your practice.

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

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:
- a. the date of representation;
  - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
  - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *People of the State of Michigan v. Chris Douglas Mack*, Oakland County Circuit Court Case No. 2002-183122-FH

Mr. Mack was the “give-a-lift-driver” who picked up the adult female victim from her group home and took her to her therapy session. The victim had the mental age of a child. On the return trip back to her group home, Mr. Mack sexually assaulted the victim. The victim had difficulty testifying and her mental health was an issue at trial. After a jury trial, Mr. Mack was found guilty as charged of Third Degree Criminal Sexual Conduct and Assault with the Intent to Commit Sexual Penetration.

Dates of Representation: 2002 – 2003

Judges/Courts: Judge Michael D. Warren Jr., Oakland County Circuit Court

Counsel for the Defendant:

Howard S. Arnkoff (deceased)

2. *People of the State of Michigan v. James Edward Terry*, Oakland County Circuit Court Case No. 2003-189994-FC

Mr. Terry had previously served a prison sentence for sexually assaulting his sister-in-law. After his return home from prison, he soon began to sexually assault his three minor daughters. A teacher asked one of the daughters about a burn on her arm, and the child indicated that her father had done it; all three daughters were forensically interviewed and revealed both physical and sexual abuse. The mother did not believe her daughters and

indicated to Child Protective Services that her daughters had disclosed to her what their father was doing but that he had denied such actions and she believed him. The case was tried before a jury and all three daughters had to testify against their father, while he sat across from them at the defense table. The youngest witness I ever put on the stand was Mr. Terry's youngest daughter (who I believe was four years old at the time). The jury convicted Mr. Terry of four counts of First Degree Criminal Sexual Conduct. Mrs. Terry's rights to her children were also terminated.

Dates of Representation: 2003

Judges/Courts: Judge Richard D. Kuhn (deceased), Oakland County Circuit Court

Counsel for the Defendant:

Frederick A. Neumark (deceased)

3. *People of the State of Michigan v. Timothy Junius Boulding*, Oakland County Circuit Court Case No. 2003-190929-FC

Mr. Boulding, who was confined to a wheelchair, was charged with sexually assaulting his minor granddaughter. During the investigation leading to trial, the minor's mother (Mr. Boulding's daughter) revealed to me that I should obtain a DNA sample of her minor son. That DNA test revealed that Mr. Boulding was that minor son's father (in other words, Mr. Boulding had also fathered his own grandson). According to Mr. Boulding's adult daughters, all had been repeatedly sexually assaulted by their father and he had continued with the granddaughter, the victim in this case. Mr. Boulding was convicted after a jury trial of three counts of First Degree Criminal Sexual Conduct and acquitted of one similar count.

Dates of Representation: 2003 – 2004

Judges/Courts: Judge Deborah Tyner (retired), Oakland County Circuit Court

Counsel for the Defendant:

Sharon Clark Woodside  
615 Griswold Street, Suite 1626  
Detroit, Michigan 48226  
313-965-3502

4. *People of the State of Michigan v. Kevin Ross Munro*, Oakland County Circuit Court Case No. 2007-214455-FH

Mr. Munro owned some type of construction company. He was driving a work truck one day and encountered some traffic on a two-lane road. Further ahead was a work crew working on the road; traffic was allowed in one lane; a person stood with a stop sign in

each direction directing some traffic to stop while the opposite lane of traffic proceeded. Mr. Munro grew impatient, drove in the opposite (oncoming traffic) lane, and when the victim, holding up his stop sign, tried to stop Mr. Munro, Mr. Munro hit the victim with his truck and fled the scene. Police tracked Mr. Munro's truck back to his company. When the police arrived, Mr. Munro had coerced his employee in admitting that he/the employee was driving the truck that hit the victim. The employee was charged. As the case against the employee proceeded to trial, the employee's lawyer implored me to investigate further, the lawyer indicated that someone else was driving the vehicle, but that his client would not aid in that investigation or speak with investigators. Mr. Munro made it very difficult for investigators to speak with his employees, including the employee that who originally charged (Mr. Munro provided the employee with a place to live, and was his source of income). Eventually as we kept pressing on with the investigation, more evidence was developed that led us to believe that the employee was not driving the truck that hit the victim and that Mr. Munro was the driver. Charges against the employee were dismissed and I charged Mr. Munro. The case proceeded to trial. Some employees did not appear for trial and evaded law enforcement; law enforcement was able to find one employee, who reluctantly testified against Mr. Munro. Mr. Munro was found guilty of Failure to Stop at the Scene of an Accident Causing Serious Injury and Felonious Assault; the jury found Mr. Munro not guilty of Inducements or Promises to Witnesses.

Dates of Representation: 2007

Judges/Courts: Judge Steven N. Andrews (retired), Oakland County Circuit Court

Counsel for Defendant:

Michael J. Rex  
1760 South Telegraph Road, Suite 300  
Bloomfield Hills, Michigan 48302  
248-335-5000

5. *People of the State of Michigan v. Steven Michael Kelsey, Jr.*, Oakland County Circuit Court Case No. 2009-225787-FC

Mr. Kelsey was on leave from the Army (Basic Training) during a holiday break. On the night in question, Mr. Kelsey stabbed his sister in the eye, slit her throat and sexually assaulted her as she bled to death. The investigation revealed that when Mr. Kelsey and his sister were minors, they had engaged in sexual activity. The murder caused pain and anguish for the parents. Mr. Kelsey's father did not cooperate with investigators and wanted a reduced plea for his son; Mr. Kelsey's mother wanted nothing to do with her son. The jury convicted Mr. Kelsey of Homicide in the First Degree (premeditated and an alternative theory of felony murder). Mr. Kelsey was sentenced to life in prison without the possibility of parole.

Dates of Representation: 2009 – 2010

Judges/Courts: Judge Edward Sosnick (retired), Oakland County Circuit Court

Counsel for the Defendant:

Michael J. McCarthy  
26001 5 Mile Road  
Redford, Michigan 48239  
313-535-1300

6. *United States v. Thomas William Wooten*, Eastern District of Michigan Case No. 12-CR-20040

Mr. Wooten was investigated by the FBI after he searched for and downloaded child pornography off the internet. A search warrant of his home revealed hundreds of images of child pornography on various media (his computer and phone). In addition, a video found on his phone depicted Mr. Wooten from the waist down sexually assaulting his toddler aged daughter in the bathroom of his home. The jury convicted Mr. Wooten of possession, receipt, distribution, and production of child pornography. He was sentenced to 360 months. Mr. Wooten appealed, and his conviction was affirmed.

Dates of Representation: 2013 – 2014

Judges/Courts: Judge Marianne O. Battani, United States District Court for the Eastern District of Michigan

Counsel for Defendant:

Hon. Carl J. Marlinga (Judge Marlinga was a criminal defense attorney at the time)  
40 North Main Street Floor 6  
Macomb County Court Building  
Mount Clemens, Michigan 48043  
586-469-7149

7. *United States v. D1 Yigal Hezi, D2 Kona Barbera, D3 David Fruchter, D4 James Daniel Munroe, D5 Dana Lieberman*, Eastern District of Michigan Case No. 12-CR-20024

Mr. Hezi and Mr. Barbera arrived at Pontiac International Airport to fill up on fuel in a Cessna aircraft; Mr. Hezi was the pilot and Mr. Barbera was the sole passenger. The plane was traveling from California to a final destination in the state of New York. Homeland Security conducted a canine sniff which resulted in a positive indication of controlled substances. A search revealed numerous bags and suitcases filled with more than 100 kilograms of marijuana. Mr. Hezi's and Mr. Barbera's prosecution led to the prosecution of three other individuals involved in the long-term drug trafficking operation, Mr. David Fruchter, Mr. James Monroe, and Mr. Dana Lieberman. I indicted

all the defendants, all the defendants pled, but I left the United States Attorney's Office before all the defendants were sentenced.

Dates of Representation: 2012 – 2015

Judges/Courts: Judge John Corbett O'Meara, United States District Court for the Eastern District of Michigan

Counsel for the Defendants:

James C. Thomas (D1 Yigal Hezi)  
12900 Hall Road Suite 350  
Sterling Heights, Michigan 48313  
586-726-1000

John R. Minock (D2 Kona Barbera)  
339 East Liberty Street, Suite 200  
Ann Arbor, Michigan 48104  
734-668-2200

John F. Freeman (D3 David Fruchter)  
28342 Dartmouth Street  
Madison Heights, Michigan 48071  
313-655-7945

Richard M. Helfrick (D4 James Daniel Monroe)  
613 Abbott Street Suite 500  
Detroit, Michigan 48226  
313-967-5867

Steven Fishman (D5 Dana Lieberman)  
615 Griswold Street, Suite 1125  
Detroit, Michigan 48226  
313-920-2001

8. *United States v. Saman Samona*, Eastern District of Michigan Case No. 11-CR-20554;  
*United States v. Lorris Upshaw, III*, Eastern District of Michigan Case No. 14-CR-20106

Mr. Samona was stopped on a traffic violation by a law enforcement officer who was familiar with the defendant. Mr. Samona had a weapon on his person and presented the officer with a concealed pistol license issued by Wayne County. The officer knew the defendant to be a convicted felon and thus not eligible to carry a weapon. Mr. Samona was prosecuted for being a felon in possession of a firearm. I continued the investigation and eventually charged Mr. Upshaw with several charges, including bribery. Mr. Upshaw worked at the clerk's office in Wayne County and accepted money in exchange for illegally authorizing concealed pistol licenses. Both Mr. Samona and Mr. Upshaw



pled and were sentenced.

Dates of Representation: 2011 – 2015

Judges/Courts: Judge Robert H. Cleland, United States District Court for the Eastern District of Michigan

Counsel for the Defendants:

Steven Fishman (Saman Samona)  
615 Griswold Street, Suite 1125  
Detroit, Michigan 48226  
313-920-2001

Rhonda R. Brazile (Lorris Upshaw, III)  
613 Abbott Street, Suite 500  
Detroit, Michigan 48226  
313-967-5542

*9. United States v. D1 Victor Vasquez, D2 Avery Denardis, D3 Jeffrey Lunsford, D4 Kyle Voltz, D5 Jacob Hixson, D6 Devin Dantzler, D7 Christopher Pierce, D8 Jonathan Estrada, D9 Jesus Rodriguez, D10 Angel Rodriguez-Rivera, D11 Isidro Garza, D12 Benjamin Beightol, Eastern District of Michigan Case No. 14-CR-20425*

Defendants, all members of the Latin Counts, were federally prosecuted for crimes ranging from racketeering, violent crimes in aid of racketeering, and drug and firearm charges. The case involved the murder of a rival gang member and assaults and threats of others in the community. The death penalty was charged as to some of the defendants but was not authorized by the Attorney General. I came into the case in 2014 to assist another Assistant United States Attorney, Matthew A. Roth. The case continued after I left the United States Attorney's Office in 2015. The ultimate sentences for these defendants ranged from approximately 3 to 30 years in federal prison. The attorneys listed below represented the defendants at the time; my interaction was greater with some (James Thomas, Steve Scharg, John Minock) than others.

Dates of Representation: 2014 – 2015

Judges/Courts: Judge Judy Levy, United States District Court for the Eastern District of Michigan

Co-Counsel for the Government:

I was associate counsel with:

Matthew A. Roth  
Assistant United States Attorney

United States Attorney's Office  
211 West Fort Street  
Detroit, Michigan 48226  
313-226-9186

Counsel for the Defendants:

James C. Thomas (D1 Victor Vasquez)  
12900 Hall Road, Suite 350  
Sterling Heights, Michigan 48313  
586-726-1000

Jerome Sabbota (D2 Avery Denardis)  
Rabbitwer & Sabbota  
26862 Woodward Avenue, Suite 200  
Royal Oak, Michigan 48067  
248-543-8000

Randall C. Roberts (D3 Jeffrey Lunsford)  
120 North 4th Avenue  
Ann Arbor, Michigan 48104  
734-677-3393

Steven E. Scharg (D4 Kyle Voltz)  
615 Griswold Street, Suite 1125  
Detroit, Michigan 48226  
313-962-4090

Matt Savich (D5 Jacob Hixson)  
39500 High Pointe Boulevard, Suite 400  
Novi, Michigan 48375  
248-344-2293

Juan A. Mateo (D6 Devin Dantzler)  
535 Griswold Street, Suite 1000  
Detroit, Michigan 48226  
313-962-3500

Jeffrey L. Edison (D7 Christopher Pierce)  
500 Griswold Street, Suite 2410  
Detroit, Michigan 48226  
313-964-0400

John Minoock (D8 Jonathan Estrada)  
339 East Liberty Street Suite 200  
Ann Arbor, Michigan 48104

734-668-2200

Harold Z. Gurewitz (D9 Jesus Rodriguez)  
333 West Fort Street Suite 1400  
Detroit, Michigan 48226  
313-628-4733

Stephen T. Rabaut (D10 Angel Rodriguez-Rivera)  
16931 19 Mile Road Suite 100  
Clinton Township, Michigan 48038  
586-263-1600

Kenneth R. Sasse (D11 Isidro Garza)  
27 East Flint Street, Suite 2  
Lake Orion, Michigan 48362  
248-814-9470

Edward C. Wishnow (D12 Benjamin Beightol)  
240 Daines Street  
Birmingham, Michigan 48009  
248-258-1991

10. *United States v. D1 Lazder Gilaj, D2 Paljoka Camaj, D3 Tom Leka Nicaj, D4 Romeo Drabo, D5 Allan Kwiatowski, D6 John Snider, D7 Mark MacDonald, D8 Agron Bojku, D9 Simon Sufaj, D10 Pashko Kelmandi, D11 Maria Juncaj-Vuljevic, D12 Edward Kacaj, D13 Visarjon Preka, D14 Dod Martini, D15 Tonin Pjetri, D16 Leonard Pjetri*, Eastern District of Michigan Case No. 12-CR-20285

Defendants were involved in facilitating drug and/or alien smuggling across the Detroit River from the United States into Canada and from Canada into the United States. I came into the case in 2014 to assist another Assistant United States Attorney, Eric M. Straus. The case continued after I left the United States Attorney's Office in 2015. The ultimate sentences for these defendants ranged from approximately 7 months to 36 months in federal prison. The attorneys listed below represented the defendants at the time; my interaction was greater with some (James Thomas, Michael Linardos, Lisa Dwyer, Thomas Cranmer, Samuel Churikian, Michael McCarthy, Ronald Weitzman) than others.

Co-Counsel for the Government:

I was associate counsel with:

Eric M. Straus  
Assistant United States Attorney  
United States Attorney's Office  
211 West Fort Street

Detroit, Michigan 48226  
313-226-9648

Counsel for the Defendants:

Douglas R. Mullkoff (D1 Lazder Gilaj)  
402 West Liberty Street  
Ann Arbor, Michigan 48103  
734-761-8585

James C. Thomas (D2 Paljoka Camaj)  
12900 Hall Road, Suite. 350  
Sterling Heights, Michigan 48313  
586-726-1000

Timothy S. Barkovic (D3 Tom Leka Nica)  
(unknown status – last known address)  
25805 Harper Avenue  
Saint Clair Shores, Michigan 48081  
586-773-2120

Michael S. Linardos (D4 Romeo Drabo)  
26339 Woodward Avenue  
Huntington Woods, Michigan 48070  
248-548-1200

James J. Makowski (D5 Allan Kwiatowski)  
6528 Schaefer Road  
Dearborn, Michigan 48126  
313-434-3900

Lisa L. Dwyer (D7 Mark Macdonald)  
615 Griswold Street, Suite 1120  
Detroit, Michigan 48226  
313-967-0200

Thomas W. Cranmer (D8 Agron Bojku)  
840 West Long Lake Road, Suite 150  
Troy, Michigan 48098  
248-267-3381

Sharon A. Payne (D9 Simon Sufaj)  
17550 West 11 Mile Road  
Lathrup Village, Michigan 48076  
248-424-9270

Samuel J. Churikian (D10 Pashko Kelmandi)  
43550 Elizabeth Road  
Clinton Township, Michigan 48036  
586-465-8647

Michal J. McCarthy (D11 Maria Juncaj-Vuljevic)  
26001 5 Mile Road  
Redford, Michigan 48239  
313-535-1300

John Joseph Gilsenan (D13 Visarjon Preka)  
26 Church Street  
Wayne County Courthouse  
Lyons, New York 14489  
315-946-7472

Ronald P. Weitzman (D14 Dod Martini)  
564 West Drayton, #100  
Ferndale, Michigan 48220  
313-400-0382

Fred B. Walker (D15 Tonin Pjetri)  
306 South Washington, Suite 223  
Royal Oak, Michigan 48067  
248-546-6271

David S. Steingold (D16 Leonard Pjetri)  
500 Griswold Street, Suite 2320  
Detroit, Michigan 48226  
313-962-0000

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.)

I was appointed by the Michigan Supreme Court as a member of the Michigan Supreme Court Committee on Model Criminal Jury Instructions in 2016 and I currently continue to serve on this committee. The committee is responsible for drafting new instructions and amending instructions related to misdemeanor and felony criminal offenses in the State of Michigan.

I have participated, whenever asked by the Michigan Supreme Court Michigan Judicial

Institute in advising and/or teaching my judicial colleagues, including advice for new judges and updates in the law.

I have never acted or registered as a lobbyist.

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

In 2005, while an Assistant Prosecuting Attorney at the Oakland County Prosecutor's Office, I taught a basic domestic violence class with another attorney at Oakland University, Paralegal Program. I do not have a syllabus or outline from when I taught.

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

The only future benefits I expect to receive are from my federal and state retirement plans and from investments in individual retirement accounts. I have already rolled my federal (from the United States Attorney's Office) and state (from the Oakland County Prosecutor's Office) retirement plans into my individual retirement accounts. I also have a state retirement account from my current position. After completing 15 years of service to Oakland County last year, I am eligible for 60% reimbursement of my retiree health care costs.

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

I do not have any plans, commitments, or agreements to pursue outside employment.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I do not anticipate any potential conflicts-of-interest involving family members or other persons, parties, categories of litigation, or financial arrangements when I first assume the position to which I have been nominated. If confirmed, I will recuse myself from any case where I have ever played any role. Otherwise, I will evaluate any other real or potential conflict of interest, or relationship that could give rise to the appearance of a conflict of interest, on a case-by-case basis and determine appropriate action, including recusal, with the input of parties and after consulting the applicable canons of judicial ethics.

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

If confirmed, I will carefully review and address any real or potential conflicts of interest by reference to section 455 of Title 28 of the United States Code and all applicable canons of the Code of Conduct for United States Judges.

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

Because I have worked for a county, state or federal government my entire legal career, I have been limited in the pro bono work that I could do. But I have participated as much as possible, on a voluntary basis, in mock trials for young students and other similar programs or events.

26. **Selection Process:**

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

Investigation personnel concerning your nomination.

I was contacted on August 20, 2019 by the White House Counsel's Office about participating in a phone interview regarding a federal district court vacancy in the Western District of Michigan. I had a phone interview with an attorney from the White House Counsel's Office on August 22, 2019. Later that day, I was contacted by the White House Counsel's Office about an in-person interview in Washington D.C., which was scheduled for August 27, 2019. On August 27, 2019, I interviewed with attorneys from the White House and the Department of Justice's Office of Legal Policy in Washington D.C. On November 22, 2019, I was contacted by the White House Counsel's Office to provide additional information as part of my application process. Since then I have been in contact with attorneys from the White House Counsel's Office and the Office of Legal Policy. Additionally, I was contacted by the chair of the judicial selection committee for the Western District of Michigan and I interviewed with the committee on January 21, 2020.

- 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.