

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

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

United States District Judge for the Middle District of Florida
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.

Florida Second District Court of Appeal
1700 North Tampa Street, Suite 300
Tampa, Florida 33602
4. **Birthplace**: State year and place of birth.

1973; Brooklyn, New York
5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1996 – 1999, University of Florida Levin College of Law, J.D. (honors), 1999

1995 – 1999, University of Florida, M.A., 1999

1992 – 1995, University of Florida, B.A. (highest honors), 1995

1991 – 1992, Florida Atlantic University; no degree received
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

District Court of Appeal of Florida, Second District
1700 North Tampa Street, Suite 300
Tampa, Florida 33602
Judge

2006 – 2015

Federal Public Defender's Office, Middle District of Florida
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
Assistant Federal Public Defender (2008 – 2015)
Research and Writing Specialist (2006 – 2008)

2003 – 2006

Judge Paul H. Roney
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, Northwest
Atlanta, Georgia 30303
Law Clerk

2001 – 2002

Carlton Fields, P.A.
Corporate Center Three at International Plaza
4221 West Boy Scout Boulevard, Suite 1000
Tampa, Florida 33607
Associate

2000 – 2001

Judge Frank Mays Hull
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, Northwest
Atlanta, Georgia 30303
Law Clerk and Staff Attorney

1999 – 2000

United States Attorney General's Honors Program
Federal Bureau of Prisons, Southeastern Regional Counsel's Office
3800 Camp Creek Parkway, Southwest, Building 2000
Atlanta, Georgia 30344
DOJ Honors Attorney

1999

Eighth Judicial Circuit of Florida
Alachua County Criminal Justice Center
220 Main Street
Gainesville, Florida 32601

Judicial Intern, Post-Conviction Relief Section

1998

State Attorney's Office, Eighth Judicial Circuit of Florida
120 West University Avenue
Gainesville, Florida 32601
Certified Legal Intern

1996 – 1999

University of Florida
Center for Studies in Criminology and Law
3219 Turlington Hall
Post Office Box 117330
Gainesville, Florida 32611
Graduate Research Assistant, Teaching Assistant, and Legal Research Assistant

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

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

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.

Martindale-Hubbell AV Preeminent Rating (2013 – Present)

Listed in *Marquis Who's Who in American Law*, *Who's Who in the United States*, *Who's Who in the World* (2017)

Volunteer Service Award, Academy Preparatory School of Ybor City (2010 – 2014)

Mentor of the Year Award, Federal Bar Association, Tampa Bay Chapter (2012)

Degree from University of Florida Levin College of Law conferred with honors (1999)

Pro Bono Award, University of Florida Levin College of Law (1999)

Phi Delta Phi International Legal Honorary (1999)

University of Florida Journal of Law & Public Policy (1997 – 1999)

Executive Editorial Board (1998 – 1999)

Senior Editorial Board (1997 – 1998)

Omicron Delta Kappa National Academic and Leadership Honor Society, University of Florida (1997 – 1999)

Graduate Research and Teaching Assistantship, University of Florida, Center for Studies in Criminology and Law (1996 – 1999)

Listed in *Who's Who Among American Law Students* (1998)

W.J. Bosso, Sr. Memorial Scholarship, Italian Lawyers Scholarship Association (1997)

Bachelor of Arts degree from University of Florida conferred with highest honors (1995)

Golden Key National Academic Honor Society (1995)

Order of Omega Honor Society (1994 – 1995)

Christopher M. Squitieri Academic Scholarship (1994, 1995)

National Pool and Spa Institute Academic and Service Scholarship (1992 – 1994)

Sons of Italy Academic Scholarship (1991)

Eagle Scout Award, Boy Scouts of America (1991)

Commander's Commendation Award, Civil Air Patrol, U.S. Air Force Auxiliary (1990)

Billy Mitchell Award, Civil Air Patrol, U.S. Air Force Auxiliary (1989)

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 (1999 – 2002) (approximately)

Bruce R. Jacob – Chris Altenbernd Criminal Appellate American Inn of Court, Tampa, Florida (2010 – 2011, 2015 – Present)

Federal Bar Association, Tampa Bay Chapter (2001 – 2014)

Federal Court Practice Committee, The Florida Bar (2008 – 2015)

Chair (2014 – 2015)

Vice Chair (2012 – 2013)

Florida Conference of District Court of Appeal Judges (2015 – Present)

Acting Secretary, Judicial Conference (2017)

Herbert G. Goldberg – Ronald K. Cacciatore Criminal Law American Inn of Court,
Tampa, Florida (2007 – 2014)

Hillsborough County Bar Association (2008 – Present) (intermittently)

J. Clifford Cheatwood American Inn of Court, Tampa, Florida (2011 – 2014)

Saint Petersburg-Clearwater Bar Association (2001 – 2003)

Tampa Bay Catholic Lawyers Guild (2007 – 2011)

Tampa Bay Chapter, The Federalist Society for Law and Public Policy Studies (2012 –
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.

Florida Bar (1999)

There has been no lapse in my membership.

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

Supreme Court of the United States (2009)

United States Court of Appeals for the Eleventh Circuit (2001)

United States District Court, Middle District of Florida (2001)

My memberships to the Court of Appeals for the Eleventh Circuit and the District Court for the Middle District of Florida lapsed in 2015 upon my appointment to the Florida appellate 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.

Troop 477, Girl Scouts of America, Tampa, Florida
Registered, Blue Card Girl Scout Volunteer (2010 – Present)

Troop 100, Boy Scouts of America, Tampa, Florida,
Troop Executive Committee (2010 – 2016)

- 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.

Until February 1, 2019, the Boy Scouts of America limited their youth membership to boys. Otherwise, to the best 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.

"Respond" to Emails, Do Not Just "Reply" to Them, The Professional, Vol. XIV, No. 1, The Henry Latimer Center for Professionalism, The Florida Bar, Spring 2017. Copy supplied.

With Gary L. Sasso, *Circumventing Intent*, Securities News, American Bar Association, Litigation Section, Vol. 12, No. 3 (2002). Copy supplied.

With Charles W. Thomas and Dianne Bolinger, *Private Adult Correctional Facility Census*, Center for Studies in Criminology and Law, University of Florida, Tenth Edition (1997). 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.

Federal Court Practice Committee Annual Report, The Florida Bar Journal, Vol. 89, No. 6 (June 2015). Copy supplied.

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

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.

November 19, 2019: Speaker, "What Should Be Appealed and Why: An Overview of the Appellate Process in the United States," U.S. Department of Justice Office of Overseas Development, Assistance and Training Program, Tampa, Florida. Copy supplied.

October 3, 2019: Guest Lecturer, "The Client-Lawyer Relationship – *Yates v. United States*," University of Florida Levin College of Law, Gainesville, Florida (via video conference). Notes supplied.

July 28, 2019: Guest Lecturer, "Effective Practices in Appellate Advocacy," Western Michigan University, Thomas M. Cooley College of Law, Riverview, Florida. I have no notes, transcript, or recording. I spoke regarding effective advocacy. The address of Western Michigan University, Thomas M. Cooley College of Law, is 9445 Camden Field Parkway, Riverview, Florida 33578.

June 5, 2019: Panelist, "Art of Objecting: A Trial Lawyer's Guide to Preserving Error for Appeal – Jury Instructions, Verdict Forms, Jury Questions and Conduct, Jury Verdicts," Appellate Practice Section, Florida Bar, Tampa, Florida. Copy supplied.

April 15, 2019: Appellate Panel Judge, Florida High School Moot Court Competition, Appellate Practice Section, Florida Bar, Statewide Semi-Finals, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding

effective court practice. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

March 29, 2019: Panelist, Judicial Panel Discussion on Professionalism, Practicing with Professionalism Program, Young Lawyers Division, Florida Bar, St. Petersburg, Florida. I have no notes, transcript, or recording. I spoke regarding professionalism. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

February 27, 2019: Presenter, Law Day, Hillsborough County Bar Association, Sickles High School, Tampa, Florida. Copy supplied.

February 13, 2019: Panelist, Differences Between State and Federal Appeals, Appellate Practice Section, Hillsborough County Bar Association, Tampa, Florida. Copy supplied.

January 11, 2019: Presenter, The Attorney-Client Relationship in a Diverse Society, Education Seminar on Professionalism and Appellate Issues, Office of Criminal Conflict and Civil Regional Counsel (Second District), Tampa, Florida. Copy supplied.

December 7, 2018: Panelist, Basic Trial Practice, Young Lawyers Division, Florida Bar, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding trial practice. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

November 7, 2018: Guest, Lecturer, "The Supreme Court's Fish Case – *Yates v. United States*," University of Florida Levin College of Law, Gainesville, Florida (via video conference). I have no notes, transcript, or recording. I spoke regarding the *Yates* case. The address of University of Florida Levin College of Law is 309 Village Drive, PO Box 117620, Gainesville, Florida 32611.

September 26, 2018: Guest Lecturer, "The Supreme Court's Fish Case – *Yates v. United States*," University of Florida Levin College of Law, Gainesville, Florida. Copy supplied.

June 14, 2018: Appellate Judge Panelist, Orseck Law School Moot Court Statewide Competition, Young Lawyers Division, Florida Bar, Orlando, Florida. I have no notes, transcript, or recording. I spoke regarding successful moot court performance. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

April 11, 2018: Appellate Panel Judge, Florida High School Moot Court Competition, Appellate Practice Section, Florida Bar, Statewide Semi-Finals, Tampa, Florida. I have no notes, transcript, or recordings. I spoke regarding successful moot court performance. The address of the Florida Bar is 651 East

Jefferson Street, Tallahassee, Florida 32399.

February 1, 2018: Guest Lecturer, "The Supreme Court's Fish Case – *Yates v. United States*." Stetson University College of Law, Gulfport, Florida. I have no notes, transcript, or recordings. I spoke regarding the *Yates* case. The address of Stetson University College of Law is 1401 61st Street South, Gulfport, Florida 33707.

January 23, 2018: Guest Lecturer, "The Client-Lawyer Relationship – *Yates v. United States*," University of Florida Levin College of Law, Gainesville, Florida. Copy supplied.

November 17, 2017: Presenter, PD Conflict-Section 57.5303 and "The Client-Lawyer Relationship – *Yates v. United States*," Professionalism Seminar, Office of Criminal Conflict and Civil Regional Counsel (Second District), Bartow, Florida. Copy supplied.

October 19, 2017: Presenter, "The Client-Lawyer Relationship – *Yates v. United States*," Appellate Practice Section, Hillsborough County Bar Association, Tampa, Florida. Copy supplied.

August 4, 2017: Panelist, Judicial Panel Discussion on Professionalism, Practicing with Professionalism Program, Young Lawyers Division, Florida Bar, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding professionalism. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

February 15, 2017: Panelist, Mistakes Lawyers Make in Court, Hillsborough County Association of Women Lawyers, Tampa, Florida. Copy supplied.

February 10, 2017: Panelist, "Views From the Bench – Hidden Essentials of Appellate Law," Appellate Practice Section, Florida Bar, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding appellate practice. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

December 2, 2016: Presenter, "Stay in Your Lane: Navigating the Ethical Challenges of Joint Representation in Criminal Proceedings," Criminal Law Section, Florida Bar, Tampa, Florida. Copy supplied.

November 14, 2016: Presenter, Florida Government, Great American Teach In, Walker International Baccalaureate Middle School, Hillsborough County Public Schools, Tampa, Florida. Copy supplied.

November 10, 2016: Panelist, Best Practices – Views From the Bench, Bench-Bar Conference, Hillsborough County Bar Association, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding best practices from a judge's

perspective. The address of Hillsborough County Bar Association is 1610 North Tampa Street, Tampa, Florida 33602.

October 5, 2016: Speaker, Florida Bar Induction Ceremony, Florida Second District Court of Appeal, Stetson Law School, Tampa, Florida. Copy supplied.

September 20, 2016: Speaker, "A Story of the Fisherman Charged under the Enron Law, *Yates v. United States*," Senior Counsel Section, Hillsborough County Bar Association, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding the *Yates* case. The address of Hillsborough County Bar Association is 1610 North Tampa Street, Tampa, Florida 33602.

May 6, 2016: Panelist, The Florida Courts of Appeal, A Discussion with High School Students, Law Week Program, Lee County Bar Association, Fort Myers, Florida. I have no notes, transcript, or recording. I spoke regarding the Florida courts of appeal. The address of Lee County Bar Association is 2077 First Street, Suite 207, Fort Myers, Florida 33901.

April 17, 2016: Commencement Address, Western Michigan University-Thomas M. Cooley Law School, Tampa, Florida. Copy supplied.

March 30, 2016: Lecturer, "The Supreme Court's Fish Case – *Yates v. United States*," University of Florida Levin College of Law, Gainesville, Florida (via video conference). I have no notes, transcript, or recording. I spoke regarding the *Yates* case. The address of University of Florida Levin College of Law is 309 Village Drive, PO Box 117620, Gainesville, Florida 32611.

March 29, 2016: Panelist, Balancing Life and the Law, Stetson University College of Law, Gulfport, Florida. I have no notes, transcript, or recording. I spoke regarding work-life balance. The address of Stetson University College of Law is 1401 61st Street South, Gulfport, Florida 33707.

March 2, 2016: Panelist, Views from the Bench, Canakaris American Inn of Court, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding my experience as a judge. The address of American Inns of Court is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

January 13, 2016: Speaker, An Informal Roundtable Discussing the Topic of Practical Pointers to Help You Win (Or at Least Not Lose) Your Appeal, Hillsborough County Bar Association, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding successful appellate advocacy. The address of Hillsborough County Bar Association is 1610 North Tampa Street, Tampa, Florida 33602.

December 4, 2015: Panelist, Basic Evidence: Practical Tips for Trial Lawyers, Young Lawyers Division, Florida Bar, Tampa, Florida. I have no notes,

transcript, or recording. I spoke regarding evidence law. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

November 25, 2015: Speaker, Eagle Scout Court of Honor, Troop 48, Boy Scouts of America, Tampa, Florida. Copy supplied.

November 19, 2015: Presenter, "What Judges Do," Great American Teach In, Westchase Elementary, Hillsborough County Public Schools, Tampa, Florida. Copy supplied.

October 27, 2015: Panelist, Views from the Bench, Bench-Bar Conference, Hillsborough County Bar Association, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding my experiences on the bench. The address of Hillsborough County Bar Association is 1610 North Tampa Street, Tampa, Florida 33602.

June 8, 2015: Response, Investiture of John L. Badalamenti, Florida Second District Court of Appeal, Tampa, Florida. Copy supplied.

March 18, 2015: Panelist, Discussion of *Yates v. United States*, Brown Bag Luncheon, Tampa Bay Chapter, Federal Bar Association, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding the *Yates* Supreme Court case. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

August 13, 2014: Presenter, "Federal Bureau of Prisons – From Sentencing to Release," Federal Defender Services, Eastern District of Tennessee, Chattanooga, Tennessee. Copy supplied.

August 8, 2014: Speaker, Apprehension and Removal of Debtor Proceedings, District Conference of Bankruptcy Judges, Middle District of Florida. Copy supplied.

April 10, 2014: Presenter, Federal Criminal Appeals, Criminal Appellate Board Certification Review Course, Florida Association for Criminal Defense Lawyers, Tampa, Florida. Copy supplied.

May 24, 2013: Panel Moderator, Bureau of Prisons Issues, Federal Bar Association and National Association of Criminal Defense Lawyers, Orlando, Florida. Copy supplied.

May 14, 2013: Presenter, Expert Witness Discovery Issues in Florida and Federal Courts, J. Clifford Cheatwood American Inn of Court, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding expert witness discover. The address of American Inns of Court is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

February 8, 2013: Panelist, The Implications of Appeal Waivers, 2013 Eleventh Circuit Appellate Practice Institute Seminar, Miami, Florida. I have no notes, transcript, or recording. I spoke regarding appeal waivers. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

December 7, 2012: Presenter, "Overview of the Federal Bureau of Prisons, Demystifying the BOP – Time Computations, Designation, Programs, and Advocacy," Federal Defenders of New York, Inc., New York Law School, New York, New York. Copy supplied.

September 21, 2012: Presenter, Federal Bureau of Prisons Overview (Overview of Prisoner Litigation), Federal Public Defender's Office, District of Delaware, Wilmington, Delaware. Copy supplied.

May 31, 2012: Presenter, Federal Bureau of Prisons Overview (Current Prisoner Litigation Issues from the Sentencing Hearing to Release), Seminar for Federal Defenders, Federal Judicial Center, U.S. Courts Judges and Attorneys Training Branch, Atlanta, Georgia. Copy supplied.

May 25, 2012: Panelist, BOP Issues, Annual Federal Sentencing Guidelines Conference, Criminal Justice Section, American Bar Association, and Federal Bar Association, Saint Petersburg, Florida, Copy supplied.

April 20, 2012: Presenter, Federal Bureau of Prisons Overview, Criminal Justice Act Training Seminar, Federal Public Defender's Office, Middle District of Florida, Orlando, Florida. Copy supplied.

April 10, 2012: Presenter, Improper Closing Arguments: Proper Appellate Preservation under Florida Law, J. Clifford Cheatwood Inn of Court, Tampa; Florida. I have no notes, transcript, or recording. I spoke regarding preservation of issues for appeal. The address of American Inns of Court is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

May 6, 2011: Speaker, Child Pornography Offenses and the Adam Walsh Act, Tampa Bay Chapter of the Federal Bar Association, National Association of Criminal Defense Lawyers, and Criminal Justice Section of the American Bar Association, Orlando, Florida. I have no notes, transcript, or recording. I spoke regarding criminal law. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

January 10, 2011: Panelist, "Practicing Professionalism: Commitment, Competence and Character," Stetson Law School, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding professionalism. The address of Stetson University College of Law is 1401 61st Street South, Gulfport, Florida 33707.

October 15, 2010: Panelist, Anders Briefs, Eleventh Circuit Appellate Practice Institute, Institute of Continuing Legal Education of Georgia, Atlanta, Georgia. I have no notes, transcript, or recording. I spoke regarding criminal appellate practice. The address of the Georgia Bar is 104 Marietta Street NW, Suite 100, Atlanta, Georgia 30303.

May 14, 2010: Panelist, Child Pornography Offenses and the Adam Walsh Act, Federal Bar Association and National Association of Criminal Defense Lawyers, Federal Sentencing Guidelines Conference, St. Petersburg, Florida. I have no notes, transcript, or recording. I spoke regarding criminal law. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

March 12, 2010: Panelist, Basics of Federal Appeals, Federal Public Defender's Office, Northern District of Alabama, Birmingham, Alabama. I have no notes, transcript, or recording. I spoke regarding appellate practice. The address of the Federal Public Defender's Office, Northern District of Alabama, is 505 20th Street North, Suite 1425, Birmingham, Alabama 35203.

May 22, 2009: Panelist, SORNA Litigation, Federal Sentencing Guidelines Conference, Federal Bar Association and National Association of Criminal Defense Lawyers, Clearwater Beach, Florida. I have no notes, transcript, or recording. I spoke regarding SORNA. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

February 9, 2009: Presenter, Federal Bureau of Prisons Overview, Herbert G. Goldberg Criminal Law American Inn of Court, Tampa, Florida. Copy supplied.

October 3, 2008: Presenter, The Adam Walsh Act: SORNA Overview and Update, Criminal Justice Act Panel Training, Federal Public Defender's Office, Southern District of Ohio, Columbus, Ohio. Copy supplied.

August 7, 2008: Presenter, The Adam Walsh Act: SORNA Overview and Update, National Sentencing Workshop, Federal Judicial Center, U.S. Courts Judges and Attorneys Training Branch, Atlanta, Georgia. Copy supplied.

May 28, 2008: Presenter, The Adam Walsh Act: SORNA Overview and Update, Advanced Federal Defender Training Conference, Federal Judicial Center, U.S. Courts Judges and Attorneys Training Branch, New Orleans, Louisiana. Copy supplied.

May 8, 2008: Presenter, Sentencing, Post-Conviction Litigation, and Beyond, White Collar Crime Institute, American Bar Association, Tampa, Florida. I have no notes, transcript, or recording. I spoke regarding sentencing and post-conviction law. The address of the American Bar Association is 321 North Clark

Street, Chicago, Illinois 60654.

May 7, 2008: Presenter, Federal Bureau of Prisons Overview, Criminal Justice Act Training Program, Federal Public Defender's Office, Middle District of Florida, Orlando, Florida. Copy supplied.

October 15, 2007: Presenter, Federal Bureau of Prisons Overview, District Conference, Federal Public Defender's Office, Middle District of Florida, Daytona Beach, Florida. Copy supplied.

- 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.

Dawn A. Tiffin, *May It Please the Court: Do's and Don'ts for Trial Lawyers at Oral Argument*, The Lawyer Magazine, Hillsborough County Bar Association, May – June 2017. Copy supplied.

Christopher A. Lewis, *Success is the Intersection of Opportunity and Achievement*, Law School Insider Podcast, December 8, 2016. Copy of article and audio supplied.

Thomas Newcomb Hyde, *The Fisherman Charged Under the Enron Statute: Yates v. United States*, The Lawyer Magazine, Hillsborough County Bar Association, November 2016. Copy supplied.

Dan Sullivan, *Paul Scalia, the son of late Supreme Court, speaks at Red Mass for Tampa judges*, The Tampa Bay Times, October 13, 2016. Copy supplied.

Steve Contorno, *Tampa Bay Residents Recall Encounters with U.S. Supreme Court Justice Antonin Scalia*, The Tampa Bay Times, February 13, 2016. Copy supplied.

Anthony J. Russo, *Appellate Law: Judge John Badalamenti Joins the Second District Court of Appeal*, The Lawyer Magazine, Hillsborough County Bar Association, September 21, 2015. Copy supplied.

Lisa Stephens, *Here Comes the Judge! Spending time in a courtroom began early in life for a Westchase resident, and newly-appointed judge, John Badalamenti*, The World of Westchase Magazine, May 2015. Copy supplied.

John Romano, *Vindication for the Little Guy*, Tampa Bay Times, February 26, 2015. Copy supplied.

Sam Hananel, *Angler Off the Hook in Grouper-Tossing; Supreme Court Rules Dumping Fish Overboard Isn't Shredding Evidence*, Tampa Tribune, February 26, 2015. Copy supplied.

AP Wire, *U.S. Supreme Court Justices Rule Florida Fisherman is Off the Hook in Grouper-Tossing Case*, Tampa Bay Times, February 25, 2015. Copy supplied.

John Romano, *Supreme Court Says Enron Law Shouldn't Catch Manatee County Fisherman*, Tampa Bay Times, February 25, 2015. Copy supplied.

Ariane de Vogue, *Supreme Court: One Fish Two Fish Red Fish Blue Fish*, CNN Wire, February 25, 2015. Copy supplied.

Andrew Steadman, *Fishing For Justice*, University of Florida Law Magazine, Fall 2014. Copy supplied.

John Romano, *A Fishy Excuse to Go After Someone*, Tampa Bay Times, December 2, 2014. Copy supplied.

John Romano, *Prosecutors Use Enron-Inspired Law to Go After Fisherman with Undersized Grouper*, The Tampa Bay Times, December 1, 2014. Copy supplied.

Richard Wolf, *Justices Seeing Red Over Case of Missing Grouper*, USA Today, November 5, 2014. Copy supplied.

Nina Totenberg, *The Supreme Court Takes Up the Case of the Missing Grouper*, National Public Radio, November 5, 2014. Copy of article and audio provided.

Mark Walsh, *Fisherman convicted of violating Sarbanes-Oxley will be heard by the Supreme Court*, American Bar Association Journal, November 1, 2014. Copy supplied.

Brent Kendall, *Can Feds Use Sarbanes-Oxley to Hook a Fisherman? Supreme Court to Decide*, The Wall Street Journal, April 28, 2014. Copy supplied.

James W. Smith, III, *In Loving Memory of Melissa Kupferberg*, Eagle's Eye, National Defender Investigator Association, December 2009. Copy supplied.

Sarah Lundy, *Ruling Clears Way to Re-Indict Sex Offenders*, Orlando Sentinel, March 28, 2009. Copy supplied.

Walter Putnam, *Court Upholds Federal Sex Offender Law*, Associated Press State & Local Wire, March 26, 2009. Copy supplied.

David Hudson, *Crime Registries Under Fire*, American Bar Association Journal, September 1, 2008. Copy supplied.

Marlene Sokol, *Sweet ... and a Tad Sassy*, Saint Petersburg Times, July 20, 2007.
Copy supplied.

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

Since April 29, 2015, I have served as a judge of the state of Florida's Second District Court of Appeal. I was appointed by Governor Rick Scott. I was retained by the voters in the 2016 General Election. The district courts of appeal are Florida's intermediate appellate courts with jurisdiction to hear appeals in final decisions or orders of trial courts and administrative agency decisions (except those judgments directly appealable to the circuit court or Supreme Court of Florida), appeals from enumerated non-final orders of the trial courts, original proceedings, including petitions for writ of certiorari, prohibition, mandamus, and habeas corpus. There are five district courts of appeal in Florida. The Second District Court of Appeal is comprised of fourteen counties and serves a population of approximately 5.5 million people.

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

Because I serve as a Florida appellate judge, I have not presided over cases that have gone to verdict. However, as of December 3, 2019, I have participated in approximately 3,717 cases as a judge on Florida's Second District Court of Appeal. I have presided as a member of a panel in approximately 350 oral arguments. I have adjudicated approximately 1,109 (30%) civil proceedings, and approximately 2,608 (70%) criminal or postconviction/habeas corpus proceedings.

- i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	0% [total 100%]
civil proceedings:	30%
criminal proceedings:	70% [total 100%]

For purposes of the calculations above, I included prisoner postconviction and habeas corpus proceedings in the criminal proceedings category, although they are categorized as civil proceedings in Florida's state courts.

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

Levy v. State, 179 So. 3d 340 (Fla. 2d DCA 2014)

Retreat at Port of Islands, LLC v. Port of Islands Resort Hotel Condo. Ass'n, Inc., 181 So. 3d 531 (Fla. 2d DCA 2015)

In re S.M., 184 So. 3d 1235 (Fla. 2d DCA 2016)

Bioscience W., Inc. v. Gulfstream Prop. & Cas. Ins. Co., 185 So. 3d 638 (Fla. 2d DCA 2016)

Williams v. State, 198 So. 3d 778 (Fla. 2d DCA 2016)

Young v. State, 189 So. 3d 956 (Fla. 2d DCA 2016)

Pehlke v. State, 189 So. 3d 1036 (Fla. 2d DCA 2016)

Mitchell v. State, 190 So. 3d 1135 (Fla. 2d DCA 2016)

Reed v. State, 192 So. 3d 641 (Fla. 2d DCA 2016)

Jackson v. State, 192 So. 3d 649 (Fla. 2d DCA 2016)

Powers v. Powers, 193 So. 3d 1047 (Fla. 2d DCA 2016)

Patel v. Kumar, 196 So. 3d 468 (Fla. 2d DCA 2016) (Badalamenti, J., concurring)

Loza v. Marin, 198 So. 3d 1017 (Fla. 2d DCA 2016)

Madison at Soho II Condo. Ass'n, Inc. v. Devo Acquisition Enters., LLC, 198 So. 3d 1111 (Fla. 2d DCA 2016)

Spears v. State, 210 So. 3d 87 (Fla. 2d DCA 2016)

Shrader v. State, 2D13-2712, 2016 WL 4649190 (Fla. 2d DCA Sept. 7, 2016) (Badalamenti, J., concurring in part and dissenting in part)

Marty v. State, 210 So. 3d 121 (Fla. 2d DCA 2016)

Jacaranda, LLC v. Green Tree Servicing, LLC, 203 So. 3d 964 (Fla. 2d DCA 2016)

Nelson v. Nelson, 206 So. 3d 818 (Fla. 2d DCA 2016)

Harkless v. Laubhan, 219 So. 3d 900 (Fla. 2d DCA 2016)

B.F.H. v. State, 207 So. 3d 374 (Fla. 2d DCA 2016)

Diecidue v. Lewis, 223 So. 3d 1015 (Fla. 2d DCA 2017)

Dickie v. State, 216 So. 3d 35 (Fla. 2d DCA 2017)

B.M. v. State, 212 So. 3d 526 (Fla. 2d DCA 2017)

Starks v. State, 223 So. 3d 1045 (Fla. 2d DCA 2017)

Boatright v. Philip Morris USA Inc., 218 So. 3d 962 (Fla. 2d DCA 2017)

Blackburn v. State, 216 So. 3d 784 (Fla. 2d DCA 2017)

State v. Imber, 223 So. 3d 1070 (Fla. 2d DCA 2017)

Sciandra v. PennyMac Corp., 227 So. 3d 164 (Fla. 2d DCA 2017)

Richards v. Weber, 221 So. 3d 714 (Fla. 2d DCA 2017)

Paylan v. Fitzgerald, 223 So. 3d 431 (Fla. 2d DCA 2017)

Smith v. State, 230 So. 3d 57 (Fla. 2d DCA 2017)

GEICO Gen. Ins. Co. v. Nocella, 224 So. 3d 870 (Fla. 2d DCA 2017)

Kallett v. Kastriner, 225 So. 3d 967 (Fla. 2d DCA 2017)

Eady v. State, 229 So. 3d 434 (Fla. 2d DCA 2017)

McCullough v. State, 230 So. 3d 586 (Fla. 2d DCA 2017)

Wesby v. State, 230 So. 3d 939 (Fla. 2d DCA 2017)

RBS Citizens N.A. v. Reynolds, 231 So. 3d 591 (Fla. 2d DCA 2017)

Knight v. Chief Judge of Florida's Twelfth Judicial Circuit, 235 So. 3d 996 (Fla. 2d DCA 2017) (Badalamenti, J., concurring)

Brown v. Brown, 239 So. 3d 1271 (Fla. 2d DCA 2018)

Roberts v. State, 239 So. 3d 1289 (Fla. 2d DCA 2018)

Ferris v. Winn, 242 So. 3d 509 (Fla. 2d DCA 2018)

Ambrogio v. McGuire, 247 So. 3d 73 (Fla. 2d DCA 2018)

M.M. v. J.H., 251 So. 3d 970 (Fla. 2d DCA 2018)

Spike v. State, 251 So. 3d 1017 (Fla. 2d DCA 2018)

Alicea Enterprises, Inc. v. Nationwide Ins. Co. of Am., Inc., 252 So. 3d 799 (Fla. 2d DCA 2018)

Tualla v. State, 251 So. 3d 337 (Fla. 2d DCA 2018)

Bork v. Pare, 252 So. 3d 394 (Fla. 2d DCA 2018)

Distefano v. Distefano, 253 So. 3d 1178 (Fla. 2d DCA 2018)

Canchola v. State, 255 So. 3d 442 (Fla. 2d DCA 2018)

Perez v. State, 269 So. 3d 574 (Fla. 2d DCA 2018)

Baden v. Baden, 260 So. 3d 1108 (Fla. 2d DCA 2018)

R.M. v. State, 259 So. 3d 953 (Fla. 2d DCA 2018)

Bing v. State, 268 So. 3d 192 (Fla. 2d DCA 2018)

Drossos v. State, No. 2D17-280, 2018 WL 6579755 (Fla. 2d DCA Dec. 14, 2018)

Jefferson v. State, 264 So. 3d 1019 (Fla. 2d DCA 2018)

J.A.D. v. K.M.A., 264 So. 3d 1080 (Fla. 2d DCA 2019)

Gonzalez v. State, 264 So. 3d 342 (Fla. 2d DCA 2019)

Austin Commercial, L.P. v. L.M.C.C. Specialty Contractors, Inc., 268 So. 3d 215 (Fla. 2d DCA 2019)

Byra v. State, 268 So. 3d 207 (Fla. 2d DCA 2019)

Thomas v. State, 269 So. 3d 681 (Fla. 2d DCA 2019)

Timmons v. Grier, 276 So. 3d 48 (Fla. 2d DCA 2019)

Negron Gil de Rubio v. State, 272 So. 3d 811 (Fla. 2d DCA 2019)

E. Bay NC, LLC v. Estate of Djadjich by & Through Reddish, 273 So. 3d 1141 (Fla. 2d DCA 2019)

Lee v. State, 273 So. 3d 1147 (Fla. 2d DCA 2019)

Contreras v. State, 274 So. 3d 532 (Fla. 2d DCA 2019)

A.L. v. State, 275 So. 3d 819 (Fla. 2d DCA 2019)

Szurant v. Aaronson, 277 So. 3d 1093 (Fla. 2d DCA 2019)

Shrader v. State, 278 So. 3d 270 (Fla. 2d DCA 2019) (en banc)

Baldwin v. Henriquez, 279 So. 3d 328 (Fla. 2d DCA 2019)

B.L.S. v. State, 280 So. 3d 549 (Fla. 2d DCA 2019)

Romaine v. State, No. 2D17-4605, 2019 WL 5582053 (Fla. 2d DCA Oct. 30, 2019)

Barnett v. State, No. 2D17-379, 2019 WL 5778034 (Fla. 2d DCA Nov. 6, 2019)

Usry v. State, No. 2D18-4435, 2019 WL 5939265 (Fla. 2d DCA Nov. 13, 2019)

Florida Dep't of Agric. & Consumer Services v. Dolliver, No. 2D18-1393, 2019 WL 5939283 (Fla. 2d DCA Nov. 13, 2019) (Badalamenti, J., concurring specially)

Wilson v. State, No. 2D18-4662, 2019 WL 6222888 (Fla. 2d DCA Nov. 22, 2019)

De Oliveira v. United Tennis Academy, LLC, No. 2D18-2360, 2019 WL 6720207 (Fla. 2d DCA Dec. 11, 2019)

Thomas v. State, No. 2D18-3420, 2019 WL 6720427 (Fla. 2d DCA Dec. 11, 2019)

- 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. *Fla. Dep't of Agric. & Consumer Servs. v. Dolliver*, No. 2D18-1393, 2019 WL 5939283 (Fla. 2d DCA Nov. 13, 2019) (Badalamenti, J., concurring).

Florida property owners obtained a jury verdict awarding them monetary damages for the State's destruction of thousands of citrus trees pursuant to the State's citrus canker eradication program. Despite the monetary judgment, the legislature had neglected to appropriate funds to satisfy the judgment. The Department of Agriculture refused to satisfy the judgment, contending that under Florida's appropriation statute it could not be compelled to do so until the funds had been appropriated by the legislature for that specific purpose. The Department also

contended that it had no duty to request an appropriation to satisfy the judgment. The panel opinion affirmed the trial court's order concluding that the appropriation statute was unconstitutional as applied to the property owners. In a special concurrence, I emphasized that we had reached the constitutional question only after determining that it could not be avoided. I also emphasized that our decision was necessary to protect the property owners' self-executing constitutional right to receive "full compensation" for the State's taking of their property, as provided by the plain text of the Takings Clause of the Fifth Amendment to the United States Constitution as understood at the time of ratification. I suggested that the legislature consider amending the existing statutory scheme to ensure prompt payment of takings claims judgments entered in favor of the citizens of our State.

For appellant-defendant (Florida Department of Agriculture and Consumer Services and Florida Commissioner of Agriculture):

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2. *Baldwin v. Henriquez*, 279 So. 3d 328 (Fla. 2d DCA 2019).

I authored the unanimous opinion in this appeal affirming the county tax appraiser's denial of an untimely request by property owners to carry over their accrued homestead exemption tax savings. The property owners contended that the denial violated their homestead property rights set forth in the Florida Constitution. Based on the plain meaning of the text of the applicable constitutional provision as understood when the provision was enacted, however, and observing that the legislature had not provided any exceptions to the statutory time-period that would have permitted carryover, we held that the property owners had no basis for relief.

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3. *Shrader v. State*, 278 So. 3d 270 (Fla. 2d DCA 2019) (en banc).

I initially dissented from the majority's opinion reversing the defendant's felony-murder conviction based on my belief that the majority had failed to review the evidence in the light most favorable to the jury's verdict, as our precedent dictates, and had improperly substituted its judgment for the jury's. Thereafter, our court elected to proceed en banc, and I authored the en banc court's majority opinion vacating the panel's opinion and affirming the jury's verdict.

For appellant-defendant (Shrader):

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4. *Jefferson v. State*, 264 So. 3d 1019 (Fla. 2d DCA 2018).

I authored the unanimous panel opinion interpreting Florida's "stand your ground" self-defense immunity statute. Deciding an issue of first impression, the opinion reasoned that the plain meaning of the statute evinces the legislature's intent that a criminal defendant bear no evidentiary burden to trigger the prosecution's statutory obligation to overcome the self-defense claim by clear and convincing evidence. Instead, the defendant need only set forth a facially sufficient claim that he acted in self-defense. The opinion quashed the trial court's denial of the defendant's motion to dismiss the criminal information and remanded for the trial court to conduct a hearing on the motion. The opinion has been joined by another Florida appellate court, and the procedure set forth in the opinion is now utilized in the trial courts statewide.

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5. *Starks v. State*, 223 So. 3d 1045 (Fla. 2d DCA 2017).

I authored the unanimous panel opinion affirming the defendant's conviction for second-degree murder. As an issue of first impression in our court, the opinion held that the defendant's repeated bareknuckle punching of his unconscious and

defenseless victim resulting in that victim's death satisfied the plain meaning of the "any act imminently dangerous" element of Florida's second-degree murder statute. The opinion reasoned that by including the phrase "any act," the legislature intended that the statute have broad application to any act that is imminently dangerous to another.

For appellant-defendant (Starks):

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For appellee-plaintiff (State of Florida):

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6. *Boatright v. Philip Morris USA Inc.*, 218 So. 3d 962 (Fla. 2d DCA 2017).

I authored the unanimous panel opinion in this appeal involving a dispute over the procedural requirements governing the service of proposals for settlement. Analyzing the plain language and interplay of the operative Florida statute and multiple Florida procedural rules, the opinion interpreted Florida Rule of Judicial Administration 2.516 to require mandatory email service only for documents that are required or permitted to be filed in the trial court. The panel reasoned that because, by statute, proposals for settlement "shall not be filed" in the trial court (except to enforce a prevailing party's motion to tax attorney's fees and costs), service by U.S. Mail is permissible. The panel certified conflict with another Florida district court of appeal that held that email service is required for all documents without exception. In a unanimous decision, the Supreme Court of Florida adopted the reasoning set forth in our panel's opinion.

For appellants-plaintiffs (Boatright):

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For appellees-defendants (Philip Morris):

Wayne L. Thomas
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7. *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996 (Fla. 2d DCA 2017) (Badalamenti, J., concurring).

I authored a special concurrence opining that the Chief Judge of a Florida circuit court has the authority to order the Sheriff of Sarasota County to provide security for all areas of the courthouse, not merely within the four walls of a courtroom. I concluded that under the plain language of the applicable statutes, the legislature had granted authority to the Chief Judge to direct the Sheriff to provide courthouse security. Acknowledging the increased budgetary burdens that these duties place on sheriffs across our State, I noted that these burdens nonetheless are funding issues for the counties and the State's legislature to ferret out, not the courts.

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8. *Dickie v. State*, 216 So. 3d 35 (Fla. 2d DCA 2017).

I authored the unanimous panel opinion in this appeal by a defendant who had pleaded no contest to myriad counts of possessing child pornography. The defendant argued that Florida Statute 921.143 (2015) prohibits a sentencing court from considering unsworn, written victim impact statements. Analyzing the plain and ordinary language of the statute, the opinion reasoned that in creating a narrow class of victim impact statements that must be considered before imposing sentence, the legislature had not *sub silentio* created a new sentencing doctrine precluding the consideration of all other victim impact statements. The opinion certified conflict with an opinion by another Florida court of appeal, which our panel opined had effectively rewritten the statute, thus usurping legislative authority and violating fundamental principles of separation of powers.

For appellant-defendant (Dickie):

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For appellee-plaintiff (State of Florida):

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9. *B.M. v. State*, 212 So. 3d 526 (Fla. 2d DCA 2017).

I authored the unanimous panel opinion reversing the juvenile defendant's adjudication of delinquency for resisting arrest without violence. The opinion held that the officer who had ordered the defendant to stop so that she could question him about a reported robbery had lacked the constitutionally required reasonable and well-founded suspicion that the defendant had committed the robbery; therefore, she had had no lawful authority to order him to stop.

For appellee-defendant (B.M.):

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For appellee-plaintiff (State of Florida):

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10. *Retreat at Port of Islands, LLC v. Port of Islands Resort Hotel Condo. Ass'n*, 181 So. 3d 531 (Fla. 2d DCA 2015).

A condominium association prevented two of three managing directors of a limited liability company from serving on the board of directors of the association, citing a provision of the association's bylaws. The trial court granted summary judgment in favor of the association. I authored the unanimous opinion reversing the trial court's decision, applying basic rules of grammatical construction to the plain language of the disputed provision in the context of the bylaws as a whole

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

1. *Fla. Dep't of Agric. & Consumer Servs. v. Dolliver*, No. 2D18-1393, 2019 WL 5939283 (Fla. 2d DCA Nov. 13, 2019) (Badalamenti, J., concurring).

For appellant-defendant (Florida Department of Agriculture and Consumer Services and Florida Commissioner of Agriculture):

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2. *Baldwin v. Henriquez*, 279 So. 3d 328 (Fla. 2d DCA 2019).

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3. *Shrader v. State*, 278 So. 3d 270 (Fla. 2d DCA 2019) (en banc).

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4. *Jefferson v. State*, 264 So. 3d 1019 (Fla. 2d DCA 2018).

For petitioner-defendant (Jefferson):

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5. *Starks v. State*, 223 So. 3d 1045 (Fla. 2d DCA 2017).

For appellant-defendant (Starks):

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6. *Boatright v. Philip Morris USA Inc.*, 218 So. 3d 962 (Fla. 2d DCA 2017).

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For appellees-defendants (Philip Morris):

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7. *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996
(Fla. 2d DCA 2017) (Badalamenti, J., concurring).

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8. *Dickie v. State*, 216 So. 3d 35 (Fla. 2d DCA 2017).

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9. *B.M. v. State*, 212 So. 3d 526 (Fla. 2d DCA 2017).

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10. *Retreat at Port of Islands, LLC v. Port of Islands Resort Hotel Condo. Ass'n*,
181 So. 3d 531 (Fla. 2d DCA 2015).

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

To the best of my recollection and research in preparation of this response, the following is a case in which certiorari was requested:

Boatright v. Philip Morris USA Inc., 218 So. 3d 962 (Fla. 2d DCA 2017), *review denied* by No. SC17-894, 2018 WL 3090430 (Fla. 2018), *cert. denied*, 139 S. Ct. 1263 (2019).

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.

To the best of my recollection and research in preparation of this response, no opinion I have authored has been affirmed with significant criticism of my substantive or procedural rulings.

I was a member of a panel where an opinion authored by another judge was reversed by the Florida Supreme Court. See *Patel v. Kumar*, 196 So. 3d 468 (Fla. 2d DCA 2016), *decision quashed*, 227 So. 3d 557 (Fla. 2017). I specially concurred with a separate opinion. This case involved Florida's Stand Your Ground immunity statute. The question before the court was whether an individual who established immunity in his criminal prosecution needed to reestablish immunity in any subsequent civil proceeding related to the events giving rise to the criminal prosecution. The Florida Supreme Court held that the Stand Your Ground law does not confer civil liability immunity to an individual determined to be immune from prosecution in a criminal case. Immunity, the Court held, needs to be reestablished in any subsequent civil liability cases. The decision relied, in part, on the Florida Legislature's recent amendment to the statute, which was not available at the time our panel issued our opinion. In my special concurrence, I focused on the text of the civil attorney's-fees provision of the statute. *Patel v. Kumar*, 196 So. 3d 468, 475-76 (Fla. 2d DCA 2016) (Badalamenti, J., specially concurring). Specifically, I reasoned that because the legislature provided for an award of civil attorney's fees "if the court finds that the defendant is immune from prosecution," it intended that the immunity need only be established in the criminal "prosecution." The basis for my special concurrence was briefly mentioned in a footnote of the Court's opinion. The Court did not address how to reconcile the legislature's inclusion of the word "prosecution" in a provision of the statute only applicable to attorney's fees generated pursuant to a civil lawsuit. It instead reasoned that the phrase, "if the court finds that the defendant is immune from prosecution . . . seems to be a reference to the civil court and its determination (as conveyed by use of the present tense)." 227 So. 3d at 560 n.3.

I was a member of a panel where an opinion authored by another judge was reversed by the Florida Supreme Court. See *Bank of New York Mellon v. Glenville*, 215 So. 3d 1284 (Fla. 2d DCA 2017), *decision quashed*, 252 So. 3d 1120 (Fla. 2018). The panel opinion rejected an argument raised by the appellant for the first time on rehearing in our court. The Florida Supreme Court accepted jurisdiction to resolve the merits of the issue in which, in conformity with our court's binding precedent, the panel opinion deemed waived. In so doing, the Court resolved a split amongst the district courts of appeal as to the deadline for interested parties to assert a claim of surplus funds in a foreclosure proceeding. The statute at issue in that case has since been amended by the Legislature.

I was a member of a panel that summarily affirmed a civil commitment, citing binding precedent of our court. *D.P. v. State*, 225 So. 3d 810 (Fla. 2d DCA 2017), *decision quashed*, SC17-729, 2017 WL 3097694 (Fla. July 21, 2017). A prior decision of our court had held that the judicial officer determining whether a person subject to a petition for civil commitment (Florida's Baker Act) could appear via a live video conference with the person while that person is being held at a mental health facility, even over the parties' objection. See *Doe v. State*, 210 So. 3d 154, 155 (Fla. 2d DCA 2016), *decision quashed*, 217 So. 3d 1020 (Fla. 2017). The panel's summary opinion was subsequently quashed and remanded to our court for consideration of an intervening decision of the Supreme Court of Florida reversing our court's prior decision, which our panel was bound to apply. Specifically, the Supreme Court of Florida held that judicial officers, unless waived by all parties to the proceeding, must appear in the physical presence of the individual who is the subject of a petition for involuntary civil commitment. *Doe v. State*, 217 So. 3d 1020, 1031 (Fla. 2017).

- 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.

As a judge on the Second District Court of Appeal, all my opinions have been published.

- 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.

Baldwin v. Henriquez, 279 So. 3d 328 (Fla. 2d DCA 2019)

Florida Dep't of Agric. & Consumer Services v. Dolliver, 2D18-1393, 2019 WL 5939283 (Fla. 2d DCA Nov. 13, 2019) (Badalamenti, J., concurring specially)

- 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 Florida, recusals are governed by Florida Rule of Judicial Administration 2.330. In determining the necessity of recusal, I review each case assigned to me in order to determine whether the matter presents potential recusal-related issues. I have been consistently guided by: (1) Florida Rule of Judicial Administration 2.330; (ii) the Florida Code of Judicial Conduct; and (iii) Opinions of the Florida Judicial Ethics Advisory Committee ("JEAC").

To my knowledge, I have not been asked to recuse from a case. Our court employs an "automatic" recusal system by which the Clerk's office recuses me from cases involving those listed on my recusal list. I have provided the Clerk's office with a list of attorneys who practice before my court with whom I have a personal relationship. As such, those cases are automatically screened by the Clerk's office and do not appear on any of my dockets. Additionally, I review every docket assigned to me to ensure no conflict exists. I sua sponte recuse myself from any case in which I have personal knowledge or where a person with whom I have a personal relationship is representing a litigant before my court. To the best of my recollection and research in preparation of this response, I have sua sponte recused myself in the following cases: *Ademoye v. State*, No. 15-2232; *Gaffney v. Phillip A. Baumann, Administrator Ad Litem*, No. 15-5735; *John Doe, et al. v. Boy Scouts of America, Inc., et al.*, No. 16-3876; *Westaway v. Wells Fargo Bank, N.A., et al.*, No. 16-3683; *Paylan v. State*, Nos. 19-0389, 19-1805.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public offices other than the judicial office I currently hold.

- 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 been a member of, held any office in, or rendered services to any political party or election committee.

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

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 2000 to 2001, I served as a law clerk for the Honorable Frank Mays Hull, United States Court of Appeals for the Eleventh Circuit.

From 2003 to 2006, I served as a law clerk for the Honorable Paul H. Roney, United States Court of Appeals for the Eleventh Circuit.

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

I have never practice 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.

1999 – 2000

United States Attorney General's Honors Program

Federal Bureau of Prisons, Southeastern Regional Counsel's Office

3800 Camp Creek Parkway, Southwest, Building 2000

Atlanta, Georgia 30344

DOJ Honors Attorney

2001 – 2002

Carlton Fields, P.A.

Corporate Center Three at International Plaza

4221 West Boy Scout Boulevard, Suite 1000

Tampa, Florida 33607

Associate

2006 – 2015

Federal Public Defender's Office, Middle District of Florida

400 North Tampa Street, Suite 2700

Tampa, Florida 33602
Assistant Federal Public Defender (2008 – 2015)
Research and Writing Specialist (2006 – 2008)

- 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 not served in this capacity.

b. Describe:

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

1999 – 2000: As an Attorney-Advisor and United States Department of Justice Honors Attorney from 1999 to 2000 (one-year U.S. Attorney General's Honors Program term), Federal Bureau of Prisons (BOP), I defended lawsuits brought against the United States and its agents in prisoner litigation cases, ranging from petitions for post-conviction relief to Federal Tort Claims Act actions arising from, among other things, medical malpractice and personal injury matters filed in the United States District Courts for Florida, Georgia, Alabama, South Carolina, Mississippi, and Puerto Rico.

Similarly, I represented wardens, medical professionals, and various other BOP employees sued in their official capacity in Bivens claims alleging a violation of constitutional rights by agents of the United States government. I also drafted contracts – specifically, memoranda of understanding, between the BOP and other state and local agencies. Finally, I ensured compliance with state and federal court subpoenas served upon the agency's employees and compliance with public requests submitted pursuant to the Federal Freedom of Information Act (FOIA).

2001 – 2002: As an associate at Carlton Fields, P.A. from 2001 until accepting a clerkship opportunity with U.S. Circuit Judge Paul H. Roney in 2002, I defended large corporations (banks, insurance companies, utility companies, and manufacturers) in complex civil matters in the Middle District of Florida, including those involving securities, intellectual property, insurance, and products liabilities issues, to name a few. My practice included drafting complex dispositive motions, such as motions to dismiss and in opposition of class certification, for filing in the United States District Court for the Middle District of Florida, as well as appellate briefs for filing in the United States Court of Appeals for the Eleventh Circuit.

2006 – 2015: Immediately prior to my appointment to the Second District Court of Appeal, I served as an Assistant Federal Public Defender and Research and Writing Attorney in the Middle District of Florida for nearly a decade. While serving the Federal Public Defender's Office, I practiced criminal law in every level of the federal judicial system – in the United States District Court for the Middle District of Florida, the United States Bankruptcy Court for the Middle District of Florida (debtor apprehension and removal proceedings), the United States Court of Appeals for the Eleventh Circuit, and the Supreme Court of the United States.

I tried cases to jury and non-jury verdicts in two divisions of the United States District Court for the Middle District of Florida (Fort Myers and Tampa). I participated in myriad pre-trial proceedings (initial appearances, arraignments, detention hearings, and change-of-plea hearings), motions practice, sentencing hearings, and post-conviction proceedings in the United States District Court for the Middle District of Florida. I drafted numerous briefs and presented several oral arguments in the United States Court of Appeals for the Eleventh Circuit.

I drafted and filed petitions for writ of certiorari in the Supreme Court of the United States, one of which was granted by the Supreme Court. Specifically, I drafted the petition for writ of certiorari and presented oral argument on behalf of the prevailing petitioner in Yates v. United States, No. 13-7451, 135 S. Ct. 1074 (2015).

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

The typical clients I represented in federal court throughout my legal career varied by employment. My federal practice varied from representing the United States government and its agents, large publicly held corporations, small businesses, and indigent criminal defendants. For nearly a decade, I specialized in federal criminal law.

Typical Client: U.S. Government and Its Agents

As a United States Department of Justice Honors Attorney, I defended lawsuits brought against the United States government and its agents in prisoner litigation cases, ranging from petitions for post-conviction relief to Florida tort law actions arising from, among other things, medical malpractice and personal injury matters.

Typical Client: Banks, Insurance Companies, and Commercial Manufacturers

While an associate at Carlton Fields, P.A., I defended corporations (banks, insurance companies, manufacturers) in complex civil matters in the Middle District of Florida, including those involving securities, intellectual property, insurance, and products liability issues.

Typical Client: Court-Appointed, Indigent Criminal Defendants

As an attorney with the Federal Public Defender, I was appointed by the United States District Court for the Middle District of Florida and United States Court of Appeals for the Eleventh Circuit to represent indigent criminal defendants in a broad range of criminal cases – from white collar to drug offenses.

- 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.

Apart from my federal judicial clerkships and two administrative agency matters I worked on in private practice between 2001 and 2002, my entire legal practice consisted of litigation. I appeared in court regularly as an Assistant Federal Public Defender, as required by the court appointments of United States District Judges, United States Magistrate Judges, and, for purposes of some post-conviction appeals, direct appointments from United States Circuit Judges. Between 2008 and 2015, my court appearances in federal court varied between the United States District Court for the Middle District of Florida and the United States Court of Appeals for the Eleventh Circuit based on the needs of the Federal Public Defender's Office. During my tenure at the Federal Public Defender's Office, I appeared in court as counsel of record in the Supreme Court of the United States, the United States Court of Appeals for the Eleventh Circuit, the United States District Court for the Middle District of Florida, and the United States Bankruptcy Court for the Middle District of Florida (apprehension and removal of debtor to compel attendance for examination by bankruptcy court pursuant to Federal Rule of Bankruptcy Procedure 2005).

- i. Indicate the percentage of your practice in:

1. federal courts:	90%
2. state courts of record:	9%
3. other courts:	0%
4. administrative agencies:	1%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	20%
2. criminal proceedings:	80%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather

than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried six federal cases to verdict in the United States District Court for the Middle District of Florida. I served as associate counsel for those six trials with different trial partners at the Federal Public Defender's Office.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 83% |
| 2. non-jury: | 17% |

- 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.

Yates v. United States, No. 13-7451, 135 S. Ct. 1074 (2015). Petition for certiorari available at 2013 WL 8350082. Reply brief in support of certiorari available at 2014 WL 1665644. Brief of Petitioner available at 2014 WL 2965254. Reply brief of Petitioner available at 2014 WL 4678274. Oral argument available at 2014 WL 9866152.

As an Assistant Federal Public Defender, I filed petitions for writ of certiorari on behalf of the Federal Public Defender Office's court-appointed clients. According to a Supreme Court docket search I conducted for the purpose of responding to this question, I filed petitions for writ of certiorari in the following cases, which were summarily denied. I did not retain copies of these petitions for writ of certiorari, and I have been unable to locate copies.

Hogan v. United States, No. 07-9149, 552 U.S. 1249 (2008).

Carter v. United States, No. 09-10845, 561 U.S. 1016 (2010).

Smith v. United States, No. 09-8655, 559 U.S. 961 (2010).

Umana v. United States, No. 10-9974, 563 U.S. 1000 (2011).

Sanders v. United States, No. 12-5894, 568 U.S. 926 (2012).

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. Yates v. United States, 135 S. Ct. 1074 (2015) (Representation: 2010–2015).

I participated in all stages of this case upon the government’s return of the felony indictment charging the Federal Public Defender Office’s client, John Yates. I worked with the principal trial counsel representing Mr. Yates to frame the issue for the motion for judgment of acquittal for the 18 U.S.C. Section 1519 count.

I was the sole author of the briefs in the United States Court of Appeals for the Eleventh Circuit, and I presented oral argument to the Eleventh Circuit. I subsequently drafted and filed a petition for writ of certiorari to the Supreme Court of the United States, which was granted. I presented oral argument in the Supreme Court on behalf of the petitioner.

Mr. Yates is a commercial fisherman who was charged under a criminal provision of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1519 – a statute enacted in response to the Enron document-shredding and server-wiping scandal – for destroying undersized, harvested fish with the intent to impede a federal investigation. This case was given significant national attention from the media and legal scholars. It was a case of great importance to the separation-of-powers underpinnings of our system of government and to statutory interpretation. With Justice Alito’s special concurrence forming a majority of the Court, the petitioner-fisherman’s conviction for destroying the harvested fish was vacated. The Supreme Court determined that “tangible object” within the phrase “record, document, or tangible object,” as drafted and passed by Congress in 2002 against the backdrop of the Enron document-shredding and computer server-wiping scandal, did not include all physical evidence, as the government had contended. Instead, the Supreme Court adopted Petitioner Yates’s proposed definition of “tangible object” to be confined to devices that preserve information, such as a computer hard drive, server, or other similar storage device.

I served as the counsel of record in the Supreme Court, sole counsel in the U.S. Court of Appeals for the Eleventh Circuit (Dubina, Jordan, and, by designation, Bobby Baldock, JJ.), and associate counsel in the United States District Court for the Middle District of Florida (Steele, J.).

Principal Trial Counsel

Martin DerOvanesian
Assistant Federal Public Defender

1514 Broadway, Suite 301
Fort Myers, Florida 33901
(239) 334-0397

Co-Counsel in Supreme Court Merits Briefing Stage:

Rosemary Cakmis and Adeel Bashir (on the Supreme Court merits briefs)
Federal Public Defender's Office
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
(813) 228-2715

Opposing Counsel in Supreme Court:

Roman Martinez, Assistant U.S. Solicitor General (former)
Latham Watkins, LLP
555 Eleventh Street, Northwest, Suite 1000
Washington, D.C. 20004
(202) 637-2201

2. Carl Porto v. United States of America, Case No.: 96-8337-CIV-Hurley (S.D. Fla.) (Hurley, J.) (Representation: 1999 – 2000).

A former federal inmate sued the United States pursuant to the Federal Tort Claims Act, alleging negligence. I represented Federal Bureau of Prisons' medical professionals, acting as agents of the United States. The plaintiff developed a lesion on his toe while incarcerated due to complications from diabetes. The toe became infected and required amputation. He was released early from custody due to his deteriorating medical condition. Five months after his release, his leg became infected, requiring amputation below the knee. The plaintiff claimed that his toe required amputation because of the negligent care he received while incarcerated. He also asserted that the leg amputation was caused from negligent post-operative medical care he received after his toe amputation. The trial court granted the government's motion for summary judgment in part due to the government's statute of limitations defense pursuant to the Federal Tort Claims Act. The surviving claim was settled, and the parties filed a joint notice of dismissal. I prepared legal memoranda to defend the lawsuit, participated in extensive discovery, and participated in negotiations leading to the settlement of this case.

Co-Counsel for Defendant (United States):

Hon. Jeffrey Levenson (Former Assistant United States Attorney)
Circuit Judge, Seventeenth Judicial Circuit, Florida
201 SE 6th Street
Fort Lauderdale, Florida 33301
(954) 831-7817

Counsel for Plaintiff (Carl Porto):

Steven L. Simon
Steven Simon Law, PLLC
P.O. Box 403457
Miami Beach, Florida 33140
(786) 224-0705

3. Houser, et al v. Wachovia Corp., Case No. 8:01-CV-10410T-17MSS, (M.D. Fla.) (Kovachevich, J.) (Representation: 2001 – 2002).

The plaintiffs filed a lawsuit alleging myriad violations of securities law, breach of contract, and fraud claims against Wachovia Bank. The plaintiffs sought class certification as representative plaintiffs of shareholders of a bank that had merged with Wachovia Bank. After the banks merged, the value of the plaintiffs' and the putative class members' stock significantly dropped. They alleged that they were induced to purchase Wachovia stock at too high a price in connection with their former bank's merger agreement with Wachovia Bank. I drafted a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). I then drafted a response in opposition of the plaintiffs' request for class certification, accompanied by a proposed order for the district court. The district court denied the plaintiffs' request for class certification and adopted the proposed order verbatim. The district court subsequently granted in part judgment on the pleadings as to several counts. The parties subsequently settled the case, filing a joint motion for dismissal.

Co-Counsel for Defendant (Wachovia Bank):

Gary Sasso
President, CEO
Carlton Fields, P.A.
Corporate Center Three at International Plaza
4221 West Boy Scout Boulevard
Tampa, Florida 33607
(813) 229-4256

Counsel for Plaintiffs (John H. Houser & Frederick Raffa, and on behalf of others):

Raymond T. Elligett, Jr.
Buell & Elligett, P.A.
3003 West Azeele Street, Suite 100
Tampa, Florida 33609
(813) 874-2700

Guy M. Burns
Johnson, Pope, Bokor, Ruppel & Burns, LLP
403 East Madison Street, Suite 400
P.O. Box 1100
Tampa, Florida 33601-1100

(813) 225-2500

4. United States v. Valdiviez-Garza, 669 F.3d 1199 (11th Cir. 2012) (Tjoflat, Barkett, and, by designation U.S. District Judge Robert Smoak) (Representation: 2012).

I represented the criminal defendant and argued this rare interlocutory appeal before the United States Court of Appeals Eleventh Circuit. The defendant was charged with a felony offense. Two years prior, he was prosecuted and acquitted for a similar crime containing the same dispositive element for which he was previously acquitted. Asserting that the subsequent prosecution was barred by the doctrine of collateral estoppel, I argued on appeal that the indictment should be dismissed. The Eleventh Circuit issued a published decision ordering the dismissal of the indictment and holding that double jeopardy concerns precluded the government from re-litigating the dispositive element for which the defendant was previously acquitted.

Co-Counsel:

Yvette Gray, Assistant Federal Public Defender (on the briefs)
Federal Public Defender's Office, Middle District of Florida
1514 Broadway, Suite 301
Fort Myers, Florida 33901
(813) 415-4517

Opposing Counsel:

Karin Hoppmann
Assistant United States Attorney
United States Attorney's Office, Middle District of Florida
400 North Tampa Street, Suite 3200
(813) 274-6150

5. United States v. Bailey, 8:10-CR-00180-SDM-TGW (M.D. Fla.) (Merryday, J.) (Representation: 2010 – 2011).

Officers observed the defendant brandishing a firearm while entering a residence. The officers subsequently searched that residence. The defendant did not reside at that residence. A search of a bedroom closet revealed a firearm and illegal drugs. The defendant was charged with felon in possession of a firearm, possession with the intent to distribute cocaine base, and possession of a firearm in furtherance of drug trafficking. At trial, I moved for judgments of acquittal on all counts because the government neglected to prove beyond a reasonable doubt that the defendant had constructive possession of any of the items located in the closet. The district court denied the motion and submitted the case to the jury. The jury acquitted the defendant of the possession with intent to distribute cocaine base and the possession of a firearm in connection with drug trafficking counts. The jury returned a guilty verdict on the felon in possession of a firearm count.

The defendant was subsequently sentenced to three years' imprisonment. I served as co-counsel in the trial.

Co-Counsel:

Dionja Dyer
Retired

Opposing Counsel:

Colleen Murphy-Davis
Retired

6. Iglesias-Rios v. Warden, FCC Coleman-Low, Appeal No. 10-14941-GG (11th Cir. Mar. 23, 2012) (Representation: 2011 – 2012).

The petitioner was serving his sentence in a federal correctional facility. For several years, he filed repeated administrative remedy requests to prison officials noting that, contrary to established prison regulations, he was being housed in a higher security prison facility than his criminal history and inmate disciplinary record required. The petitioner filed a pro se motion for post-conviction relief in the district court, which the district court denied without an evidentiary hearing. The petitioner then filed a pro se appeal. Prior to taking the case under submission, the United States Court of Appeals for the Eleventh Circuit appointed the Federal Public Defender's Office to represent the petitioner and file a supplemental brief. In that supplemental brief, I argued that the district court erred by failing to conduct an evidentiary hearing on the matter, where the law required a hearing to properly develop the record. Approximately one week after I had filed my supplemental brief, the petitioner contacted me, advising that he had been transferred to a lower security facility. Once this petitioner had the opportunity to be heard, he received the relief he had requested without further intervention by a federal court. In the end, the parties amicably agreed to file a joint motion to dismiss the federal case without prejudice.

Co-Counsel:

None.

Opposing Counsel:

Linda McNamara
Assistant United States Attorney
United States Attorney's Office, Middle District of Florida
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
(813) 274-6067

7. United States v. Madera, 528 F.3d 852 (11th Cir. 2008) (Barkett, Fay, and, by designation, Walter K. Stapleton) (Representation: 2007 – 2008).

The defendant had been convicted of failing to comply with the reporting provisions of a newly enacted federal offender registry. The court ruled that if the defendant traveled across state lines at some point in his life prior to failing to register, there was a sufficient nexus to interstate commerce to create federal jurisdiction. On appeal, I argued that, by Congress's inclusion of the present tense verb "travels," the plain language of the federal failure-to-register statute required that the defendant travel in interstate commerce on or after the law's enactment. The district court, I asserted, rewrote the statute, straying away from the statute's usage of "travels" to the reach its interpretation that the statute applied to any individual who traveled across state lines before the enactment of the statute. The district court's statutory interpretation effectively broadened the reach of the statute beyond the plain language prescribed by Congress. The United States Court of Appeals for the Eleventh Circuit agreed and ordered that the indictment be dismissed. The individual subsequently reported to law enforcement officials and registered in compliance with the statute.

Co-Counsel:

None.

Opposing Counsel:

Hon. Patricia Barksdale (Former Assistant United States Attorney)
United States Magistrate Judge
Bryan Simpson United States Courthouse
300 North Hogan Street, Suite 5-311
Jacksonville, Florida 32202
(904) 549-1950

8. United States v. O'Sullivan, Appeal No. 06-14670, 255 F. App'x 407 (11th Cir. 2007) (E. Carnes and Barkett, and, by designation, U.S. District Judge James Cohn) (Representation 2006–2008).

After the defendant's arrest and being advised of his Miranda rights, he chose to not make a statement to law enforcement officers. At trial, the prosecutor asserted to the jury during closing arguments that the defendant had the opportunity to make a post-arrest statement explaining why he was present at the crime scene with the alleged co-conspirators but chose not to do so. On appeal, I argued that the prosecutor's closing arguments were improper and violated his Fifth Amendment right to remain silent. The Eleventh Circuit agreed and ordered a new trial. I was sole counsel in the United States Court of Appeals for the Eleventh Circuit. I retried the case with my trial partner in the Fort Myers Division of the United States District Court for the Middle District of Florida.

Opposing Counsel:

Hon. Susan Rothstein-Youakim (Former Assistant United States Attorney)
Florida Second District Court of Appeal
1700 North Tampa Street, Suite 300

Tampa, Florida 33602
(813) 272-8600

Trial Co-Counsel (for retrial after remand):

Martin DerOvanesian
Assistant Federal Public Defender
1514 roadway, Suite 301
Fort Myers, Florida 33901
(239) 334-0397

9. United States v. Mancilla, Appeal No. 06-14670, 255 F. App'x 1407 (11th Cir. 2007) (Anderson, Barkett, and Marcus) (Representation: 2006–2007).

The defendant had pleaded guilty as charged pursuant to a written plea agreement. On appeal, the government argued that the appeal should be dismissed pursuant to the appeal-waiver provision of the plea agreement. I argued that the government breached the plea agreement because the prosecutor, in contravention of the terms of the plea agreement, neglected to advise the sentencing judge of the defendant's post-arrest efforts to cooperate with law enforcement. The United States Court of Appeals for the Eleventh Circuit reversed and remanded for resentencing.

Co-Counsel:

None.

Opposing Counsel:

Todd Grandy
Assistant United States Attorney
United States Attorney's Office, Middle District of Florida
400 North Tampa Street, Suite 3200
(813) 274-6132

10. Rand v. Nat'l Fin. Ins. Co., 304 F.3d 1049 (11th Cir. 2002) (Barkett, Wilson, and Kravitch) (Representation: 2001 – 2002).

A medical doctor was issued a total disability insurance policy by National Fire Insurance Company (NFIC). The policy defined total disability as "completely unable" to engage in one's regular occupation and profession. After filing a claim, the insured received a letter from NFIC stating that because he was totally disabled, his premiums for a policy had been waived. NFIC ultimately denied the insurance claims, concluding that the insured was not totally disabled because he had continued to work part-time after filing the claim.

The insured filed a federal lawsuit for, among other claims, fraudulent misrepresentation. The gravamen of the fraud claim was that NFIC's waiver-of-premium letters fraudulently stated that he was totally disabled and that he relied on those statements to his detriment. As to fraud, the district court charged the

jury as follows, "To constitute fraud [the plaintiff] must also prove that National Financial made the misrepresentation knowingly and intentionally, not as a result of mistake or accident; that is, that National Financial either knew or should have known of the falsity of the misrepresentation." A jury awarded the insured approximately \$500,000 in damages. NFIC appealed to the Eleventh Circuit.

I had primary responsibility for developing the appellate arguments and drafting the appellate briefs. I argued that the district court erred in its jury charge as to the elements of fraud under Florida law. Because the district court added to the jury instruction that NFIC "should have known" of the falsity of the statement in the waiver-of-premium letter that the insured was totally disabled, I argued that the jurors were instructed improperly as to the fraud claim under settled Florida law. The Eleventh Circuit agreed, reversed, and granted NFIC a new trial on the fraud claim.

Co-Counsel for appellant-defendant (NFIC):

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

During my nearly decade of service with the Federal Public Defender's Office, I served on the faculty of the Federal Judicial Center for Judge and Attorney Educational Programs and various continuing legal education programs facilitated by Federal Public Defender offices, the American Bar Association, Federal Bar Association, the National Association of Criminal Defense Lawyers, and others throughout the United States. In this role, I have lectured on a wide range of legal topics, such as the structure and operation of the Federal Bureau of Prisons, substantive criminal law, federal post-

conviction litigation, analysis of newly enacted federal legislation, legal writing, and legal ethics.

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.

None.

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

I was a participant in the Federal Employees Retirement System as a result of my governmental service with the Department of Justice, Federal judiciary, and Federal Defender Organization. Additionally, I am a participant in the Florida State Employee's pension program.

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

I have no plans to pursue any outside employment during my service with the court. I plan to continue my volunteer service with the Florida Bar's Committee on Professionalism and Civility and the American Inns of Court.

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

When my nomination is formally transmitted to the Senate, I will file my mandated financial disclosure report and will supply a copy to this Committee.

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 have any family members who practice law. Additionally, I do not have any financial arrangements or categories of litigation which would present a conflict of interest. Having served as a state court judge since 2015, I expect to have few conflicts, except for any clients I represented during my tenure at the Federal Public Defender's Office. I would recuse myself on any federal criminal post-conviction case that I adjudicated as a state court judge. If any person or entity is a party to litigation before me, I would recuse myself consistent with the Code of Conduct for United States Judges, and any other laws, rules, and practices governing such circumstances.

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

If I am confirmed, I will review any real, potential, or perceived conflicts of interest by referring to 28 U.S.C. Section 455, Canon 3 of the Code of Judicial Conduct for United States Judges, as well as any other laws, rules, or practices governing such circumstances.

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

I have not engaged in the practice of law since 2015. My position as a judge generally prohibits my involvement in traditional pro bono work. Moreover, my employment with the federal government prohibited any practice of law outside the scope of my employment with the agency where I was employed at the time. As an associate at Carlton Fields, P.A., I dedicated greater than 50 billable hours to pro bono matters for a billable year.

That said, I am dedicated to mentorship programs. I volunteer in programs for high school students, undergraduate students, law school students, and young lawyers. I have served as a mentor in the mentorship programs of the Tampa Bay Chapter of the Federal Bar Association, Young Lawyers Division of the Florida Bar, American Inns of Court, and Hillsborough County Bar Association. In 2012, I was honored to have been selected as the Mentor of the Year for the Tampa Bay Chapter of the Federal Bar Association's mentorship program. Additionally, I have served as a volunteer mentor for inner city middle school students in the Tampa community. Additionally, I routinely volunteer to serve as moot court judge for the Florida High School Moot Court Competition, and the Florida Bar's Young Lawyers Section's State Moot Court Competition for law students.

I also serve as a master of the bench for the Bruce R. Jacob-Chris Altenbernd Criminal Appellate American Inn of Court, whose membership includes undergraduate and law school students, assistant public defenders, and assistant state attorneys general. Furthermore, I regularly volunteer at elementary, middle, and high schools during the Great American Teach Inn and Law Day programs.

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 submitted an application for a vacancy on the United States District Court for the Middle District of Florida to the Florida Federal Judicial Nominating Commission on October 26, 2017. On November 20, 2017, I received an email from the Commission Chair advising that I was selected for an interview at the Orlando federal courthouse on December 4, 2017.

I interviewed with the Florida Federal Judicial Nominating Commission on December 4, 2017. Later that evening, I received an email listing my name among four finalists that were certified by the Commission to the Florida Senators for the position of United States District Judge for the Middle District of Florida. The next day, on December 5, 2017, I received an email from Senator Nelson's office setting a meeting with the Senator for December 14, 2017, at 3:00 p.m. Soon after, also on December 5, 2017, I received an email from Senator Rubio's office setting a meeting with the Senator on December 14, 2017, at 10:00 a.m. After those meetings, on December 18, 2017, I received a phone call from the White House setting an interview for December 20, 2017. On December 31, 2017, I received an email from the White House Counsel's Office advising me of a phone call set for January 2, 2018. Following that call, although I spoke with numerous colleagues about the process, I did not have any direct contact with anyone related to this process until July 11, 2019. On that day, the White House Counsel's Office acknowledged receipt of an email that I had sent on July 10, 2019, expressing my continued interest in serving as a district judge. On August 15, 2019, I spoke with White House Counsel's Office about my pending application.

On September 26, 2019, I sent emails to both Senator Scott's and Senator Rubio's general counsels, expressing my continued interest in serving as a district judge, for which both general counsels confirmed receipt.

On October 11, 2019, I received a phone call from the White House Counsel's Office setting an interview for October 17, 2019. I interviewed with the White House Counsel's Office and the Office of Legal Policy on October 17, 2019.

On November 27, 2019, I received a phone call from the White House Counsel's Office informing me that the President intended to nominate me contingent upon a background check. The next day, I received emails from the White House and the Department of Justice's Office of Legal Policy regarding paperwork needed and deadlines for various forms related to background and vetting. Since that time, I have been in contact with attorneys and staff at the Office of Legal Policy regarding the vetting process and completion of this Questionnaire. On December 23, 2018, the President announced his intent to nominate me to this position.

- 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.