

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Adalberto José Jordán

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

United States Circuit Judge for the Eleventh Circuit

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

Wilkie Ferguson United States Courthouse
400 North Miami Avenue
Room 10-1
Miami, Florida 33128

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

1961; Havana, Cuba

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.

1984 – 1987, University of Miami School of Law; J.D. (*summa cum laude*), 1987

1980 – 1984, University of Miami; B.A. (*magna cum laude*), 1984

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.

1999 – present
United States District Court for the Southern District of Florida
Wilkie Ferguson United States Courthouse
400 North Miami Avenue
Room 10-1
Miami, Florida 33128
United States District Judge

2007 – present
Florida International University College of Law
University Park Campus – Rafael Diaz-Balart Hall
11200 S.W. Eighth Street
Miami, Florida 33199
Adjunct Professor

1990 – present
University of Miami School of Law
1311 Miller Drive
Coral Gables, Florida 33146
Adjunct Professor

1994 – 1999
United States Attorney's Office
Southern District of Florida
99 N.E. Fourth Street
Miami, Florida 33132
Assistant United States Attorney (1994 – 1999)
Deputy Chief, Appellate Division (1996 – 1998)
Chief, Appellate Division (1998 – 1999)
Special Counsel to U.S. Attorney on Legal Policy (1997 – 1999)

1986 – 1987; 1989 – 1994
Steel Hector & Davis LLP (now Squire Sanders & Dempsey)
200 South Biscayne Boulevard
Suite 4100
Miami, Florida 33131
Non-equity Partner (1994)
Associate (1989 – 1993)
Summer Associate and Law Clerk (1986 – 1987)

1988 – 1989
Associate Justice Sandra Day O'Connor
United States Supreme Court
One First Street, N.E.
Washington, D.C. 20543
Judicial Law Clerk

1987 – 1988

Judge Thomas A. Clark (deceased)

United States Court of Appeals for the Eleventh Circuit

56 Forsyth Street, N.W.

Atlanta, Georgia 30303

Judicial Law Clerk

Summer 1986

Steptoe & Johnson

1330 Connecticut Avenue, N.W.

Washington, D.C. 20036

Summer Associate

1985 – 1986

Greenberg Traurig LLP

333 S.E. Second Avenue

Miami, Florida 33131

Law Clerk

Summer 1985

Professor Mary Coombs

University of Miami School of Law

1311 Miller Drive

Coral Gables, Florida 33146

Research Assistant

Summer 1985

Judge Daniel Hurley (now a Senior United States District Judge in the Southern District of Florida)

Florida 4th District Court of Appeal

1525 Palm Beach Lakes Boulevard

West Palm Beach, Florida 33402

Legal Intern

1982 – 1985

Sunbank (now SunTrust Bank)

1300 Ponce De Leon Boulevard

Coral Gables, Florida 33134 (branch no longer exists at that address)

Teller

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

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

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

Outstanding Service Award, Southern District of Florida Bankruptcy Bar Association (2010)

Lawyer of the Americas Award, University of Miami School of Law and Inter-American Law Review (2008)

Legal Excellence Award, Florida International University College of Law (2008)

Alan R. Schwartz Judicial Excellence Award, Miami-Dade County Bar Association (2007)

Community Service Award, Greater Miami Jewish Federation Attorney's Division (2006)

500 Leading Judges in America, Law Dragon Magazine (2006)

Community Service Award, Hispanic Law Students Association, University of Miami School of Law (2004)

Distinguished Jurist Award, Benjamin Cardozo School of Law Moot Court Society (2003)

Public Service Award, Cuban-American Bar Association (2000)

Volunteer Service Award for Pro Bono Work, United States Department of Justice (1998)

Pro Bono Award, "Put Something Back Program" of the Florida Eleventh Judicial Circuit and the Miami-Dade County Bar Association (1993, 1996)

Iron Arrow Honor Society, University of Miami (1986)

Annual Honors Award, Politics and Public Affairs Department, University of Miami (1984)

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

Standing Committee on Federal Judicial Improvements (2010 – present)

Florida Bar

Judicial Conference of the United States

Advisory Committee on Bankruptcy Rules (2010 – present)

Miami-Dade County Bar Association

Judicial Campaign Practices Commission (1992 – 1999)

New York University School of Law

Root Tilden/D'Agostino Scholarship Selection Panel (2007)

Peter T. Fay American Inn of Court

University of Miami School of Law

Visiting Committee (2008 – present)

United States District Court, Southern District of Florida
Chair, Advisory Rules Committee (2010 – present)
Chair, Magistrate Judges Committee (2010 – present)
Volunteer Lawyers Project, United States District Court, Southern District of Florida
Court Liaison and Member of Advisory Group (2000 – 2010)

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, 1987

There have been no lapses in membership.

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

Supreme Court of the United States, 1992
United States Court of Appeals for the Sixth Circuit, 1992
United States Court of Appeals for the Eleventh Circuit, 1989
United States District Court for the Middle District of Florida, 1990
United States District Court for the Southern District of Florida, 1990

There have been no lapses in membership.

11. **Memberships:**

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

Florida Athletic Coaches Association (2009 – 2010)
Investment Club (with friends and colleagues at Steel Hector & Davis in Miami, Florida) (1990 – 1993)
Iron Arrow Honor Society, University of Miami (1986 – present)
National Soccer Coaches Association of America (2009 – present)
St. Brendan High School, Girls' Varsity Soccer Coach (volunteer) (2007 – present)

- 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.

Before I was inducted in 1986, the University of Miami's Iron Arrow Honor Society limited membership to men. Iron Arrow has admitted women since 1985. Other than that, to the best of my knowledge, none of the organizations listed above currently discriminates or previously 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.

Selected Comments on 1986 Immigration Reform, 41 U. Miami L. Rev. 997 (1987) (eds. Adalberto Jordán and Steve Naturman). Mr. Naturman and I, as the co-editors, participated in drafting the Foreword, which is supplied.

Adalberto Jordán, "Imagery, Humor, and the Judicial Opinion," 41 U. Miami L. Rev. 693 (1987). Copy supplied.

Glenn Gerena & Adalberto Jordán, "*United States v. Doe* and its Progeny: A Re-evaluation of the Fifth Amendment's Application to Custodians of Corporate Records," 40 U. Miami L. Rev. 793 (1986). 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.

I was a member of the Miami-Dade County Bar Association's Judicial Campaign Practices Commission from 1992 to 1999. The Commission issued advisory opinions concerning complaints made by candidates for judicial office in Miami-Dade County, Florida. As a member of the Commission, I wrote advisory opinions in several matters. See *Dubitsky v. Levenson* (Sept. 21, 1992); *Capua v.*

Weiner (Aug. 3, 1993); *Fallon v. Ballman* (Aug. 24, 1994); *Glazer v. Adderly* (Aug. 27, 1998); *Vasquez v. Harnage* (Sept. 2, 1998). I have been unable to obtain copies of these opinions, but press coverage of one of the decisions is 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.

On July 13, 1999, I testified before the United States Senate Judiciary Committee as a nominee to be United States District Judge for the Southern District of Florida. Transcript supplied.

On September 14, 1990, I appeared before the Florida Supreme Court's Racial and Ethnic Bias Study Commission (at the invitation of the Commission's Chair, Frank Scruggs) in Orlando, Florida, and discussed legal developments in the area of affirmative action. I have been unable to obtain a transcript of my statements.

In 1989 and 1990, Steel Hector & Davis – where I was an associate – joined together with accounting firm KPMG Peat Marwick and other consultants, including TEM Associates, to conduct discrimination studies for state and local government entities following the Supreme Court's decision in *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) (holding that state and local affirmative action programs are subject to strict scrutiny). I worked on the legal aspects of the studies with Frank Scruggs and Samuel Dubbin, who were partners at Steel Hector & Davis. My task was to take the data assembled by other team members and analyze it to see if the affirmative action program at issue would be constitutional under *Croson* and its progeny. We ended up conducting studies for the Florida Department of Transportation and other state departments and agencies, the City of Miami, and the West Coast Regional Water Supply Authority. I have been unable to obtain copies of the studies.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The list which follows represents my best efforts, through searches of my records, calendars, and Internet databases, to identify speeches and remarks I have given. There may be, however, other speeches or remarks that I have been unable to

recall or identify. Generally, when I engage in public speaking, I do so without outlines or prepared remarks.

July 19, 2011: Speaker, Federal Bar Association, South Florida Chapter, Federal Courthouse, Luncheon with Magistrate Judge John O'Sullivan and 20 attorneys (discussion of issues relating to practice in the Southern District of Florida). I have no notes, transcript or recording. The current president of the Federal Bar Association, South Florida Chapter, is Brett Barfield, Esq., 701 Brickell Avenue, Suite 3000, Miami, FL 33131.

June 24, 2011: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Orlando, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 23, 2011: Participant, Florida Bar, Federal Judicial Roundtable (Orlando, Florida) (roundtable discussion with judges and attorneys on ethical and social media issues related to federal court practice). I have no notes, transcript or recording, but press coverage is supplied. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

May 13, 2011: Federal Bar Association, Lunch Guest Speaker (Miami, Florida) (five-minute summary/report of recent Eleventh Circuit Judicial Conference in Orlando). I have no notes, transcript or recording. The lunch was sponsored by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., 701 Brickell Avenue, Suite 3000, Miami, FL 33131.

May 6, 2011: Guest Speaker, St. Thomas the Apostle Elementary School (remarks to fifth and sixth grade students about the role of a judge and the federal judicial system, followed by a question and answer session). I have no notes, transcript or recording. The address of the school is 7303 S.W. 64th Street, South Miami, FL 33143.

April 15, 2011: Panelist, Judicial Perspectives on International Human Rights Litigation, Federal Judicial Center/Duke Law School (Durham, North Carolina) (panel discussion on matters related to federal international human rights litigation – my remarks were about my rulings in *Kpadeh v. Emmanuel*, 261 F.R.D. 687 (S.D. Fla. 2009), and *Mamani v. Berzain*, 636 F. Supp. 2d 1326 (S.D. Fla. 2009)). I have no notes, transcript or recording. The seminar was sponsored by the Federal Judicial Center, One Columbus Circle, N.E., Washington, DC 20002.

March 31, 2011: Guest Speaker, University of Miami School of Law, Appellate Clinic Seminar (remarks about appellate practice in the Eleventh Circuit). I have

no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

February 25, 2011: Panelist, Florida Bar International Law Section, Perspectives on Arbitration and the Judiciary (Miami, Florida) (panel discussion on roles of arbitrators and judges). I have no notes, transcript or recording. The panel was sponsored by a number of legal associations, including the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

January 19, 2011: Miami-Dade County Bar Association, Young Lawyers Section, Lunch with the Judges (lunch with young attorneys). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

December 10, 2010: Panelist, Federal Criminal Practice for Assistant U.S. Attorneys and Assistant Federal Public Defenders in the Southern District of Florida (panel discussion with other district judges for federal prosecutors and federal public defenders regarding federal criminal practice). I have no notes, transcript or recording. The address of the U.S. Attorney's Office is 99 N.E. Fourth Street, Miami, FL 33132, and the address of the Federal Public Defender's Office is 150 West Flagler Street, Miami, FL 33130.

November 12, 2010: Panelist, Revisiting the Place of International Law in Domestic Law, American Society of International Law (Miami, Florida) (panel discussion about international law issues in federal litigation). I have no notes, transcript, or recording. The panel was held at the University of Miami's Alumni Center, 6200 San Amaro Drive, Coral Gables, FL 33146.

October 29, 2010: Introduced U.S. Attorney Wifredo Ferrer before a luncheon hosted by the Palm Beach County Chapter of the Federal Bar Association. I have no notes, transcript or recording. The current president of the Chapter is Kerry S. Barron, Esq., 500 South Australian Avenue, Room 400, West Palm Beach, FL 33401.

October 20, 2010: Guest Speaker, University of Miami School of Law, Appellate Clinic Seminar (remarks about appellate practice in the Eleventh Circuit). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

October 11, 2010: Guest Speaker, Florida International University College of Law (question and answer session on issues related to federal court practice). I have no notes, transcript or recording. The address of the law school is 11200 S.W. Eighth Street, Miami, FL 33199.

October 5, 2010: Panelist, Federal Judicial Center, National Workshop for Pro Se Law Clerks, Pro Bono Programs Panel (Chicago, Illinois) (panel discussion on

federal court pro bono programs). I have no notes, transcript or recording. The workshop was sponsored by the Federal Judicial Center, One Columbus Circle, N.E., Washington, DC 20002.

October 1, 2010: Panelist, Miami-Dade County Bar Association/Daily Business Review, Ethics and Professionalism Panel (Miami, Florida) (panel discussion on ethics and professionalism). I have no notes, transcript or recording. The seminar was sponsored by the Miami-Dade County Bar Association, 123 N.W. First Avenue, Suite 214, Miami, FL 33128, and the Daily Business Review, 1 S.E. Third Avenue, Suite 900, Miami, FL 33131.

August 24, 2010: Panelist, University of Miami School of Law, Judicial Clerkship Panel (panel discussion about judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

July 16, 2010: Remarks, Swearing-in Ceremony for U.S. Attorney Wifredo Ferrer (personal remarks about Mr. Ferrer). I have no notes, transcript or recording. The address of the U.S. Attorney's Office is 99 N.E. Fourth Street, Miami, FL 33132.

June 25, 2010: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Boca Raton, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 25, 2010: Panelist, Florida Bar Ethics Committee, Judicial Roundtable Masters Seminar (Boca Raton, Florida) (roundtable discussion with attorneys on ethical issues related to federal court practice). Video supplied (my panel's presentation begins at Track 7 on Disc 1 and continues onto Disc 2).

June 24, 2010: Participant, Florida Bar, Federal Judicial Roundtable (Boca Raton, Florida) (roundtable discussion with attorneys on issues related to federal court practice). I have no notes, transcript or recording. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

May 21, 2010: Panelist, Miami-Dade County Bar Association/Daily Business Review, A View from the State and Federal Bench (Miami, Florida) (panel discussion about assorted legal issues). I have no notes, transcript or recording. The seminar was sponsored by the Miami-Dade County Bar Association, 123 N.W. First Avenue, Suite 214, Miami, FL 33128, and the Daily Business Review, 1 S.E. Third Avenue, Suite 900, Miami, FL 33131.

May 13, 2010: Panelist, Broward County Federal Bar Association, Volunteer Lawyers Project (Ft. Lauderdale, Florida) (panel discussion about pro bono

opportunities available through court's volunteer lawyers project). I have no notes, transcript or recording. The event was sponsored by the Federal Bar Association, Broward County Chapter, whose current president is Paul O. Lopez, Esq., 110 S.E. Sixth Street, 15th Floor, Fort Lauderdale, FL 33301.

May 5, 2010: Guest Speaker, Southwest Senior High School Special Education Program (Miami, Florida) (remarks and explanation/demonstration of courtroom for high school special education students). I have no notes, transcript or recording. The event was arranged by Southwest Senior High School, 8855 S.W. 50th Terrace, Miami, FL 33165.

April 30, 2010: Panelist, Southern District of Florida Bench & Bar Conference, Legal Writing Panel (panel discussion on legal writing). I have no notes, transcript or recording. The conference was sponsored by the United States District Court, Southern District of Florida, 400 North Miami Avenue, Miami, FL 33128.

April 16, 2010: Guest Speaker, St. Thomas University Law School (remarks about the importance of good legal writing followed by question and answer session). I have no notes, transcript or recording. The address of the law school is 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

March 22, 2010: Guest Speaker, Peter T. Fay Inn of Court (Miami, Florida). I have no notes, transcript or recording. The event was sponsored by the Peter T. Fay American Inn of Court at St. Thomas University Law School, 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

March 16, 2010: Guest Speaker, Federal Bar Association, Remarks Introducing Justice Sandra Day O'Connor. I have no notes, transcript or recording. The reception was hosted by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., 701 Brickell Avenue, Suite 3000, Miami, FL 33131.

February 26, 2010: Guest Speaker, Miami Catholic Lawyers' Guild, Legal and Personal Integrity in Federal Court, Gesu Catholic Church (remarks about ethical issues in federal practice). I have no notes, transcript or recording. The event was sponsored by the Miami Catholic Lawyers Guild, whose current president is William R. Trueba, Jr., Esq., Two Datan Center, Suite 1209, 9130 South Dadeland Boulevard, Miami, FL 33156.

November 4, 2009: Panelist, Federal Bar Association, Judicial Perspectives (Miami, Florida). I have no notes, transcript or recording. The event was sponsored by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., 701 Brickell Avenue, Suite 3000, Miami, FL 33131.

November 3, 2009: Panelist, Developments in Habeas Corpus, Federal Judicial Center Workshop for Judges of the Eleventh Circuit (discussion of current legal issues and recent judicial decisions in federal habeas corpus practice). Outline prepared by co-panelist Professor Leon Friedman of Hofstra University School of Law supplied. Audio recording supplied.

October 9, 2009: Guest Speaker, Federal Court Reporters Annual Convention (Key West, Florida) (remarks about appellate decisions concerning court reporter transcriptions). I have no notes, transcript or recording. The convention was sponsored by the United States Court Reporters Association, 8430 Gross Point Road, Suite 115, Skokie, IL 60077.

September 30, 2009: Panelist, Florida Historical Museum, Hispanic Heritage Celebration, Legal Perspectives (panel discussion about Hispanics in the legal community in South Florida). I have no notes, transcript or recording. The panel was sponsored by the Florida 11th Judicial Circuit Historical Society, 101 West Flagler Street, Miami, FL 33130.

August 19, 2009: Panelist, University of Miami School of Law, Judicial Clerkship Panel (panel discussion on judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

August 12, 2009: Panelist, Florida International University College of Law, Professionalism/Bench and Bar Expectations (panel on legal ethics and professionalism). I have no notes, transcript or recording. The address of the law school is 11200 S.W. Eighth Street, Miami, FL 33199.

June 26, 2009: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Orlando, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 24, 2009: Panelist, A View from the Bench: U.S. District Court Judge Views on Effective Theories/Defenses, *Daubert* and Evidentiary Approaches, and Deciding Cases Early, American Conference Institute Forum on Aviation Litigation (Boston, Massachusetts). I have no notes, transcript or recording. The address of the ACI is 41 West 25th Street, New York, NY 10010.

June 3, 2009: Panelist, United States District Court, Federal Court Observer Program (panel discussion about federal court practice). I have no notes, transcript or recording. The address of the court is 400 North Miami Avenue, Miami, FL 33128.

May 19, 2009: Panelist/Judge, U.S. Department of Justice, Basic Criminal Trial Advocacy Seminar, National Advocacy Center (judging mock trials with young DOJ attorneys and participating in judicial panel discussions). I have no notes, transcript or recording. The address of the NAC is 1620 Pendleton Street, Columbia, SC 29201.

March 31, 2009: Panelist, University of Miami School of Law (panel discussion on judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

March 20, 2009: Guest Speaker, St. Thomas University Law School (remarks about the importance of good legal writing followed by question and answer session). I have no notes, transcript or recording. The address of the law school is 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

March 7, 2009: Panelist, Hispanic National Bar Association Mid-Year Conference, "Diversity & Access to Justice" Panel and "Judicial Hot Seat" Panel (Coral Gables, Florida) (panel discussions on diversity in the justice system, access to justice, and current legal issues). I have no notes, transcript or recording. The conference was sponsored by the Hispanic National Bar Association, 1900 L Street N.W., Suite 700, Washington, DC 20036.

February 26, 2009: Panelist, University of Miami School of Law, Perspectives on Evidence (panel discussion on evidentiary issues). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

February 18, 2009: Miami-Dade County Bar Association, Lunch with the Judges (lunch with attorneys). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

January 16, 2009: Speaker, Florida Bar Federal Practice Committee, Professionalism & Ethics (Miami, Florida) (remarks on legal ethics). I have no notes, transcript or recording. The event was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

November 21, 2008: Panelist, Southern District of Florida Bench & Bar Conference, Bankruptcy Panel, (Hollywood, Florida) (panel discussion on bankruptcy appeals). I have no notes, transcript or recording. The Conference was sponsored by the United States District Court, Southern District of Florida, 400 North Miami Avenue, Miami, FL 33128.

October 22, 2008: Speaker, Miami-Dade County Bar Association, Discovery & Professionalism (remarks about discovery and legal ethics). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

June 20, 2008: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Boca Raton, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399

June 19, 2008: Participant, Florida Bar, Federal Judicial Roundtable (Boca Raton, Florida) (roundtable discussion with attorneys on issues related to federal court practice). I have no notes, transcript or recording, but Florida Bar news on the event is supplied. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 13, 2008: Speaker, Hunton & Williams Competition/Antitrust Conference, Judicial Perspectives on Litigation (Palm Beach, Florida) (question and answer session about federal practice). I have no notes, transcript or recording. The event was sponsored by Hunton & Williams, 1111 Brickell Avenue, Miami, FL 33131.

May 30, 2008: Commencement Speaker, St. Brendan High School, 2950 S.W. 87th Avenue, Miami, FL 33165. Video supplied.

April 22, 2008: Acceptance Remarks, Legal Excellence Award, Florida International University College of Law (Miami, Florida) (remarks concerning acceptance of award). I have no notes, transcript or recording. The address of the law school is 11200 S.W. Eighth Street, Miami, FL 33199.

April 22, 2008: Speaker, Miami-Dade County Bar Association, Ethics & Professionalism (remarks on legal ethics). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

March 28, 2008: Acceptance Remarks, Lawyer of the Americas Award, University of Miami Inter-American Law Review (Miami, Florida) (remarks concerning acceptance of award). I have no notes, transcript or recording. The award was presented by the University of Miami School of Law and the Inter-American Law Review, 1311 Miller Drive, Coral Gables, FL 33146.

March 25, 2008: Panelist, University of Miami School of Law, Judicial Clerkship Panel (panel discussion on federal judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

March 19, 2008: Guest Speaker, Peter T. Fay Inn of Court (Miami, Florida) (question and answer session about current issues in the Southern District of

Florida). I have no notes, transcript or recording. The event was sponsored by the Peter T. Fay American Inn of Court at St. Thomas University Law School, 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

March 6, 2008: Panelist, American Bar Association White Collar Crime Institute, Judicial Panel on Sentencing Issues (Miami, Florida) (panel discussion on sentencing issues in federal white collar cases). I have no notes, transcript or recording. The event was sponsored by the ABA, 321 North Clark Street, Chicago, IL 60654.

January 30, 2008: Panelist, University of Miami School of Law, Career Opportunities Panel (panel discussion about legal careers). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

November 28, 2007: Panelist, U.S. Secret Service, Intellectual Property Crimes Conference (panel discussion on sentencing issues in intellectual property cases). I have no notes, transcript or recording. The address of the U.S. Secret Service is 10350 N.W. 112th Avenue, Miami, FL 33172.

November 15, 2007: Panelist, University of Miami School of Law, Judicial Panel on Evidence (panel discussion on evidentiary issues). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

June 29, 2007: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Orlando, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 28, 2007: Participant, Florida Bar, Federal Judicial Roundtable (Orlando, Florida) (roundtable discussion with attorneys on issues related to federal court practice). I have no notes, transcript or recording. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 15, 2007: Speaker, Florida Bar/Florida Supreme Court Commission on Capital Cases, Judicial Views on Preparation of Federal AEDPA Habeas Filings (Orlando, Florida) (discussion of federal habeas corpus filings under AEDPA). I have no notes, transcript or recording. The seminar was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399, in conjunction with the Florida Supreme Court.

May 18, 2007: Commencement Speaker, Florida International University College of Law, 11200 S.W. Eighth Street, Miami, FL 33199. Video recording supplied.

May 16, 2007: Acceptance Remarks, Alan R. Schwartz Judicial Excellence Award, Miami-Dade County Bar Association. I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

April 19, 2007: Panelist, International Litigation & Arbitration Conference, Judicial Perspectives Panel (Miami, Florida) (panel on judicial perspectives on arbitration). I have no notes, transcript or recording. The conference was sponsored by a number of legal associations, including the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

April 17, 2007: Panelist, University of Miami School of Law, Judicial Clerkship Panel (panel discussion on federal judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

April 13, 2007: Panelist, University of Miami School of Law, Criminal Justice Ethics Panel (panel discussion about ethics in criminal practice). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

March 29, 2007: Speaker, Florida Bar, Federal Court Ethics (Miami, Florida) (remarks about ethics in federal court practice). I have no notes, transcript or recording. The seminar was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32397.

March 8, 2007: Panelist, Bankruptcy Bar Association, Appellate Practice Panel (Miami, Florida) (panel discussion on bankruptcy appeals). I have no notes, transcript or recording. The event was sponsored by the Bankruptcy Bar Association, whose current president is James Moon, Esq., Meland Rusin & Budwick, P.A., 200 South Biscayne Boulevard, Suite 3000, Miami, FL 33131.

February 23, 2007: Panelist, Miami-Dade County Bar Association, Panel on Judicial Perspectives on Arbitration (panel discussion on issues related to arbitration). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

February 8, 2007: Panelist, American Bar Association Leadership Academy Presentation, "So You Want to be a Judge?" (Miami, Florida) (panel concerning judicial careers). I have no notes, transcript or recording. The event was sponsored by the ABA, 321 North Clark Street, Chicago, IL 60654.

January 26, 2007: Guest Speaker, Miami-Dade County Bar Association, Federal Courts Committee. I do not recall the nature of my remarks. I have no notes,

transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

October 10, 2006: Lunch Speaker, Federal Bar Association (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The event was sponsored by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., 701 Brickell Avenue, Suite 300, Miami, FL 33131.

September 18, 2006: Guest Speaker, Florida International University College of Law, Ethics for Incoming Students (remarks about ethics in the legal profession). I have no notes, transcript or recording. The address of the law school is 11200 S.W. Eighth Street, Miami, FL 33199.

August 8, 2006: Panelist, Bankruptcy Bar Association, Appellate Practice Panel (Miami, Florida) (panel discussion on bankruptcy appeals). I have no notes, transcript or recording. The event was sponsored by the Bankruptcy Bar Association, whose current president is James Moon, Esq., Meland Rusin & Budwick, P.A., 200 South Biscayne Boulevard, #3000, Miami, FL 33131.

June 23, 2006: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Boca Raton, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

April 26, 2006: Acceptance Remarks, Greater Miami Jewish Federation, Community Service Award (Miami, Florida) (remarks concerning acceptance of award). I have no notes, transcript or recording. The award was presented by the Greater Miami Jewish Federation, 4200 Biscayne Boulevard, Miami, FL 33137.

March 8, 2006: Lunch Speaker, Federal Bar Association (Miami, Florida). I have no notes, transcript or recording. I do not recall the nature of my remarks. The event was sponsored by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., President, 701 Brickell Avenue, Suite 300, Miami, FL 33131

June 24, 2005: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Orlando, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 23, 2005: Participant, Florida Bar, Federal Judicial Roundtable (Orlando, Florida) (roundtable discussion with attorneys on issues related to federal court practice). I have no notes, transcript or recording. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

May 6, 2005: Speaker, Carlton Fields, Program (question and answer session with young litigation associates). I have no notes, transcript or recording. The address of Carlton Fields is 100 S.E. Second Street, Miami, FL 33130.

April 28, 2005: Guest Speaker, St. Thomas University Law School. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the law school is 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

April 19, 2005: Panelist, National Association of Legal Career Professionals, Judicial Clerkship Panel, Hyatt Regency Hotel (panel discussion on federal judicial clerkships). I have no notes, transcript or recording. The event was sponsored by the NALP, 1025 Connecticut Avenue N.W., Suite 1110, Washington, DC 20036.

April 8, 2005: Panelist, University of Miami School of Law, Criminal Justice Ethics Panel (panel on ethical issues in criminal practice). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

March 10, 2005: Speaker, Florida Bar, Ethics and Professionalism of Practicing in Federal Court. I have no notes, transcript or recording. The event was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

March 4, 2005: Speaker, United States District Court, Volunteer Lawyers Project Seminar (remarks about pro bono representation of indigent litigants through court's volunteer lawyers project). I have no notes, transcript or recording. The address of the court is 400 North Miami Avenue, Miami, FL 33128.

February 17, 2005: Panelist, St. Thomas University Law School, Judicial Clerkship Panel (panel discussion on federal judicial clerkships). I have no notes, transcript or recording. The address of the law school is 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

February 9, 2005: Participant, Miami-Dade County Bar Association, Lunch with the Judges (lunch with attorneys). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

January 20, 2005: Guest Speaker, Florida Bar, Business Law Section (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or

recording. The event was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

November 30, 2004: Guest Speaker, St. Thomas University Law School. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the law school is 16401 N.W. 37th Avenue, Miami Gardens, FL 33054.

November 10, 2004: Lunch Speaker, Federal Bar Association (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The event was sponsored by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., 701 Brickell Avenue, Suite 3000, Miami, FL 33131.

October 20, 2004: Guest Speaker, U.S. Attorney's Office, Hispanic Heritage Lunch. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the U.S. Attorney's Office is 99 N.E. Fourth Street, Miami, FL 33132.

September 20, 2004: Guest Speaker, St. Agatha Elementary School. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the school is 1111 S.W. 107th Avenue, Miami, FL 33174.

June 25, 2004: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Boca Raton, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 24, 2004: Participant, Florida Bar, Federal Judicial Roundtable (Boca Raton, Florida) (roundtable discussion with attorneys on issues related to federal court practice). I have no notes, transcript or recording. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

May 27, 2004: Guest Speaker, St. Brendan High School. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the school is 2950 S.W. 87th Avenue, Miami, FL 33165.

May 12, 2004: Guest Speaker, Miami Senior High School (remarks on *Brown v. Bd. of Education*). I have no notes, transcript or recording. The address of the school is 2450 S.W. First Street, Miami, FL 33135.

March 25, 2004: Panelist, University of Miami School of Law, Judicial Clerkship Panel (panel discussion on federal judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, Florida 33146.

March 25, 2004: Guest Speaker, Miami-Dade County Bar Association, Federal Court Committee. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

March 24, 2004: Guest Speaker, University of Miami School of Law, Criminal Procedure Class (remarks about federal criminal procedure). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, Florida 33146.

March 18, 2004: Panelist, U.S. Secret Service, Panel on Judicial Perspective on Electronic Crimes (panel discussion of judicial views on electronic crime prosecutions). I have no notes, transcript or recording. The address of the U.S. Secret Service is 10350 N.W. 112th Avenue, Miami, FL 33172.

March 18, 2004: Guest Speaker, Bankruptcy Bar Association (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The event was sponsored by the Bankruptcy Bar Association, whose current president is James Moon, Esq., Meland Rusin & Budwick, P.A., 200 South Biscayne Boulevard, #3000, Miami, FL 33131.

March 10, 2004: Guest Speaker, St. Agatha Elementary School. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the school is 1111 S.W. 107th Avenue, Miami, FL 33174.

February 20, 2004: Panelist, U.S. Department of Justice, View from the Bench on Evidence, National Advocacy Center (panel discussion on evidentiary issues in federal criminal practice). I have no notes, transcript or recording. The address of the NAC is 1620 Pendleton Street, Columbia, SC 29201.

February 17, 2004: Guest Speaker, Miami-Dade College/Kendall Campus, Constitutional Law Class (question and answer session concerning the federal courts and constitutional law). I have no notes, transcript or recording. The address of the college is 11011 S.W. 104th Street, Miami, FL 33176.

November 25, 2003: Panelist, University of Miami School of Law, Judicial Panel on Evidence (panel discussion on evidentiary issues). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

November 13, 2003: Speaker, Florida Bar, Speaker, Ethics & Professionalism in Federal Court (Miami, Florida) (discussion of ethical issues in federal court practice). I have no notes, transcript or recording. The seminar was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

October 27, 2003: Acceptance Remarks, Distinguished Jurist Award, Cardozo Law School. I have no notes, transcript or recording. The address of the law school is 55 Fifth Avenue, New York, NY 10003.

July 23, 2003: Lunch Speaker, Miami-Dade County Defense Bar Association (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The website for the Miami-Dade County Defense Bar Association, www.dcdba.com, does not list a current address.

July 16, 2003: Participant, Miami-Dade County Bar Association, Young Lawyers Judicial Outreach Lunch (lunch with young attorneys). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Suite 214, Miami, FL 33128.

June 27, 2003: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Orlando, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

May 5, 2003: Guest Speaker, Miami Senior High School (remarks during Law Week). I have no notes, transcript or recording. The address of the school is 2450 S.W. First Street, Miami, FL 33135.

May 2, 2003: Panelist, ALI/ABA, Life & Health Insurance Litigation Panel (Washington, DC) (panel discussion about judicial perspectives on ERISA cases). I have no notes, transcript or recording. The seminar was sponsored by the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104.

April 16, 2003: Panelist, University of Miami School of Law, Judicial Clerkship Panel (panel discussion about federal judicial clerkships). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

January 16, 2003: Panelist, Wilkie Ferguson, Jr. Bar Association, Federal Judicial Roundtable, Miami-Dade College/Wolfson Campus. I have no notes, transcript or recording. The judicial roundtable was sponsored by the Wilkie Ferguson, Jr. Bar Association, P.O. Box 15487, Miami, FL 33101.

October 10, 2002: Guest Speaker, U.S. Attorney's Office, Hispanic Heritage Lunch, American Legion Banquet Hall. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the U.S. Attorney's Office is 99 N.E. Fourth Street, Miami, FL 33132.

September 27, 2002: Panelist, Florida Bar, Winning Commercial Cases (Miami, Florida) (discussion about choosing the proper forum, investigation of a case, motion practice, handling depositions, document discovery, interrogatories and requests for admission, general discovery strategy, effective trial techniques and damages and appeals). I have no notes, transcript or recording. The event was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 21, 2002: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Boca Raton, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

June 21, 2002: Participant, Florida Bar, Federal Judicial Roundtable (Boca Raton, Florida) (roundtable discussion with attorneys on issues related to federal court practice). I have no notes, transcript or recording. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

April 26, 2002: Panelist, University of Miami School of Law, Criminal Justice Ethics Panel (panel discussion about ethics in criminal practice). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

March 7, 2002: Guest Speaker, Bankruptcy Bar Association (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The event was sponsored by the Bankruptcy Bar Association, whose current president is James Moon, Esq., Meland Russin & Budwick, P.A., 200 South Biscayne Boulevard, #3000, Miami, FL 33131.

January 10, 2002: Guest Speaker, Florida Bar Bankruptcy/UCC Committee (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The event was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

January 3, 2002: Panelist, ALI/ABA, Trademark & Unfair Competition Seminar (Orlando, Florida) (panel discussion on trademark & unfair competition litigation in federal court). I have no notes, transcript or recording. The seminar was sponsored by the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104.

December 13, 2001: Lunch Speaker, Federal Bar Association (Miami, Florida). I do not recall the nature of my remarks. I have no notes, transcript or recording. The event was sponsored by the Federal Bar Association, South Florida Chapter, whose current president is Brett Barfield, Esq., Holland & Knight, 701 Brickell Avenue, Miami, FL 33131.

July 30, 2001: Panelist, United States District Court, Pretrial Services Judicial Roundtable (Marco Island, Florida). I have no notes, transcript or recording. The judicial roundtable was sponsored by Pretrial Services, United States District Court, Southern District of Florida, 400 North Miami Avenue, Miami, FL 33128.

June 22, 2001: Panelist, Florida Bar, Media Law Conference/First Amendment Panel (Orlando, Florida) (panel discussion with attorneys, law professors, and judges concerning the Supreme Court's recent decisions involving the First Amendment or media law). I have no notes, transcript or recording. The panel was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

April 6, 2001: Guest Speaker, University of Miami School of Law, Hispanic Law Students Association. I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

March 27, 2001: Guest Speaker, Nova Southeastern University, Business Law Class (general remarks about federal court practice). I have no notes, transcript or recording. The address of the university is 3301 College Avenue, Davie, FL 33314.

September 20, 2000: Guest Speaker, University of Miami School of Law, Criminal Law Society. I do not recall the nature of my remarks. I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

July 13, 2000: Instructor/Judge, U.S. Department of Justice, Appellate Seminar, National Advocacy Center (judging moot court arguments and providing instruction to young prosecutors concerning appellate practice). I have no notes, transcript or recording. The address of the NAC is 1620 Pendleton Street, Columbia, SC 29201.

June 22, 2000: Participant, Florida Bar, Federal Judicial Roundtable (Boca Raton, Florida) (roundtable discussions with attorneys on issues related to federal court practice). I have no notes, transcript or recording. The judicial roundtable was sponsored by the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

May 17, 2000: Guest Speaker, Carver Middle School (remarks about legal careers during career week). I have no notes, transcript or recording. The address of the school is 4901 Lincoln Drive, Coral Gables, FL 33133.

May 2, 2000: Lunch with the Judges, Dade County Bar Association (lunch with young attorneys). I have no notes, transcript or recording. The address of the bar association is 123 N.W. First Avenue, Miami, FL 33128.

April 18, 2000: Guest Speaker, St. Brendan High School (remarks about legal careers during career week). I have no notes, transcript or recording. The address of the school is 2950 S.W. 87th Avenue, Miami, FL 33165.

March 3, 2000: Panelist, University of Miami School of Law, Panel on Legal Careers (question and answer session with law students about clerkships and other legal careers). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

February 18, 2000: Speaker, Broward County Federal Bar Association, Federal Court Tips, (Ft. Lauderdale, Florida) (remarks about practice in federal court). I have no notes, transcript or recording. The current president of the Federal Bar Association, Broward County Chapter, is Paul O. Lopez, Esq., 110 S.E. Sixth Street, Floor 15, Fort Lauderdale, FL 33301.

December 12, 1999: Commencement Speaker, University of Miami School of Law (commencement address concerning ethics in the practice of law). I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

November 16, 1999: Investiture Remarks, United States District Court, Southern District of Florida (Miami, Florida) (remarks at my investiture). Video recording supplied.

November 5, 1999: Seminar Speaker, Expert Testimony in Business Litigation, Wyndham Hotel (remarks about expert testimony from a judicial perspective). I have no notes, transcript or recording. I am uncertain as to which organization sponsored this seminar, but I believe it was the Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399.

October 8, 1998: I appeared (along with other attorneys) on a public access cable call-in program called "You Be the Judge." The program, which was sponsored by the Florida Association of Criminal Defense Lawyers and was broadcast by WLRN, concerned the Fourth Amendment. I appeared in place of John Schlesinger, Special Counsel for Public Affairs at the U.S. Attorney's Office, who was unable to attend. I spoke in my personal capacity as a federal prosecutor, and not on behalf of the U.S. Attorney's Office. I have no notes, transcript or recording. The address of FACDL is P.O. Box 1528, Tallahassee, FL 32302.

February 26, 1994: I and other attorneys spoke to students at the University of Miami School of Law about issues concerning capital punishment. I have no notes, transcript or recording. The address of the law school is 1311 Miller Drive, Coral Gables, FL 33146.

September 12, 1990: I spoke to the Rotary Club in Homestead, Florida, on behalf of Talbot "Sandy" D'Alemberte (one of the partners I worked for at Steel Hector

& Davis), who was scheduled to speak but was unavailable. I do not recall the subject of my remarks, and I have no notes, transcript or recording. The address of the Rotary Club is P.O. Box 901215, Homestead, FL 33090.

I have presided at several moot court appellate arguments and mock trials at the University of Miami School of Law and the Florida International University College of Law. I do not have the dates for these events. I also do not have any notes, transcripts, or recordings.

In addition to the matters listed above, while I was at Steel Hector & Davis and at the U.S. Attorney's Office I spoke at various schools in the Miami area, sometimes during career week, concerning the judicial system and aspects of the legal profession. These schools include South Dade Senior High School, Norland Senior High School, St. Brendan High School, Coral Gables Senior High School, Miami Senior High School, Belen Jesuit High School, W.R. Thomas Middle School, Drew Middle School, Annunciation Elementary School, and St. Agatha Elementary School. I do not have the dates for these events, and I have no notes, transcripts or recordings.

- 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.

Responses to a Florida Bar questionnaire about courtroom practices (2005, updated July 26, 2007, and Nov. 23, 2010). Copies supplied.

Walter Villa, "'Rivalry' Match Sparked by Well Wishes," Miami Herald (Nov. 12, 2010). Copy supplied.

Press release, "Miami Law Launches Postgraduate Fellowship Program," University of Miami (Oct. 14, 2010) [quote re-printed in multiple outlets]. Copy supplied.

Molly Jeanne Alarcon, "Arc of Justice: The Representation of Women and Minorities in the American Judiciary," Woodrow Wilson School of Public and International Affairs (Apr. 7, 2010). Copy supplied.

Jan Pudlow, "Francisco R. Angones, the First Cuban-born President of the Florida Bar," The Florida Bar Journal (July 1, 2007). Copy supplied.

Marlene A. Fernandez, "The Honorable Adalberto Jordan," CABA Briefs (Winter 2006). Copy supplied.

Rene D. Harrod, "Judicial Profile: Hon. Adalberto Jordan, U.S. District Court for the Southern District of Florida," *The Federal Lawyer* (Sept. 2005). Copy supplied.

Mary Hladky, "Steel-ed for Success," *Miami Daily Business Review* (Sept. 17, 1999). Copy supplied.

Mary Jacoby, "South Florida Federal Judge Approved," *St. Petersburg Times* (Sept. 9, 1999). Copy supplied.

Larry Lebowitz, "No Trading of Testimony for Leniency, Judge Says," *Sun-Sentinel* (Aug. 5, 1998). Copy supplied.

Larry Lebowitz, "Plea Deals Handed a Setback; Testimony Blocked in Two Drug Cases," *Sun-Sentinel* (July 24, 1998). Copy supplied.

Eric Alan Barton, "Brother Denies Patient Assaulted, Killed Toddler," *Fort Pierce News* (May 15, 1998). Copy supplied.

Ronnie Greene, "\$80,000 is Key to Fraud Trial of Ex-Official / Checks from Lobbyist Hidden, Prosecutors Say," *Miami Herald* (Feb. 1, 1993). Copy supplied.

Ronnie Greene, "Ex-Port Official Seeks Dismissal of Tax Charges," *Miami Herald* (Nov. 20, 1992). Copy supplied.

Teresa Lane, "Judge Allowing St. Lucie Jail Suit to Continue," *Palm Beach Post* (July 28, 1991). Copy supplied.

Tina Montalvo, "UM Student to Clerk for High Court," *Miami Herald* (May 22, 1987). Copy supplied.

In May of 1987, I was interviewed by the local Telemundo or Univision television station in Miami about my upcoming clerkship with Justice O'Connor. A portion of that interview was aired during a newscast, but I have been unable to obtain a recording.

In 1997, 1998, and 1999 I sometimes stood in as the spokesperson for the U.S. Attorney's Office when the spokesperson was ill, on vacation, or otherwise unavailable. In that capacity, I spoke to the media on a number of matters. I have done my best to locate any statements or interviews that exist in electronic databases, and those I have found are listed above.

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

I have served as a United States District Judge in the Southern District of Florida since October of 1999. I was nominated to that position by President William Clinton and confirmed by the Senate. The jurisdiction of a federal district judge is general in nature, and extends to all federal criminal cases and all civil cases in which there is federal subject-matter jurisdiction (i.e., federal question cases and diversity cases).

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

According to statistics compiled by the clerk of our court, I have tried 197 cases to verdict or judgment. This number does not include other contested evidentiary proceedings (e.g., suppression hearings, sentencing hearings, preliminary injunction hearings).

- i. Of these, approximately what percent were:

jury trials:	74%
bench trials:	26%
civil proceedings:	49%
criminal proceedings:	51%

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

Please see attached list.

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

(1) *United States v. Orlansky et al.*, Case No. 03-20951-Cr-Jordan.

In this criminal case, the government charged eight defendants with wire fraud, bank fraud, conspiracy to commit wire fraud and bank fraud, and money laundering offenses related to a \$160 million bank fraud scheme arising out of a factoring business and joint venture. The case was long and complex: it lasted over four years, involved a heavy motion practice, presented difficult issues relating to the competency and insanity defense of one of the lead defendants, and generated over 1,300 docket entries. *See, e.g.*, Order Granting Motions to Exclude Mental Health Experts [D.E. 625] (Feb. 24, 2006) (copy supplied). At the time of trial, this was the largest alleged bank fraud scheme in South Florida history. The trial for the four defendants who did not enter guilty pleas – including the two lead defendants – lasted over four months, making it the longest trial I have presided over. The jury convicted all four defendants on at least some of the charges, and I sentenced the two lead

defendants to 20 years in prison. The Eleventh Circuit affirmed on all issues raised in a lengthy but unpublished opinion. See *United States v. Puerto*, 2010 WL 3191765 (11th Cir. 2010).

Government Counsel:

Matthew Menchel, Esq., Kobre & Kim LLP, 2 South Biscayne Boulevard, 35th Floor, Miami, Florida 33131 (305-967-6108)

Caroline Heck Miller, Esq., Assistant U.S. Attorney, U.S. Attorney's Office, 99 N.E. Fourth Street, Miami, Florida 33132 (305-961-9432)

Defense Counsel:

Edward Shohat, Esq., Bierman Shohat & Lowey, 800 Brickell Avenue, Miami, Florida 33131 (305-358-7000)

Bruce Lehr, Esq., 1401 Brickell Avenue, Suite 910, Miami, Florida 33131 (305-377-1777)

Michael Rosen, Esq., 2937 S.W. 27th Avenue, Suite 101, Miami, Florida 33133 (305-446-6116)

Michael Zelman, Esq., 1950 West Flagler Street, Suite 407, Miami, Florida (305-358-1600)

(2) *United States v. Greenpeace, Inc.*, Case No. 03-20577-Cr-Jordan.

The government filed misdemeanor criminal charges against Greenpeace arising out of the boarding by Greenpeace members of a vessel carrying Brazilian mahogany into the Port of Miami. The case – apparently a rare prosecution of an advocacy organization – was based on 18 U.S.C. § 2279, a misdemeanor statute from the 1800s which prohibits the boarding of a vessel “about to arrive at the place of her destination . . . and before she has been completely moored.” The case involved a number of difficult issues, including the interpretation and application of § 2279 to the conduct of the Greenpeace members who boarded the vessel, the availability of a jury trial for Greenpeace, and the use of a justification defense. In a pretrial order, I denied Greenpeace's motion to dismiss but concluded, as a matter of discretion, that Greenpeace should be tried by a jury. See *United States v. Greenpeace, Inc.*, 314 F. Supp. 2d 1252 (S.D. Fla. 2004).

At the close of the government's case, I granted a Rule 29 judgment of acquittal in Greenpeace's favor. I concluded that no reasonable jury could find that the Greenpeace members had violated § 2279 because the vessel was so far away from the Port of Miami at the time of the boarding. I warned Greenpeace, however, that

the statute could be enforced in the future if the organization engaged in similar activities close to the place where a ship was to arrive.

Government Counsel:

Thomas Watts-Fitzgerald, Esq., Assistant U.S. Attorney, 99 N.E. Fourth Street, Miami, Florida 33132 (305-961-9413)

Defense Counsel:

Jane Moscovitz, Esq., 1111 Brickell Avenue, Miami, Florida 33131 (305-279-8300)

(3) *United States v. Frank*, Case No. 04-20778-Cr-Jordan.

The defendant in this case was charged with numerous criminal offenses related to his engaging in sex with minor girls in Cambodia. The case involved novel issues, including the applicability of the United States Constitution to certain interrogations and searches conducted by Cambodian law enforcement officials, and the constitutionality of 18 U.S.C. § 2423(c), which prohibits an American citizen or permanent resident from traveling in interstate commerce and engaging in a commercial sex act with a person under the age of 18. Following an evidentiary hearing, I denied the defendant's motion to suppress and held that § 2423(c) was constitutionally enacted by Congress pursuant to the Necessary and Proper Clause in order to implement a United Nations treaty that the Senate had previously ratified. *See United States v. Frank*, 486 F. Supp. 2d 1353 (S.D. Fla. 2007). The defendant was convicted after a three-week trial, which was apparently only the second child sex tourism trial in the country. On appeal, the Eleventh Circuit affirmed on all grounds in a published opinion. *See United States v. Frank*, 599 F.3d 1221 (11th Cir. 2010).

Government Counsel:

Wendy Waldron, Esq., U.S. Department of Justice, 1400 New York Avenue, N.W., Suite 1600, Washington, D.C. 20005 (202-305-2121)

Defense Counsel:

Jeffrey Feiler, Esq., 7685 S.W. 104th Street, Suite 200, Miami, Florida 33156 (305-670-7700)

(4) *Kpadeh et al. v. Emmanuel*, Case No. 09-20050-Civ-Jordan.

In this action, a number of Liberian citizens filed suit against Charles McArthur Emmanuel (aka Charles Taylor, Jr. and "Chuckie" Taylor) under the Alien Tort Statute, 28 U.S.C. § 1350, the Torture Victim Protection Act, 28 U.S.C. § 1350 Note,

Florida law, and Liberian law. The plaintiffs alleged that during a civil war in Liberia they were victims of the Liberian Anti-Terrorism Unit, which was commanded by Mr. Emmanuel, and were subjected on Mr. Emmanuel's orders to savage beatings, rapes, mutilations, and unspeakable other atrocities. Mr. Emmanuel (who had been convicted on related federal criminal charges) defaulted on liability, but chose to represent himself at a bench trial on damages following the denial of class certification. *See Kpadeh v. Emmanuel*, 261 F.R.D. 687 (S.D. Fla. 2009). At the end of the bench trial – at which the plaintiffs credibly testified about what they were subjected to by Mr. Emmanuel and the ATU – I awarded the plaintiffs a total of \$22 million in compensatory damages (for physical pain, mental suffering, and medical expenses) and punitive damages. Order supplied.

Plaintiffs' Counsel:

Troy Elder, Esq., Florida International University College of Law, 11200 S.W. Eighth Street, RDB 1010, University Park, Miami, Florida 33199 (305-348-7215)

Piper Hendricks, Esq., World Organization for Human Rights, 2029 P Street, N.W., Suite 202, Washington, D.C. 20036 (202-296-5702)

Pro Se Defendant:

Charles McArthur Emmanuel, Reg. No. 76556-004, U.S.P. Marion, P.O. Box 1000, Marion, Illinois 62959 (no phone number)

(5) *United States v. Lauer et al.*, Case No. 08-20071-Cr-Jordan.

This complex case involved highly publicized criminal charges of wire fraud and conspiracy to commit mail fraud, wire fraud, and securities fraud brought against the manager of the Lancer hedge funds and others. The government alleged that this was one of the largest hedge fund fraud schemes in the history of the United States and that investors lost over \$200 million. It took about three years of proceedings to get the case ready for trial, and I issued numerous orders denying the defendants' motions to dismiss the charges. *See, e.g.*, Supplemental Order on Motions to Dismiss [D.E. 975] (March 7, 2011) (copy supplied). Two defendants pled guilty, and one defendant was convicted on some charges after a separate seven-week trial in 2010. The manager and another officer of Lancer proceeded to trial in 2011. At the end of that trial, which lasted eight weeks, the jury acquitted these two defendants on all counts.

Government Counsel:

Harry Schimkat, Esq., Assistant U.S. Attorney, 99 N.E. Fourth Street, Miami, Florida 33132 (305-961-9128)

Jack Patrick, Esq., U.S. Dept. of Justice, Bond Building, 10th & Constitution Avenue, N.W., Washington, D.C. 20530 (202-514-9482)

Defense Counsel:

Michael Caruso, Esq., Deputy Chief Assistant Federal Public Defender, 150 West Flagler Street, Miami, Florida 33130 (305-530-7000 ext. 135)

Hector Flores, Esq., 169 East Flagler Street, Suite 1200, Miami, Florida 33131 (305-374-3998)

(6) *Hershell Gill Consulting Engineers, Inc. v. Miami-Dade County*, Case No. 98-2300-Civ-Jordan.

This case involved an equal protection challenge by white-owned firms to sections of Miami-Dade County's Minority and Women Business Enterprise program, which set participation goals (achievable through set-asides, subcontractor goals, bid preferences, and/or selection factors) for architectural and engineering contracts. By the time the case went to trial, the Eleventh Circuit had already held that the County's MWBE program was unconstitutional as applied to certain sectors of construction contracts, *see Engineering Contractors Ass'n v. Metropolitan Dade County*, 122 F.3d 895 (11th Cir. 1997), and the County manager had told the County commissioners that according to an internal study the County had reached parity in the areas of architecture and engineering for black, Hispanic, and women-owned firms. The County manager had also recommended that the MWBE program be replaced with a Community Small Business Enterprise program, and provided the County commissioners with another memorandum recommending that no further MWBE measures be used for architectural and engineering contracts because there was parity. The County commissioners continued to vote to apply MWBE measures to architectural and engineering contracts that came before them for approval, and did not request a formal disparity study until the lawsuit had been ongoing for 18 months.

After a bench trial, I ruled that the MWBE program was unconstitutional as applied to architectural and engineering contracts, and permanently enjoined the use of MWBE measures to such contracts because the County's disparity study was seriously flawed, there was insufficient evidence of disparity to withstand strict scrutiny (as to race and ethnicity) and/or intermediate scrutiny (as to gender), and the program was not properly tailored under the respective standards. I also concluded that the County commissioners had absolute legislative immunity for voting on and enacting the MWBE program, and that they could assert (but were not entitled to) qualified immunity as to their votes to apply MWBE measures to individual contracts. I did not award the plaintiff any compensatory damages because I concluded that such damages were not adequately proven, and chose not to award any punitive damages. I warned the commissioners, however, that if they continued to apply MWBE measures to other types of contracts – there was another pending case challenging the MWBE program as applied to security services – without any evidentiary basis,

punitive damages would be a virtual certainty. *See Hershell Gill Consulting Engineers, Inc. v. Miami-Dade County*, 333 F. Supp. 2d 1305 (S.D. Fla. 2004). The County did not appeal.

Plaintiff's Counsel:

Herbert Schlanger, Esq., 230 Peachtree Street N.W., Atlanta, Georgia 30303
(404-588-1981)

Defendants' Counsel:

Robert Cuevas, Esq., Miami-Dade County Attorney, 111 N.W. First Street,
Miami, Florida 33128 (305-375-5151)

(7) *Martinez et al. v. Bush*, Case No. 02-20244-Civ-Jordan (three-judge court) &
Maurer v. Florida, Case No. 02-10028-Civ-Jordan (three-judge court).

These consolidated cases involved a number of challenges – e.g., under the United States Constitution, the Voting Rights Act, and Title VI of the Civil Rights Act – to the Florida legislature's 2002 redistricting plan following the 2000 census. I sat as a member of a three-judge district court with Eleventh Circuit Judge Gerard B. Tjoflat and United States District Judge Robert Hinkle. Our court held a two-week trial in Miami in 2002, and also convened hearings in Jacksonville and Tallahassee. In a 75-page per curiam opinion, the court rejected all of the plaintiffs' and intervenors' claims, though it concluded that the Florida legislature had intended to draw congressional districts in such a way as to favor Republicans. *See Martinez v. Bush*, 234 F. Supp. 2d 1275 (S.D. Fla. 2002) (per curiam). Judge Hinkle and I wrote concurring opinions on the political gerrymandering issue. My concurring opinion, *see id.* at 1352 (Jordan, J., concurring), which suggested to the Supreme Court that it address political gerrymandering again to clear up the confusion that existed in the lower courts, was cited by the Supreme Court in *Vieth v. Jubelirer*, 514 U.S. 267, 283 (2004). As noted in *Martinez*, there were a number of related redistricting lawsuits that were assigned to me, and some of them involved interesting issues of federal procedure. *See, e.g., Brown v. Florida*, 208 F. Supp. 2d 1344 (S.D. Fla. 2002) (removal of case by Florida secretary of state pursuant to 28 U.S.C. § 1443(2)).

Plaintiffs' and Intervenors' Counsel:

Jeremy Bash, Esq., O'Melveny & Myers, 1625 Eye Street, N.W., Washington,
D.C. 20005 (202-383-5300)

Norman Powell, Esq., 17100 N.E. 19th Avenue, North Miami Beach, Florida
33162 (786-279-1600)

Thomasina Williams, Esq., Williams & Associates, 80 S.W. Eighth Street, Suite 2805, Brickell Bay Centre, Miami, Florida 33130 (305-751-8411) (last known contact information)

W. George Allen, Esq., 800 S.E. Third Avenue, Penthouse, Fort Lauderdale, Florida 33316 (954-463-6681)

Terence Anderson, Esq., University of Miami School of Law, P.O. Box 748087, Coral Gables, Florida 33124 (305-284-2253)

Bernadette Norris-Weeks, Esq., 401 N.W. Seventh Avenue, Fort Lauderdale, Florida 33311 (954-768-9770)

Defendants' Counsel:

George Waas, Esq., 400 South Monroe Street, PL-01, Tallahassee, Florida 32312 (850-414-3662)

Roberto Martinez, Esq., Colson Hicks Eidson, 225 Alhambra Circle, Coral Gables, Florida 33134 (305-476-7400)

Miguel de Grandy, Esq., 800 South Douglas Road, Suite 850, Miami, Florida 33134 (305-444-7737)

Thomas E. Scott, Jr., Esq., Cole Scott Kissane, Dadeland Centre II, Suite 1400, 9150 South Dadeland Boulevard, Miami, Florida 33156 (305-350-5381)

James Scott, Esq., Tripp Scott, 110 S.E. Sixth Street, 15th Floor, Fort Lauderdale, Florida 33302 (954-525-7500)

Christopher Carver, Esq., Akerman Senterfitt, 1 S.E. Third Street, 25th Floor, Miami, Florida 33131 (305-982-5572)

(8) *Cave v. McDonough*, Case No. 05-14137-Civ-Jordan.

This was the first capital case I was assigned. The petitioner in this habeas corpus proceeding was sentenced to death in Florida for his involvement in the 1982 murder of a kidnapping victim. He sought to vacate his death sentence on a number of grounds, including that his counsel had rendered ineffective assistance of counsel (a) due to his misunderstanding of Florida law, (b) by not presenting certain mental health and addiction evidence, (c) in failing to perpetuate or preserve a exculpatory statement made by a co-defendant on the eve of his execution, (d) when he failed to object to an allegedly improper line of questioning, and (e) in seeking to establish a certain mitigating factor. Because the petitioner's sentence had been overturned two times, and there had been three sentencing hearings, the case required review of about 30 years' worth of transcripts, legal memoranda, and court proceedings.

I ultimately denied relief on all grounds. I concluded, under the applicable AEDPA standard, that the Florida Supreme Court had not acted unreasonably in concluding that counsel's misunderstanding of Florida law did not cause the petitioner prejudice, that counsel had not rendered deficient performance by not putting on certain mental health and addiction evidence, that the petitioner was not prejudiced due to the failure to perpetuate or preserve the co-defendant's exculpatory statement, and that counsel had not been ineffective in trying to establish a certain mitigating factor. I also ruled that, although counsel had rendered deficient performance in failing to object to certain questions by the prosecutor under Florida law, the Florida Supreme Court's conclusion that the petitioner was not prejudiced by that error was not unreasonable. I issued a certificate of appealability so that the petitioner could seek review in the Eleventh Circuit. Following oral argument, the Eleventh Circuit affirmed the denial of habeas corpus relief in a published opinion. *See Cave v. McDonough*, 2009 U.S. Dist. Lexis 130889 (S.D. Fla. 2009), *aff'd*, 638 F.3d 739 (11th Cir. 2011).

Petitioner's Counsel:

Mary Catherine Bonner, Esq., 207 S.W. 12th Court, Ft. Lauderdale, Florida 33315 (954-523-6225)

Respondent's Counsel:

Debra Rescigno, Esq., Attorney General's Office, 501 South Flagler Drive, West Palm Beach, Florida 33401 (561-659-5455)

(9) *Caracciolo v. McDonough*, Case No. 97-1139-Civ-Jordan.

This habeas corpus case arose out of the highly publicized murder of a Miami millionaire in 1986. The petitioner in this case – the alleged shooter in a contract killing ordered by the victim's wife – had pled no contest to second-degree murder charges in 1991 and had been sentenced to 40 years' imprisonment. A number of the habeas claims that the petitioner asserted were procedurally barred, but the petitioner argued that he could overcome the procedural bar by demonstrating actual innocence under cases like *Schlup v. Delo*, 513 U.S. 298 (1995). I therefore held an evidentiary hearing on the issue of actual innocence, which – given the no contest plea – essentially required a mini-trial on most of the issues relating to the murder. Over 20 witnesses testified, and numerous exhibits, including the transcript of the wife's separate trial, were introduced. After the hearing, I issued an order examining all of the evidence and concluding that the petitioner could not show that he was actually innocent so as to overcome the procedural bar on some of the claims. *See Caracciolo v. McDonough*, 456 F. Supp. 2d 1240 (S.D. Fla. 2006).

Petitioner's Counsel:

Rhonda Anderson, Esq., 2665 South LeJeune Road, Suite 540, Coral Gables, Florida 33134 (305-567-3004)

John Lipinski, Esq., P.O. Box 848068, Pembroke Pines, Florida 33084 (954-966-9477)

Respondent's Counsel:

Frank Ingrassia, Esq., 8931 Wiles Road, Coral Springs, Florida 33067 (954-655-4480)

John Kastrenakes, Florida Circuit Judge, 15th Judicial Circuit, 205 North Dixie Highway, West Palm Beach, Florida 33401 (561-659-4772)

Consuelo Maingot, Esq., Attorney General's Office, 6891 S.W. 17th Street, Plantation, Florida 33317 (954-791-8858)

(10) *Florida Transportation, Inc. v. Miami-Dade County*, Case No. 05-22637-Civ-Jordan.

In this case, brought pursuant to 42 U.S.C. § 1983, a stevedoring company challenged, on Dormant Commerce Clause grounds, a Miami-Dade County ordinance requiring special permits for stevedores at the Port of Miami. Ruling on motions for summary judgment, I concluded that Miami-Dade County had violated the Dormant Commerce Clause by applying the ordinance so that entrenched stevedores with permits had their renewal applications rubber-stamped for approval without having to compete for scarce slots at the Port. *See Florida Transportation, Inc. v. Miami-Dade County*, 757 F. Supp. 2d 1260 (S.D. Fla. 2010). In my view, the County's application of the ordinance insulated the existing stevedores from any new competition. Following the summary judgment order, I presided over a jury trial on damages. The jury awarded the stevedoring company several million dollars in damages, and I upheld that jury award against post-trial challenges. The County filed a notice of appeal, and the case is currently pending in the Eleventh Circuit.

Plaintiff's Counsel:

Jeffrey Crockett, Esq., Coffey Burlington, 2699 South Bayshore Drive, Penthouse, Miami, Florida 33133 (305-858-2900)

Mark Journey, Esq., Brinkley Morgan, Sun Sentinel Building, 19th Floor, 200 East Las Olas Boulevard, Ft. Lauderdale, Florida 33301 (954-522-2200)

Defendant's Counsel:

Stephen Bass, Esq., Bernard Pastor, Esq., Miami-Dade County Attorney's Office,
111 N.W. First Street, Miami, Florida 33128 (305-375-5224)

- 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.

In chronological order, the 10 most significant opinions I have written are as follows.

- (1) *Dow Jones & Co. v. Kaye*, 90 F. Supp. 2d 1330 (S.D. Fla. 2000), *appeal dismissed as moot and preliminary injunction vacated*, 256 F.3d 1251 (11th Cir. 2001)

Plaintiff's Counsel:

Sanford Bohrer, Esq., Holland & Knight, 701 Brickell Avenue, Suite 3000,
Miami, Florida 33131 (305-374-8500)

David Bradlow, Esq., Tribune Company, 220 East 42nd Street, New York, New York 10017 (212-210-2893)

Defendant's Counsel:

Lee Kraftchick, Esq., Miami-Dade County Attorney's Office, 111 N.W. First Street, Miami, Florida 33128 (305-375-5151)

Intervenors' Counsel:

Stanley Rosenblatt, Esq., and Susan Rosenblatt, Esq., 201 South Biscayne Boulevard, Suite 1318, Miami, Florida 33131 (305-374-6131)

- (2) *United States v. Ozuna*, 129 F. Supp. 2d 1345 (S.D. Fla. 2001), *aff'd*, 48 F. App'x 739 (11th Cir. 2002)

Government Counsel:

Brian Frazier, Esq., and Jennifer Keene, Esq., Assistant U.S. Attorneys, 99 N.E. Fourth Street, Miami, Florida 33132 (305-961-9432) (last known contact information)

Defendant's Counsel:

William Thomas, Florida Circuit Judge, 11th Judicial Circuit, 1351 N.W. 12th Street, Suite 209, Miami, Florida 33125 (305-548-5166)

Migna Sanchez Llorens, Florida Circuit Judge, 11th Judicial Circuit, 1351 N.W. 12th Street, Suite 751, Miami, Florida 33125 (305-548-5734)

(3) *Hernandez v. City of Miami*, 302 F. Supp. 2d 1373 (S.D. Fla. 2004)

Plaintiff's Counsel:

Robert Bryan, Esq., 7700 North Kendall Drive, Suite 303, Miami, Florida 33156 (305-264-8799)

Defendant's Counsel:

Jose De Jesus Arrojo, Esq., 1350 N.W. 12th Avenue, Miami, Florida 33136 (305-547-0100)

Warren Bittner, Esq., City of Miami Attorney's Office, 444 S.W. Second Avenue, Suite 945, Miami, Florida 33130 (305-416-1800)

Ronald Cohen, Esq., 8100 Oak Lane, Suite 403, Miami Lakes, Florida 33016 (305-823-1212)

(4) *United States v. Greenpeace, Inc.*, 314 F. Supp. 2d 1373 (S.D. Fla. 2004)

Government Counsel:

Thomas Watts-Fitzgerald, Esq., Assistant U.S. Attorney, 99 N.E. Fourth Street, Miami, Florida 33132 (305-961-9413)

Defense Counsel:

Jane Moscovitz, Esq., 1111 Brickell Avenue, Miami, Florida 33131 (305-279-8300)

(5) *Hershell Gill Consulting Engineers, Inc. v. Miami-Dade County*, 333 F. Supp. 2d 1305 (S.D. Fla. 2004)

Plaintiff's Counsel:

Herbert Schlanger, Esq., 230 Peachtree Street, N.W., Atlanta, Georgia 30303 (404-588-1981)

Defendants' Counsel:

Robert Cuevas, Esq., Miami-Dade County Attorney, 111 N.W. First Street, Miami, Florida 33128 (305-375-5151)

(6) *Caracciolo v. McDonough*, 456 F. Supp. 2d 1240 (S.D. Fla. 2006).

Petitioner's Counsel:

Rhonda Anderson, Esq., 2665 South LeJeune Road, Suite 540, Coral Gables, Florida 33134 (305-567-3004)

John Lipinski, Esq., P.O. Box 848068, Pembroke Pines, Florida 33084 (954-966-9477)

Respondent's Counsel:

Frank Ingrassia, Esq., 8931 Wiles Road, Coral Springs, Florida 33067 (954-655-4480)

John Kastrenakes, Florida Circuit Judge, 15th Judicial Circuit, 205 North Dixie Highway, West Palm Beach, Florida 33401 (561-659-4772)

Consuelo Maingot, Esq., Attorney General's Office, 6891 S.W. 17th Street, Plantation, Florida 33317 (954-791-8858)

(7) *Stadium Books & Video, Inc. v. Miami-Dade County*, 2006 WL 2374740 (S.D. Fla. 2006), *aff'd*, 253 F. App'x 840 (11th Cir. 2007)

Plaintiff's Counsel:

Luke Lirot, Esq., 2240 Belleair Road, Suite 190, Clearwater, Florida 33764 (727-536-2100)

Defendant's Counsel:

Bernard Pastor, Esq., Miami-Dade County Attorney's Office, 111 N.W. First Street, Suite 2810, Miami, Florida 33128 (305-375-5151)

Susan Torres, Esq., Assistant U.S. Attorney, 99 N.E. Fourth Street, Miami, Florida 33132 (205-961-9331)

(8) *United States v. Frank*, 486 F. Supp. 2d 1353 (S.D. Fla. 2007), *aff'd*, 599 F.3d 1221 (11th Cir. 2010).

Government Counsel:

Wendy Waldron, Esq., U.S. Department of Justice, 1400 New York Avenue, N.W., Suite 1600, Washington, D.C. 20005 (202-305-2121)

Defense Counsel:

Jeffrey Feiler, Esq., 7685 S.W. 104th Street, Suite 200, Miami, Florida 33156
(305-670-7700)

(9) *Cave v. McDonough*, 2009 U.S. Dist. Lexis 130889 (S.D. Fla. 2009), *aff'd*, 638 F.3d 739 (11th Cir. 2011)

Petitioner's Counsel:

Mary Catherine Bonner, Esq., 207 S.W. 12th Court, Ft. Lauderdale, Florida
33315 (954-523-6225)

Respondent's Counsel:

Debra Rescigno, Esq., Attorney General's Office, 501 South Flagler Drive, West
Palm Beach, Florida 33401 (561-659-5455)

(10) *Florida Transportation Service, Inc. v. Miami-Dade County*, 757 F. Supp. 2d
1260 (S.D. Fla. 2010)

Plaintiff's Counsel:

Jeffrey Crockett, Esq., Coffey Burlington, 2699 South Bayshore Drive,
Penthouse, Miami, Florida 33133 (305-858-2900)

Mark Journey, Esq., Brinkley Morgan, Sun Sentinel Building, 19th Floor, 200
East Las Olas Boulevard, Ft. Lauderdale, Florida 33301 (954-522-2200)

Defendant's Counsel:

Stephen Bass, Esq., and Bernard Pastor, Esq., Miami-Dade County Attorney's
Office, 111 N.W. First Street, Miami, Florida 33128 (305-375-5224)

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

To the best of my knowledge, the Supreme Court has granted certiorari in only one of my cases. In *United States v. Garcia-Rodriguez*, Case No. 01-993-Cr-Jordan, the defendants were convicted of money laundering and structuring offenses, and I sentenced them under the then-mandatory sentencing guidelines. On appeal, the Eleventh Circuit affirmed in a table decision. See *United States v. Garcia-Rodriguez*, 97 F. App'x 904 (11th Cir. 2004) (table). The Supreme Court granted certiorari, vacated the Eleventh Circuit's decision, and remanded for reconsideration in light of *Booker v. United States*, 543 U.S. 220 (2005), which had held (in an opinion issued after the sentencing hearing) that the sentencing guidelines were to be applied in an advisory fashion. See *Garcia-Rodriguez v. United States*, 543 U.S. 1122 (2005). On

remand, the Eleventh Circuit again affirmed, explaining that the defendants had not asserted on appeal that it was error to apply the guidelines as mandatory. *See United States v. Garcia-Rodriguez*, Case No. 03-10348 (11th Cir. Apr. 19, 2005).

A list of cases in which certiorari was sought and denied follows. This list may not be complete, as parties are not required to file certiorari petitions in our court docket, and our court does not always receive notification that the Supreme Court has denied certiorari.

Bacon v. Florida, Case No. 09-21559-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 09-21559-Civ (S.D. Fla.) [D.E. 31]

Schery v. United States, Case No. 09-22993-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 09-22993-Civ [D.E. 21]

United States v. Orlansky, Case No. 03-20951-Cr (S.D. Fla.), *cert. denied*, 131 S. Ct. 805 (2010)

Lafavors v. Fla. Dep't of Corr., Case No. 09-21129-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 09-21129-Civ [D.E. 15]

United States v. Ethingor, Case No. 07-20599-Cr (S.D. Fla.), *petition for cert. filed*, Oct. 19, 2010

United States v. Lewis, Case No. 08-20087-Cr (S.D. Fla.), *cert. denied*, 131 S. Ct. 282 (2010)

Manning v. Florida, Case No. 08-21601-Civ (S.D. Fla.), *cert. denied*, 131 S. Ct. 295 (2010)

United States v. Frank, Case No. 04-20778-Cr (S.D. Fla.), *cert. denied*, 131 S. Ct. 186 (2010)

United States v. Sanchez-Santana, Case No. 08-20322-Cr (S.D. Fla.), *cert. denied*, 131 S. Ct. 222 (2010)

United States v. Hernandez, Case No. 00-805-Cr (S.D. Fla.), *cert. denied*, 130 S. Ct. 1309 (2010)

Nunez v. Fla. Dep't of Corr., Case No. 07-61584-Civ (S.D. Fla.), *cert. denied sub nom. Nunez v. McNeil*, 130 S. Ct. 2348 (2010)

United States v. Lewis, Case No. 07-20567-Cr (S.D. Fla.), *cert. denied*, 130 S. Ct. 378 (2009)

Serrano v. United States, Case No. 08-20491-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 08-20491-Civ [D.E. 43]

Trainor v. United States, Case No. 06-60428-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 06-60428-Civ [D.E. 64]

United States v. Schery, Case No. 95-481-Cr (S.D. Fla.), *cert. denied*, 130 S. Ct. 336 (2009)

Sands v. Dep't of Homeland Sec., Case No. 08-21371-Civ (S.D. Fla.), *cert. denied*, 130 S. Ct. 64 (2009)

Dixon v. Miami-Dade Cnty., Case No. 05-22120-Civ (S.D. Fla.), *cert. denied*, 130 S. Ct. 152 (2009)

United States v. Gomez, Case No. 06-20592-Cr (S.D. Fla.), *cert. denied sub nom. Aviles v. United States*, 129 S. Ct. 1658 (2009), and *Bachiller v. United States*, 129 S. Ct. 1926

United States v. Puche, Case No. 00-933-Cr (S.D. Fla.), *cert. denied as explained in* Case No. 00-933-Cr [D.E. 1100]

Navarro v. Broney Auto. Repairs, Inc., Case No. 07-21014-Civ (S.D. Fla.), *cert. denied*, 129 S. Ct. 507 (2008)

Guerra v. Sec'y for Dep't of Corr., Case No. 06-22022-Civ (S.D. Fla.), *cert. denied*, 129 S. Ct. 726 (2008)

Sears v. Sec'y for Dep't of Corr., Case No. 05-20011-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 05-20011-Civ [D.E. 48]

United States v. Aviles, Case No. 04-20059-Cr (S.D. Fla.), *cert. denied*, 129 S. Ct. 297 (2008)

United States v. Brandreth, Case No. 02-20831-Cr (S.D. Fla.), *cert. denied*, 128 S. Ct. 941 (2008)

Persichilli v. Comm'r of Soc. Sec. Admin., Case No. 05-61124-Civ (S.D. Fla.), *cert. denied*, 128 S. Ct. 1308 (2008)

Birotte v. Sec'y for Dep't of Corr., Case No. 05-60223-Civ (S.D. Fla.), *cert. denied*, 552 U.S. 1108 (2008)

Awala v. Clement, Case No. 07-22447-Civ (S.D. Fla.), *cert. denied as explained in* Case No. 07-22447-Civ [D.E. 12]

United States v. Cineus, Case No. 05-60050-Cr (S.D. Fla.), *cert. denied*, 550 U.S. 976 (2007)

United States v. Evans, Case No. 02-20451-Cr (S.D. Fla.), *cert. denied*, 552 U.S. 810 (2007)

Townsend v. City of Miami, Case No. 03-21072-Civ (S.D. Fla.), *cert. denied sub. nom Sparado v. Boone*, 552 U.S. 822 (2007)

United States v. Martinez-Zapata, Case No. 05-20768-Cr (S.D. Fla.), *cert. denied*, 549 U.S. 1298 (2007)

Lans v. Stuckey, Case No. 04-22173-Civ (S.D. Fla.), *cert. denied*, 550 U.S. 936 (2007)

United States v. Serrano, Case No. 04-20306-Cr (S.D. Fla.), *cert. denied*, 549 U.S. 1237 (2007)

Baxter v. Washington, Case No. 05-23167-Civ (S.D. Fla.), *cert. denied*, 549 U.S. 1144 (2007)

Laurent v. Herkert, Case No. 04-22471-Civ (S.D. Fla.), *cert. denied*, 551 U.S. 1114 (2007)

United States v. Brickell Orthopedic, Case No. 03-21059-Civ (S.D. Fla.), *cert. denied sub. nom United States v. Metsch & Metsch, P.A.*, 549 U.S. 976 (2006)

United States v. Roa, Case No. 91-870-Cr (S.D. Fla.), *cert. denied*, 547 U.S. 1091 (2006)

United States v. Munoz, Case No. 01-1029-Cr (S.D. Fla.), *cert. denied*, 547 U.S. 1149 (2006)

Henry v. United States, Case No. 05-21656-Civ (S.D. Fla.), *cert. denied as explained in Case No. 05-21656-Civ [D.E. 17]*

Richardson v. United States, Case No. 04-22748-Civ (S.D. Fla.), *cert. denied as explained in Case No. 04-22748-Civ [D.E. 40]*

United States v. Giorango, Case No. 02-20645-Cr (S.D. Fla.), *cert. denied*, 546 U.S. 1090 (2006)

United States v. Tai-Ourane, Case No. 03-20809-Cr (S.D. Fla.), *cert. denied*, 546 U.S. 989 (2005)

United States v. Garcia-Rodriguez, Case No. 01-993-Cr (S.D. Fla.), *cert. denied*, 546 U.S. 971 (2005)

United States v. Soler, Case No. 00-1018-Cr (S.D. Fla.), *cert. denied*, 546 U.S. 934 (2005)

United States v. Jean-Baptiste, Case No. 02-22057-Civ (S.D. Fla.), *cert. denied*, 546 U.S. 852 (2005)

Myers v. Staten, Case No. 00- 3869-Civ (S.D. Fla.), *cert. denied*, 543 U.S. 1162 (2005)

Kingsland v. City of Miami, Case No. 99-3393-Civ (S.D. Fla.), *cert. denied*, 543 U.S. 919 (2004)

Cigna Prop. & Cas. v. Ruiz, Case No. 02-21655-Civ (S.D. Fla.), *cert. denied*, 541 U.S. 937 (2004)

Jackson v. Sec'y for Dep't of Corr., Case No. 00-1541-Civ (S.D. Fla.), *cert. denied*, 543 U.S. 961 (2004)

McGriff v. Fla. Dep't of Corr., Case No. 96-3247-Civ (S.D. Fla.), *cert. denied*, 540 U.S. 1118 (2004)

United States v. Jackson, Case No. 00-345-Cr (S.D. Fla.), *cert. denied*, 540 U.S. 975 (2003)

Errico v. Gulf Corr., Case No. 99-6295-Civ (S.D. Fla.), *cert. denied*, 540 U.S. 879 (2003)

Limonte v. Fla. Dep't of Corr., Case No. 99-534-Civ (S.D. Fla.), *cert. denied*, 538 U.S. 1037 (2003)

United States v. Taramona, Case No. 00-380-Cr (S.D. Fla.), *cert. denied*, 537 U.S. 1235 (2003)

United States v. London-Rodas, Case No. 00-1037-Cr (S.D. Fla.), *cert. denied*, 537 U.S. 916 (2002)

Tinker v. Moore, Case No. 99-405-Civ (S.D. Fla.), *cert. denied*, 534 U.S. 1144 (2002)

United States v. Venegas, Case No. 00-218-Cr (S.D. Fla.), *cert. denied*, 534 U.S. 937 (2001)

United States v. Leon, Case No. 00-95-Cr (S.D. Fla.), *cert. denied*, 534 U.S. 858 (2001)

United States v. Gaines, Case No. 99-928-Cr (S.D. Fla.), *cert. denied*, 534 U.S. 906 (2001)

Core v. Sec'y for Dep't of Corr., Case No. 98-8593-Civ (S.D. Fla.), *cert. denied*, 534 U.S. 916 (2001)

Townsend v. Miami Herald Publ'g, Case No. 98-1485-Civ (S.D. Fla.), *cert. denied*, 532 U.S. 922 (2001)

Hall v. Sec'y of Dep't of Corr., Case No. 00-7531-Civ (S.D. Fla.), *cert. denied as explained* in Case No. 00-7531-Civ [D.E. 47]

- 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.

Delancy v. Moore, Case No. 99-1185-Civ-Jordan, Order Dismissing Petition as Time-Barred [D.E. 28] (copy supplied), *rev'd and remanded*, 246 F.3d 1328 (11th Cir. 2001). I dismissed the habeas corpus petition as untimely based on then-existing Eleventh Circuit precedent such as *Weekly v. Moore*, 204 F.3d 1083 (11th Cir. 2000). By the time the Eleventh Circuit considered the appeal, the Supreme Court had issued an opinion, *Artuz v. Bennett*, 531 U.S. 4 (2000), which altered cases like *Weekly*. The Eleventh Circuit, noting the change in governing law, reversed the dismissal and remanded for further proceedings in light of *Artuz*.

Dow Jones & Co., Inc. v. Kaye, 90 F. Supp. 2d 1397 (S.D. Fla. 2000), *appeal dismissed for lack of jurisdiction and preliminary injunction vacated as moot*, 256 F.3d 1251 (11th Cir. 2001). In an action brought pursuant to 42 U.S.C. § 1983, I ruled that a state court gag order in tobacco liability litigation was unconstitutional under the First Amendment, and enjoined enforcement of the order. On appeal, the Eleventh Circuit ruled that the state judge's appeal and the media's challenge to the gag order were moot because the state tobacco trial had ended, and the judge no longer had jurisdiction to enforce the gag order.

King v. Attorney General, Case No. 00-4216-Civ-Jordan, Order Dismissing Habeas Corpus Petition for Lack of Jurisdiction [D.E. 8] (copy supplied), *vacated and remanded*, 31 F. App'x 930 (11th Cir. 2002) (copy supplied). In this habeas corpus case I concluded that, given the language of some federal immigration provisions, there was no jurisdiction to review certain decisions made by the Attorney General. The Eleventh Circuit did not say that I was wrong, but vacated and remanded so that I could consider the effect of two Supreme Court cases that had been decided after I issued my ruling.

Gray v. ODS Technologies, Case No. 99-2808-Civ-Jordan, Order Granting Defendant's Motion for Summary Judgment and Dismissing Case for Lack of Subject-Matter Jurisdiction [D.E. 215] (copy supplied), *vacated with instructions to enter judgment on the merits in favor of defendant*, 77 F. App'x 507 (11th Cir. 2003) (copy supplied). In this case I ruled that a certain executive incentive plan was not a "top-hat" plan under ERISA and dismissed the action for lack of subject-matter jurisdiction. The Eleventh Circuit held that I "correctly concluded that ODS [the defendant] was entitled to summary judgment, and that the plan was not covered by ERISA." But it concluded that, instead of dismissing the action, I should have entered judgment on the merits in favor of the defendant. It therefore vacated the dismissal and remanded for entry of judgment on the merits in favor of the defendant.

United States v. Pepper's Steel & Alloys, Inc., 348 F.3d 964 (11th Cir. 2003) (District Court Case No. 85-0571-Civ-Jordan). Interpreting a Florida statute, I ruled that an insured could not obtain an award of attorney's fees for trying to enforce a settlement with the insurer. I cannot find a copy of my order because the case is so old and because the order was issued at a time when the court did not have an electronic docketing system. The Eleventh Circuit – noting the uncertainty in Florida law – certified the question to the Florida Supreme Court, which later ruled that fees could be recovered by the insured under the statute. The Eleventh Circuit, based on the Florida Supreme Court's ruling, vacated my order and remanded for further proceedings.

Bonadonna v. Serrano, Case No. 99-2201-Civ-Jordan, Order Granting Summary Judgment [D.E. 53] (copy supplied), *aff'd in part and vacated in part*, 82 F. App'x 219 (11th Cir. 2003) (copy supplied). The plaintiff, a federal inmate, filed a lawsuit against a private doctor and several federal correctional employees alleging deliberate indifference to his medical needs in violation of the Eighth Amendment. I dismissed the claim against the doctor, and granted summary judgment in favor of the other defendants, agreeing with the magistrate judge that no deliberate indifference had been pled or shown. On appeal, the Eleventh Circuit affirmed in part and vacated in part. It ruled that I had properly dismissed the claim against the doctor, and that I had correctly granted summary judgment on the Eighth Amendment claim in favor of the other defendants. It also ruled, however, that I had erred in not allowing the plaintiff to amend the complaint to add, under a third-party beneficiary contract theory, the hospital where the doctor was employed. My order was therefore vacated in part and the case was remanded so that the plaintiff could file an amended complaint.

United States v. Orihuela, 320 F.3d 1302 (11th Cir. 2003) (District Court Case No. 01-794-Cr-Jordan). In this criminal appeal brought by the government, the Eleventh Circuit ruled that I had erred in interpreting a guideline provision, USSG § 2L1.2(b)(1)(A). Noting that the issue was one of first impression, the Eleventh Circuit concluded – contrary to my interpretation – that a telephone facilitation offense was a "drug trafficking offense" within the meaning of the guideline provision. It therefore vacated the sentence and remanded for resentencing. If I recall correctly, the defendant was not resentenced because he had been deported.

Sibley v. Cohen Lando, Case No. 03-21728-Civ-Jordan, Order on Motions to Dismiss and for Sanctions [D.E. 51] (copy supplied), *aff'd in part, rev'd in part, and remanded*, 92 F. App'x 782 (11th Cir. 2004) (table) (copy supplied). This case involved state law tort claims brought by a state court litigant against the state judge who had presided over his marital dissolution proceeding. The plaintiff alleged that the judge had improperly issued a writ of bodily attachment against him without ruling on a pending motion for disqualification. I ruled that there was no subject-matter jurisdiction under the *Rooker-Feldman* doctrine and that abstention was otherwise appropriate, but denied the judge's motion to restrict future filings by the plaintiff. The Eleventh Circuit concluded that *Rooker-Feldman* did not apply because the writ of bodily attachment was not a final order, and that abstention was not appropriate because the plaintiff was seeking damages. The Eleventh Circuit also ruled that I had correctly denied the judge's motion to restrict future filings.

Elan Corp. v. Andrx Pharmaceuticals, Inc., 272 F. Supp. 2d 1325 (S.D. Fla. 2002), *rev'd*, 366 F.3d 1336 (Fed. Cir. 2004). Following a bench trial in this patent infringement case, I found that the plaintiff's patent was invalid under the on-sale bar of 35 U.S.C. § 102(b) because the plaintiff had offered to sell the patented invention more than one year prior to filing its patent application. The Federal Circuit reversed. It concluded that I had incorrectly characterized a letter from the plaintiff to another company as a commercial offer to sell.

Kingsland v. City of Miami, 2003 WL 24829644 (S.D. Fla. 2003), *aff'd in part and rev'd in part*, 382 F.3d 1220 (11th Cir. 2004). In this action under 42 U.S.C. § 1983 for false arrest and malicious prosecution, I ruled that the police officers who were sued had probable cause to arrest the plaintiff and were entitled to qualified immunity. On appeal, the Eleventh Circuit affirmed as to the malicious prosecution claim, but reversed as to the false arrest claim, finding that there were factual issues as to whether there was probable cause to arrest, and concluding that the officers were not entitled to qualified immunity on that claim.

United States v. McGriff, 140 F. App'x 121 (11th Cir. 2005) (District Court Case No. 04-60044-Cr-Jordan). I sentenced the defendant at a time when the federal sentencing guidelines were mandatory. By the time the Eleventh Circuit heard the defendant's appeal, the Supreme Court had ruled that the guidelines were advisory. The Eleventh Circuit therefore vacated the sentence and remanded for resentencing.

United States v. Bollea, 144 F. App'x 69 (11th Cir. 2005) (District Court Case No. 04-20021-Cr-Jordan). I sentenced the defendant at a time when the federal sentencing guidelines were mandatory. By the time the Eleventh Circuit heard the defendant's appeal, the Supreme Court had ruled that the guidelines were advisory. The Eleventh Circuit therefore vacated the sentence and remanded for resentencing.

United States v. Vargas-Vasquez, 148 F. App'x 836 (11th Cir. 2005) (District Court Case No. 04-20282-Cr-Jordan). I sentenced the defendant at a time when the federal

sentencing guidelines were mandatory. By the time the Eleventh Circuit heard the defendant's appeal, the Supreme Court had ruled that the guidelines were advisory. The Eleventh Circuit therefore vacated the sentence and remanded for resentencing.

United States v. Joseph, 148 F. App'x 914 (11th Cir. 2005) (District Court Case No. 02-20851-Cr-Jordan). I sentenced the defendant at a time when the federal sentencing guidelines were mandatory. By the time the Eleventh Circuit heard the defendant's appeal, the Supreme Court had ruled that the guidelines were advisory. The Eleventh Circuit therefore vacated the sentence and remanded for resentencing.

United States v. Alvarez, 164 F. App'x 893 (11th Cir. 2006) (District Court Case No. 03-20641-Cr-Jordan). I sentenced the defendant at a time when the federal sentencing guidelines were mandatory. By the time the Eleventh Circuit heard the defendant's appeal, the Supreme Court had ruled that the guidelines were advisory. The Eleventh Circuit therefore vacated the sentence and remanded for resentencing.

Association for Disabled Americans v. Florida International University, 178 F. Supp. 2d 1291 (S.D. Fla. 2001), *rev'd*, 405 F.3d 954 (11th Cir. 2005). This was an action for injunctive relief against a state university for alleged violations of Title II of the ADA. I ruled, based on *Bd. of Trustees v. Garrett*, 531 U.S. 356 (2001) (holding that the Eleventh Amendment bars claim for money damages against a state under Title I of the ADA), that the Eleventh Amendment barred a claim for injunctive relief against a state university with respect to educational benefits under Title II. After I issued my ruling, the Supreme Court held in *Tennessee v. Lane*, 541 U.S. 509 (2004), that Congress could properly abrogate the states' Eleventh Amendment immunity through Title II in the context of the right to access to the courts. Based largely on the Supreme Court's intervening decision in *Lane*, the Eleventh Circuit reversed my ruling and remanded for further proceedings.

Sweet Pea Marine Ltd. v. APJ Marine, Inc., 2003 WL 25731087 (S.D. Fla. 2003), *aff'd in part and rev'd in part*, 411 F.3d 1242 (11th Cir. 2005). This litigation involved disputes under admiralty law and state law arising from the refurbishing and retrofitting of a multi-million dollar pleasure yacht. After a joint jury/bench trial, I concluded that diversity jurisdiction existed, upheld the jury's verdict on the state law claims in favor of the yacht's owner, and ruled in favor of the vendor (agreeing with the jury's advisory verdict) on the admiralty claims against the yacht's owner and the yacht itself. On appeal, the Eleventh Circuit affirmed my ruling as to jurisdiction (and therefore the judgment in favor of the owner), but set aside my ruling on the admiralty claims, finding that the vendor had presented insufficient evidence that its charges were reasonable. The case was remanded so that judgment on the admiralty claims could be entered in favor of the owner and the yacht.

Andrx Pharmaceuticals v. Elan Corp., Case No. 00-3481-Civ-Jordan, Order Granting Motion for Judgment on the Pleadings [D.E. 73] (copy supplied), *aff'd in part, rev'd in part, and remanded*, 421 F.3d 1227 (11th Cir. 2005). In this antitrust case arising out of a patent dispute, I granted the defendant's motion for judgment on the

pleadings with respect to claims under the federal and state antitrust laws. I concluded that the defendant's prior lawsuit was not a sham litigation for antitrust purposes, and that the defendant's settlement of a patent dispute with a third party – which involved cross-licenses – did not violate the antitrust laws. I also ruled that the plaintiff, because of undue delay, would not be allowed to file a second amended complaint. The Eleventh Circuit, addressing the plaintiff's appeal, affirmed in part, reversed in part, and remanded. First, it affirmed my ruling that the prior lawsuit was not a sham litigation for antitrust purposes. Second, it held that I had erred in granting judgment on the pleadings with respect to the patent settlement claim because the settlement agreement, coupled with the third party's agreement not to market, stated a claim under the federal antitrust laws. Third, it affirmed my denial of the plaintiff's motion for leave to amend.

Hernandez v. United States, Case No. 05-21381-Civ-Jordan, Final Judgment Denying Motion to Vacate [D.E. 11] (copy supplied), *vacated*, 212 F. App'x 832 (11th Cir. 2006). The movant in this case sought to set aside his conviction and sentence on a number of grounds, including a claim that his counsel had incorrectly advised him that he could not appeal due to an appeal waiver in his plea agreement. I denied the motion to vacate, agreeing with the magistrate judge on this claim that the movant had been properly advised about the scope of the appeal waiver at his change of plea hearing. The Eleventh Circuit, however, construed the movant's papers to also include a claim that counsel had not filed a notice of appeal when requested to do so, and held that this claim should not have been denied without an evidentiary hearing. It remanded as to that claim for an evidentiary hearing.

Watts v. Florida International University, 2005 WL 3730879 (S.D. Fla. 2005), *aff'd in part and rev'd in part*, 495 F.3d 1289 (11th Cir. 2007). This case, brought pursuant to 42 U.S.C. § 1983, involved the termination of a master's student from a practicum position. The student alleged that he was terminated from the practicum because of his religious beliefs and freedom of expression, and that the termination led to his dismissal from a seminar and prevented him from earning a master's degree. The student asserted a number of federal constitutional claims and 12 state law claims against the university, the university's board of trustees, the president of the university, several university instructors, the Florida board of regents, and the psychiatric facility where he was completing the practicum. I granted the defendants' motions to dismiss the federal claims, and declined to exercise supplemental jurisdiction over the state law claims. The Eleventh Circuit affirmed my dismissal of the student's free speech and due process claims. A majority of the panel, however, concluded that I should not have dismissed the student's free exercise of religion claim and that I had used the wrong standard in addressing that claim. Judge Tjoflat, dissenting in part, would have affirmed my dismissal of that claim as well because he believed the student had not adequately pled the sincerity of his religious belief. The majority remanded the case for further proceedings on that claim, and for consideration of the supplemental state law claims.

Pintado v. Miami-Dade Housing Agency, Case No. 04-22856-Civ-Jordan, Order Granting Defendant's Motion for Summary Judgment [D.E. 83] (copy supplied), *vacated*, 501 F.3d 1241 (11th Cir. 2007). The plaintiff in this case brought federal and state claims against a local housing agency in state court, and the agency removed the case to federal court. After removal, the plaintiff amended his complaint by dropping the federal claim, and I granted summary judgment in favor of the agency on the state claim. On appeal, the Eleventh Circuit, raising the issue on its own, held that the plaintiff, by voluntarily amending his complaint after removal, had eliminated any subject-matter jurisdiction: there was no longer a federal claim, and there was no diversity for the remaining state claim. The Eleventh Circuit distinguished the scenario where a federal court dismisses a federal claim after removal, and then addresses the remaining state claim through supplemental jurisdiction. It explained that here the amended complaint nullified the prior complaint and had to be assessed on its own.

United States v. Aviles, 518 F.3d 1228 (11th Cir. 2008) (District Court Case No. 04-20059-Cr-Jordan). Following a lengthy criminal trial, various defendants were convicted for their roles in a complex healthcare fraud scheme involving Medicare and private insurance companies. The defendants appealed their convictions and the government cross-appealed one of my sentencing rulings. The Eleventh Circuit affirmed on the issues raised by the defendants, but agreed with the government that I had erred in not using an ex post facto analysis to determine which guidelines applied to two of the defendants. It vacated the sentences of those two defendants and remanded for resentencing.

Hadley v. Gutierrez, Case No. 03-23170-Civ-Jordan, Order on Motion for Summary Judgment [D.E. 127] (copy supplied), *aff'd in part and rev'd in part*, 526 F.3d 1324 (11th Cir. 2008). In this action under 42 U.S.C. § 1983 for excessive force and conspiracy against two police officers, I denied the officers' motion for summary judgment, concluding that they were not entitled to qualified immunity. The officers filed an interlocutory appeal, and the Eleventh Circuit affirmed in part and reversed in part. As to one officer who had allegedly punched the plaintiff, the Eleventh Circuit ruled that I had correctly denied qualified immunity on the excessive force claim. But as to the other officer, the Eleventh Circuit ruled that he was entitled to summary judgment because he could not have anticipated or stopped the other officer's actions. The Eleventh Circuit also ruled that I had erred in not granting summary judgment in favor of the officers on the conspiracy claim.

Canal Ins. Co. v. SP Transport, Inc., Case No. 04-20031-Civ-Jordan, Order Denying Motion for Attorney's Fees and Costs [D.E. 187] (copy supplied), *rev'd*, 272 F. App'x 825 (11th Cir. 2008). This case, arising under Florida law, involved an interpretation of Fla. Stat. § 627.428(1). The question presented was whether, under the statute, a partial settlement by an insurer constituted a confession of judgment, thereby permitting an award of attorney's fees. There was no case on point in Florida, and I read the Florida precedent as not treating the partial settlement as a

confession of judgment. The Eleventh Circuit read that same precedent differently, and reversed my decision.

Orenshteyn v. Citrix Systems, Inc., 265 F. Supp. 2d 1323 (S.D. Fla. 2003) & 558 F. Supp. 2d 1251 (S.D. Fla. 2008), *aff'd in part and rev'd in part*, 341 F. App'x 621 (Fed. Cir. 2009). I ruled in this patent infringement suit that there had been no infringement of the plaintiff's patent. I also imposed sanctions on the plaintiff and his counsel. The Federal Circuit affirmed my merits ruling "of all claims and all products," except for one of the infringement claims related to the defendant's metraframe product. As to that one claim, the Federal Circuit held that there were genuine issues of fact with respect to infringement. With respect to the sanctions order, the Federal Circuit ruled that, based on an intervening Eleventh Circuit case on Rule 11, *see In re Walker*, 532 F.3d 1304 (11th Cir. 2008) (Rule 11 motion must be filed prior to final judgment so that the 21-day safe harbor provision can be effective), the defendant's motion – which was filed after final judgment – did not give the plaintiff the benefit of the 21-day safe harbor. It also ruled that the prosecution of the lawsuit by the plaintiff and his counsel was not frivolous within the meaning of 28 U.S.C. § 1927. The sanctions therefore constituted an abuse of discretion, and were vacated.

United States v. Calvo, Case No. 08-20961-Cr-Jordan, *vacated*, Eleventh Circuit Case No. 09-11820-A (11th Cir. 2009) (copy supplied). The defendant was convicted of aggravated identity theft, *see* 18 U.S.C. § 1029A, pursuant to then-existing Eleventh Circuit precedent, *see United States v. Hurtado*, 508 F.3d 603 (11th Cir. 2007), which did not require the government to prove that the defendant knew that the means of identification stolen or possessed belonged to an actual person. While the defendant's appeal was pending, the Supreme Court ruled that such proof was in fact required in a prosecution under § 1029A. *See Flores-Figueroa v. United States*, 129 S. Ct. 1886 (2009). Based on *Flores-Figueroa* and the government's concession that summary reversal was warranted, the Eleventh Circuit vacated the conviction and ordered the defendant's immediate release from custody.

Lee v. Attorney General, Case No. 07-22582-Civ-Jordan, Order Dismissing Successive Motion to Vacate [D.E. 5] (copy supplied), *vacated*, 382 F. App'x 820 (11th Cir. 2010). I dismissed the movant's motion to vacate as successive because the movant had already filed an unsuccessful motion to vacate and had not obtained Eleventh Circuit approval to file another motion to vacate. The Eleventh Circuit vacated the dismissal, ruling that with respect to the movant's prior motion to vacate in 1998, the presiding judge (another judge) had not given the movant the required warnings before construing his pro se pleading as a motion to vacate. Due to the lack of proper notice in 1998, the first motion did not qualify as a motion to vacate, and the second motion filed before me was not successive. The case was remanded for further proceedings.

Fazile v. EMC Mortgage Corp., Case No. 09-21636-Civ-Jordan, Order Dismissing Complaint [D.E. 26] (copy supplied), *aff'd in part and rev'd in part*, 382 F. App'x

833 (11th Cir. 2010). In this action by a borrower against her mortgage company, I dismissed the borrower's federal claims under RESPA, 12 U.S.C. § 2604(c), and TILA, 15 U.S.C. § 1601 et seq. On appeal, the Eleventh Circuit affirmed in all respects, with the exception of a single claim under TILA. As to that single claim (which alleged that the mortgage company had not timely rescinded the mortgage transaction), the Eleventh Circuit concluded that it was not time-barred and could be pursued.

Bank of America v. FDIC, Case No. 09-22384-Civ-Jordan, Order Granting and Extending Preliminary Injunction [D.E. 36] (copy supplied), *vacated*, 604 F.3d 1239 (11th Cir. 2010). This case involved allegations that a failed bank had committed civil theft with respect to funds belonging to Bank of America. After I issued a temporary restraining order against the failed bank, the FDIC took over the bank as receiver and sought to dissolve the restraining order pursuant to certain jurisdiction-stripping provisions in the U.S. Code. *See, e.g.*, 12 U.S.C. § 1821(j). Relying on a number of district court decisions, I ruled that § 1821(j) did not preclude injunctive relief under the circumstances because the FDIC stood in the shoes of the failed bank (which had committed civil theft) and because the failed bank had never owned the disputed funds (and held them only as a custodian). I therefore enjoined the FDIC from disposing of the disputed funds. The FDIC appealed, and the Eleventh Circuit vacated the injunction, concluding that § 1821(j) did not permit injunctive relief against the FDIC in its capacity as receiver.

Penzer v. Transportation Ins. Co., 509 F. Supp. 2d 1278 (S.D. Fla. 2007), *rev'd*, 605 F.3d 1112 (11th Cir. 2010). The question presented in this case was whether, under Florida law, a commercial liability insurance policy for "advertising injury" (i.e., "injury arising out of . . . oral or written publication that violates a person's right to privacy") provided coverage for violation of a law prohibiting unsolicited fax advertisements. The Florida courts had not addressed this question, and the decisions in other federal and state courts were split. I thought that the decisions concluding that there was no coverage were more persuasive and ruled accordingly. On appeal, the Eleventh Circuit certified the question to the Florida Supreme Court, which concluded that there was coverage under the policy language. Based on the Florida Supreme Court's decision, the Eleventh Circuit reversed my order and remanded for further proceedings.

United States v. Vera Rojas, Case No. 10-20236-Cr-Jordan, *rev'd and remanded for resentencing*, 2011 WL 262359 (11th Cir. July 6, 2011). In this criminal case, I ruled, based on the general savings statute (1 U.S.C. § 109) and certain prior decisions, that the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (2010), was not retroactive as to individuals who had committed offenses before the Act became effective. On appeal, the Eleventh Circuit reversed and held that the Act applied to individuals who were sentenced after its effective date, even if their conduct took place before that date. The mandate in this case has not yet issued, and as a result the decision is not yet final.

- 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.

According to statistics compiled by our clerk of court, I have presided over 5,700 cases (over 4,600 civil cases and over 1,100 criminal cases) as a district judge, and have issued thousands of orders in those cases. The great majority of those orders are unpublished, but may be found in the court's electronic docketing system (with the possible exception of cases originating in the 1980s or earlier).

- 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.

Fla. Transp. Serv. v. Miami-Dade Cnty., 757 F. Supp. 2d 1260, 2010 WL 4484094 (S.D. Fla. 2010)

United States v. Steinger, 626 F. Supp. 2d 1231 (S.D. Fla. 2009)

Seiber v. Havana Harry's II, Inc., 604 F. Supp. 2d 1361 (S.D. Fla. 2009)

Biggs v. McNeil, 2008 WL 5054342 (S.D. Fla. 2008)

Cave v. McDonough, 2009 U.S. Dist. Lexis 130889 (S.D. Fla. 2009), *aff'd*, 638 F.3d 739 (11th Cir. 2011)

United States v. Olmedo, 552 F. Supp. 2d 1347 (S.D. Fla. 2008)

United States v. Frank, 486 F. Supp. 2d 1353 (S.D. Fla. 2007), *aff'd*, 599 F.3d 1221 (11th Cir. 2010)

Sloss Industries, Inc. v. Eurisol, 488 F.3d 922 (11th Cir. 2007)

Faculty Senate of Fla. Int'l Univ. v. Winn, 477 F. Supp. 2d 1198 (S.D. Fla. 2007)

Stadium Book & Video, Inc. v. Miami-Dade Cnty., 2006 WL 2374740 (S.D. Fla. 2006), *aff'd*, 253 F. App'x 840 (11th Cir. 2007)

Watts v. Fla. Int'l Univ., 2005 WL 3730879 (S.D. Fla. 2005), *aff'd in part, rev'd in part*, 495 F.3d 1289 (11th Cir. 2007)

United States v. Ramirez, Case No. 93-392, Order Granting Motion to Dismiss Indictment [D.E. 516] (May 6, 2004) (dismissing indictment on Sixth Amendment speedy trial grounds) (copy supplied)

Hershell Gill Consulting Eng'rs, Inc. v. Miami-Dade Cnty., 333 F. Supp. 2d 1305 (S.D. Fla. 2004)

United States v. Greenpeace, Inc., 314 F. Supp. 2d 1252 (S.D. Fla. 2004)

Hernandez v. City of Miami, 302 F. Supp. 2d 1373 (S.D. Fla. 2004)

Martinez v. Bush, 234 F. Supp. 2d 1275, 1352 (S.D. Fla. 2002) (three-judge court) (Jordan, J., concurring)

Ass'n for Disabled Ams. v. Fla. Int'l Univ., 178 F. Supp. 2d 1291 (S.D. Fla. 2001), *rev'd*, 405 F.3d 954 (11th Cir. 2005)

Owens v. City of Fort Lauderdale, 174 F. Supp. 2d 1282 (S.D. Fla. 2001)

Owens v. City of Fort Lauderdale, 174 F. Supp. 2d 1298 (S.D. Fla. 2001)

Card v. Miami-Dade Cnty., 147 F. Supp. 2d 1334 (S.D. Fla. 2001)

United States v. Ozuna, 129 F. Supp. 2d 1345 (S.D. Fla. 2001), *aff'd*, 48 F. App'x 739 (11th Cir. 2002)

Williams v. Florida, 109 F. Supp. 2d 1372 (S.D. Fla. 2000), *aff'd*, 273 F.3d 1114 (11th Cir. 2001)

Kruger v. Jenne, 164 F. Supp. 2d 1330 (S.D. Fla. 2000)

Dow Jones & Co. v. Kaye, 90 F. Supp. 2d 1347 (S.D. Fla. 2000), *vacated*, 256 F.3d 1251 (11th Cir. 2001)

- 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.

Hollis v. Florida State University, 259 F.3d 1295 (11th Cir. 2001) (Jordan, J.) (majority opinion addressing venue following removal)

La Grasta v. First Union Securities, Inc., 358 F.3d 840 (11th Cir. 2004) (Jordan, J.) (majority opinion concerning dismissal of securities fraud case on statute of limitations grounds)

Gares v. Allstate Ins. Co., 365 F.3d 990 (11th Cir. 2004) (Jordan, J.) (majority opinion analyzing question about uninsured motorist coverage under Florida law)

Peat, Inc. v. Vanguard Research, Inc., 378 F.3d 1154 (11th Cir. 2004) (Jordan, J.) (majority opinion addressing introduction of summary exhibits under Federal Rule of Evidence 1006)

In re Crow, 394 F.3d 918 (11th Cir. 2004) (Jordan, J.) (per curiam opinion addressing Eleventh Amendment immunity issues in bankruptcy setting)

Scott v. Taylor, 405 F.3d 1251, 1257 (11th Cir. 2005) (Jordan, J., concurring) (concurring opinion criticizing prior Eleventh Circuit precedent for addressing legislative immunity before insuring that plaintiff has Article III standing)

Alim v. Gonzalez, 446 F.3d 1239 (11th Cir. 2006) (Jordan, J.) (majority opinion concerning issues raised in petition for review from decision of Board of Immigration Appeals)

Williams v. Bd. of Regents of University System of Georgia, 477 F.3d 1282, 1304 (11th Cir. 2007) (Jordan, J., concurring) (concurring opinion agreeing that female plaintiff's sexual harassment claims against a university – based on alleged sexual assault and rape by fellow students – survived a motion to dismiss)

In re Poe, 477 F.3d 1317 (11th Cir. 2007) (Jordan, J.) (majority opinion interpreting Alabama's redemption statute in context of bankruptcy case)

Cnty. State Bank v. Strong, 485 F.3d 597, 613 (11th Cir. 2007) (Marcus, J., joined by Jordan, J., concurring), *remanded to panel for reconsideration in light of recent Supreme Court decision*, 565 F.3d 1305 (11th Cir. 2009) (*en banc*)

Sloss Industries Corp. v. Eurisol, 488 F.3d 922 (11th Cir. 2007) (Jordan, J.) (majority opinion addressing exercise of personal jurisdiction over French company in breach of contract action, and company's motions to set aside a default judgment)

Burton v. Hillsborough Cnty., 181 F. App'x 829 (11th Cir. 2006) [Jordan, J.] (per curiam opinion in FLSA case)

United States v. Green, 177 F. App'x 934 (11th Cir. 2006) [Jordan, J.] (per curiam opinion reversing sentence in narcotics case under *Booker*)

United States v. Garza, 236 F. App'x 468 (11th Cir. 2006) [Jordan, J.] (per curiam opinion addressing various issues in narcotics case)

United States v. Terrell, 141 F. App'x 849 (11th Cir. 2005) [Jordan, J.] (per curiam opinion addressing motion to vacate under 28 U.S.C. § 2255)

Carl v. Finger, 88 F. App'x 381 (11th Cir. 2003) [Jordan, J.] (unpublished table decision) (per curiam opinion addressing various issues in breach of warranty case under Georgia law)

United States v. Tolley, 85 F. App'x 725 (11th Cir. 2003) [Jordan, J.] (unpublished table decision) (per curiam opinion reversing sentence in money laundering case)

United States v. Williams, 268 F.3d 1066 (11th Cir. 2001) [Jordan, J.] (unpublished table decision) (per curiam opinion affirming sentence in narcotics case)

Baldwin v. Blue Cross/Blue Shield of Ala., 480 F.3d 1287 (11th Cir. 2007) (Carnes, J.)

United States v. Street, 472 F.3d 1298 (11th Cir. 2006) (Carnes, J.)

United States v. Thompson, 473 F.3d 1137 (11th Cir. 2006) (Carnes, J.)

United States v. Skanska USA Bldg., 209 F. App'x 880 (11th Cir. 2006) (per curiam)

Elend v. Basham, 471 F.3d 1199 (11th Cir. 2006) (Marcus, J.)

Mitchell-Proffitt Co. v. Eagle, Case No. 05-17036 (11th Cir. 2006) (per curiam) [remanded]

Mitchell v. Hillsborough Cnty., 468 F.3d 1276 (11th Cir. 2006) (Tjoflat, J.)

Clemons v. Ala. Dep't of Human Res., 201 F. App'x 715 (11th Cir. 2006) (per curiam)

Thompson v. Smith, 173 F. App'x 729 (11th Cir. 2006) (Kravitch, J.)

United States v. Monsivais-Ortiz, 154 F. App'x 758 (11th Cir. 2005) (per curiam)

United States v. Bailey, 147 F. App'x 154 (11th Cir. 2005) (per curiam)

Mesadieu v. Llorca, 153 F. App'x 669 (11th Cir. 2005) (per curiam)

United States v. Leal, Case No. 04-13812 (11th Cir. 2005) (per curiam) [appeal dismissed]

Mims v. Cagle Foods JV, LLC, 148 F. App'x 762 (11th Cir. 2005) (per curiam)

Konikov v. Orange Cnty., 410 F.3d 1317 (11th Cir. 2005) (per curiam)

Nelson v. Fulton Cnty., 129 F. App'x 598 (11th Cir. 2005) (unpublished table decision)

In re Thomas, 394 F.3d 918 (11th Cir. 2004) (per curiam)

Washington v. Tillman, 127 F. App'x 470 (11th Cir. 2004) (unpublished table decision)

Hulsey v. Pride Rests., LLC, 367 F.3d 1238 (11th Cir. 2004) (Carnes, J.)

Boone v. Health Strategies, Inc., 97 F. App'x 905 (11th Cir. 2004) (unpublished table decision)

Britton v. Health Strategies, Inc., 97 F. App'x 905 (11th Cir. 2004) (unpublished table decision)

Ingram v. Health Strategies, Inc., 97 F. App'x 905 (11th Cir. 2004) (unpublished table decision)

Matthews v. Health Strategies, Inc., 97 F. App'x 905 (11th Cir. 2004) (unpublished table decision)

Butcher v. United States, 368 F.3d 1290 (11th Cir. 2004) (Carnes, J.)

Washington v. Rampulla, 88 F. App'x 390 (11th Cir. 2003) (unpublished table decision)

Cast Steel Prods. v. Admiral Ins., 348 F.3d 1298 (11th Cir. 2003) (Fay, J.)

City of Jacksonville v. Dep't of the Navy, 348 F.3d 1307 (11th Cir. 2003) (Fay, J.)

Sherwood v. Crosby, 87 F. App'x 712 (11th Cir. 2003) (unpublished table decision)

E.S. v. Sch. Bd. of Lee Cnty., 87 F. App'x 711 (11th Cir. 2003) (unpublished table decision)

Huang Gang Wei v. INS, Case No. 02-12458 (11th Cir. 2003) (unpublished table decision) [appeal dismissed as moot]

Roberts v. Sutton, 90 F. App'x 381 (11th Cir. 2003) (unpublished table decision)

United States v. Holloway, Case No. 00-15408 (11th Cir. 2003) (unpublished table decision)

United States v. Watson, 90 F. App'x (11th Cir. 2003) (unpublished table decision)

Rodriguez v. Farrell, 280 F.3d 1341 (11th Cir. 2002) (Edmondson, J.)

Gillan v. Noram Inv., 263 F.3d 168 (11th Cir. 2001) (unpublished table decision)

Gilchrist Timber Co. v. ITT Rayonier, 268 F.3d 1065 (11th Cir. 2001) (unpublished table decision)

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.

The judges on our court can give the clerk's office a list of individuals and entities in whose cases we would recuse. I have provided such a list to the clerk's office, which provides automated conflict/recusal checks by email to ensure that no cases are missed. As a general matter, I recuse in cases where an objective, disinterested, and fully informed lay observer would entertain a significant doubt about my impartiality. See 28 U.S.C. §§ 144, 455.

I have recused *sua sponte* from the following cases:

(i) Cases involving the University of Miami and Florida International University, where I teach as an adjunct professor. This includes cases where a professor appeared as lead counsel through a clinic or similar legal program supported by either university.

Cruz v. Holder, Case No. 11-21343-Civ (S.D. Fla.)

Watts v. Fla. Int'l Univ., Case No. 02-601990-Civ (S.D. Fla.)

Faculty Senate of Fla. Int'l Univ. v. Winn, Case No. 06-21513 (S.D. Fla.)

Univ. of Miami v. Downrite Engineering Corp., Case No. 06-22431-Civ (S.D. Fla.)

United States v. Univ. of Miami, Case No. 06-22000-Civ (S.D. Fla.)

Sotolongo v. Univ. of Miami, Case No. 06-21635-Civ (S.D. Fla.)

Moore v. Univ. of Miami, Case No. 06-21398-Civ (S.D. Fla.)

Benitez v. Univ. of Miami, Case No. 05-21334-Civ (S.D. Fla.)

Kuljis v. Univ. of Miami, Case No. 04-20506-Civ (S.D. Fla.)

Certification Bd. for Sterile Processing & Distr. v. Berlant, Case No. 03-22299-Civ (S.D. Fla.)

Siegel v. Univ. of Miami, Case No. 02-21351-Civ (S.D. Fla.)

Rumph v. Univ. of Miami, Case No. 00-1536-Civ (S.D. Fla.)

(ii) Cases where a former law clerk of mine appeared as counsel of record and was primarily responsible for the litigation.

Richardson v. Astrue, Case No. 11-21255-Civ (S.D. Fla.)

Rodriguez v. Miami-Dade Cnty., Case No. 11-20680-Civ (S.D. Fla.)

Iqbal v. Holder, Case No. 11-20675-Civ (S.D. Fla.)

United States v. Chen, Case No. 10-23489-Mc (S.D. Fla.)

Hilliman v. Comm'r of Soc. Sec. Admin., Case No. 10-60578-Civ (S.D. Fla.)

United States v. Verissino, Case No. 10-20163-Civ (S.D. Fla.)

United States v. McFadden, Case No. 09-21034-Cr (S.D. Fla.)

Sanchez v. Obando-Echeverry, Case No. 09-21743-Civ (S.D. Fla.)

Jessup v. Miami-Dade Cnty., Case No. 08-21571-Civ (S.D. Fla.)

Corp. Fin. v. Principal Grp., Inc., Case No. 05-20595-Civ (S.D. Fla.)

(iii) Cases where the City of Hialeah or its employees were litigants because my brother-in-law works for the City as a firefighter and paramedic.

Coulson v. City of Hialeah, Case No. 09-22911-Civ (S.D. Fla.)

Sanchez v. Hialeah Police Dep't, Case No. 07-21139-Civ (S.D. Fla.)

Letizia v. City of Hialeah, Case No. 05-23265-Civ (S.D. Fla.)

Mitchell v. Resolve Fire & Hazard Response, Inc., Case No. 05-21374-Civ (S.D. Fla.)

Vasquez v. Hialeah Hous. Auth., Case No. 04-21469-Civ (S.D. Fla.)

Bustamante v. Bolanos, Case No. 02-20956-Civ (S.D. Fla.)

Llarena v. Hialeah Police Dept., Case No. 98-00763-Civ (S.D. Fla.)

Rolando Fernandez, et al. v. City of Hialeah, et al., Case No. 02-20505-Civ (S.D. Fla.)

(iv) Cases pending in the United States Attorney's Office prior to October 1, 1999, and cases involving motions to vacate when the underlying conviction stemmed from federal charges filed prior to October 1, 1999.

Biondolillo v. Myer, Case No. 05-21014-Civ (S.D. Fla.)

Ryman v. United States, Case No. 00-1262-Civ (S.D. Fla.)

United States v. Vanegas-Vera, Case No. 98-663-Civ (S.D. Fla.)

Guzman v. United States, Case No. 02-22515-Civ (S.D. Fla.)

Vanegas-Vera v. United States, Case No. 02-21028-Civ (S.D. Fla.)

United States v. Cole, Case No. 99-00926-Cr (S.D. Fla.)

United States v. Neusmeyer, Case No. 00-0032-Cr (S.D. Fla.)

United States v. Camacho, et al., Case No. 90-00399-Cr (S.D. Fla.)

United States v. Maximov, Case No. 00-181-Cr (S.D. Fla.)

United States v. Mascaro, Case No. 00-0201-Cr (S.D. Fla.)

United States v. Allen, Case No. 00-0213-Cr (S.D. Fla.)

United States v. Gomez, Case No. 00-00214-Cr (S.D. Fla.)

Villa-Arteaga v. United States, Case No. 00-583-Cr (S.D. Fla.)

United States v. \$334,200 in U.S. Currency, Case No. 00-01183-Civ (S.D. Fla.)

United States v. Ceruelos, Case No. 00-0290-Cr (S.D. Fla.)

United States v. Torres-Perez, Case No. 00-410-Cr (S.D. Fla.)

United States v. Maragni, et al., Case No. 00-6154-Cr (S.D. Fla.)

United States v. Carmel, Case No. 00-0686-Cr (S.D. Fla.)

United States v. Dearmas, Case No. 00-0848-Cr (S.D. Fla.)

United States v. Salazar-Grillo, Case No. 00-916-Cr (S.D. Fla.)

United States v. Vazquez, Case No. 00-1011-Cr (S.D. Fla.)

United States v. Simon, Case No. 00-0969-Cr (S.D. Fla.)

United States v. Tripoli, et al., Case No. 01-00010-Cr (S.D. Fla.)

Brown v. United States, Case No. 01-0249-Civ (S.D. Fla.)

United States v. Acosta, et al., Case No. 01-0130-Cr (S.D. Fla.)

United States v. Matino, et al., Case No. 01-455-Cr (S.D. Fla.)

United States v. Luis Flores, Case No. 01-0996-Cr (S.D. Fla.)

United States v. Flores, Case No. 01-00996-Civ (S.D. Fla.)

King v. Ashcroft, Case No. 00-4216-Civ (S.D. Fla.)

United States v. Jimenez-Ceballo, Case No. 83-01013-Cr (S.D. Fla.)

(v) Cases where at the time I owned stock in a corporate entity that was a litigant.

GE Capital Assurance Co. v. Alonso, Case No. 05-21582-Civ (S.D. Fla.)

Allen v. Howmedica Leibinger, Inc., Case No. 02-60293-Civ (S.D. Fla.)

De Reus v. American Express Travel Related Services Co. Inc., Case No. 02-60113-Civ (S.D. Fla.)

Robles v. Center for Claims Resolution, et al., Case No. 01-34338-Civ (S.D. Fla.)

Lopez v. GE Capital Consumer Card Co., Case No. 00-4828-Civ (S.D. Fla.)

(vi) Cases where I had a strong, personal relationship with an attorney; someone related to me or my wife was a party, attorney, or important witness; or a former client was going to be a witness at a hearing in which I had to determine credibility. (The clerk's office has a list of certain individuals and entities for

whom I recuse automatically, and most of the recusals below are based upon that list.)

Am. Airlines, Inc. v. Am. Assist Travel Servs., Case No. 08-23476-Civ (S.D. Fla.)

Pointpay Int'l, Inc. v. Ingencio, Case No. 08-21724-Civ (S.D. Fla.)

Walker v. Walden, Case No. 08-81434-Civ (S.D. Fla.)

Future Media Architects, Inc. v. Ideastream Consumer, Case No. 08-60496-Civ (S.D. Fla.)

SM Licensing Corp. v. U.S. Med. Care Holdings, Case No. 07-20293-Civ (S.D. Fla.)

In re Diagnostic Inst. of Fla., Case No. 07-21885-Civ (S.D. Fla.)

United States v. Martinez, Case No. 05-20877-Cr (S.D. Fla.)

Goldberg v. Wallace, Case No. 04-22526-Civ (S.D. Fla.)

United States v. Garcia, Case No. 03-20728-Cr (S.D. Fla.)

Donovan v. Noven Pharm., Case No. 03-22120-Civ (S.D. Fla.)

Bank Espirito Santo Int'l v. E.S. Bankest LC, Case No. 03-22112-Civ (S.D. Fla.)

Sheridan Healthcare, Inc. v. Aetna Inc., Case No. 03-60779-Civ (S.D. Fla.)

Freeman v. Delgado, Case No. 03-21020-Civ (S.D. Fla.)

Advocating Disability Rights, Inc., et al. v. Suntrust Bank, et al., Case No. 01-1599-Civ (S.D. Fla.)

Certain Underwriters Subscribing Certificate v. Art Depot, et al., Case No. 01-00138-Civ (S.D. Fla.)

Executive Risk Indemnity, Inc. v. Alvarez, et al., Case No. 01-2443-Civ (S.D. Fla.)

Ripepi v. Concentra Health Services, Case No. 00-6695-Civ (S.D. Fla.)

LTU International Airways (USA), Inc. v. Air Namibia (PTY) Limited, Case No. 00-2742-Civ (S.D. Fla.)

Stevens, et al. v. Miami-Dade School Board, Case No. 00-2124-Civ (S.D. Fla.)

American Dynasty Surplus Lines Ins. Co. v. Lennar Corp., Case No. 00-01812-Civ (S.D. Fla.)

Palmer v. Dufresne, Case No. 00-2029-Civ (S.D. Fla.)

National Labor Relations Board v. Goya Foods of Florida, Case No. 00-01650-Civ (S.D. Fla.)

The Marist Brothers of the Schools, Inc. v. The School Board of Miami-Dade County, et al., Case No. 99-3258-Civ (S.D. Fla.)

Sheffield, et al v. FAU Restaurant Corp., Case No. 99-03108-Civ (S.D. Fla.)

(vii) Cases where I had previously represented one of the parties in similar matters as an attorney.

Hattaway v. E.I. Dupont de Nemours and Co., Case No. 00-00745-Civ (S.D. Fla.)

Farm Op, Inc. v. E.I. Dupont de Nemours and Co., Case No. 00-2771-Civ (S.D. Fla.)

(viii) Cases where the Archdiocese of Miami was a litigant, because my wife was and is employed as a high-school teacher by the Archdiocese.

Beauvil v. Catholic Charities of the Archdiocese of Miami, Case No. 07-22587-Civ (S.D. Fla.)

Rodriguez v. Mercy Hosp., Inc., Case No. 02-21886-Civ (S.D. Fla.)

(ix) Cases where I believed my impartiality might reasonably be questioned because, for example, I had personal knowledge about the case, or because a pro se litigant had brought similar claims against me.

McGuire v. Clerk of the Court, Case No. 04-20877-Civ (S.D. Fla.). Mr. McGuire brought an action in state court, which was removed, to recover fees from the clerk of court for his work as an expert witness in another case before me. Because a representative of the clerk of the court came to see me concerning Mr. McGuire's claims before they were removed, I felt uncomfortable presiding over the case and recused myself – despite the fact that both parties had no objections to my staying on as the judge.

May v. Moreno, et al., Case No. 00-4119-Civ (S.D. Fla.). I recused in this case because Mr. May's suit – which asserted claims against a district judge in the Central District of California – was similar to two actions he had filed against me arising from rulings I issued against him in his other cases. Mr. May was

proceeding *pro se*, and filed dozens of lawsuits, including actions against judges who ruled against him.

I have denied motions for recusal or disqualification in the following cases:

(i) *Driessen v. Christiani, et al.*, Case No. 11-20910-Civ-Jordan (S.D. Fla.). Ms. Driessen, proceeding *pro se*, filed an affidavit of bias, which I construed as a motion to recuse under 28 U.S.C. §§ 144 and 455(a). She argued that I was biased based on my rulings in another case over which I presided (and in which she was a defendant). She also noted that one of the defendants she had sued (a state court judge) was of Cuban heritage, like me. I denied Ms. Driessen's motion, finding that her affidavit failed to allege facts that would convince a reasonable person that bias actually existed. See *Christo v. Padgett*, 223 F.3d 1324, 1333 (11th Cir. 2000).

(ii) *Rodriguez v. Brown, et al.*, Case No. 10-21529-Civ-Jordan (S.D. Fla.). Mr. Rodriguez, proceeding *pro se*, argued that I had improperly dismissed his complaint without prejudice. Based on the language he used, I construed Mr. Rodriguez's motion as one to recuse under 28 U.S.C. § 455(a). I denied the motion because "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." See *United States v. Amedeo*, 487 F.3d 823, 828 (11th Cir. 2007).

(iii) *Aviles v. United States*, Case No. 10-20725-Civ-Jordan (S.D. Fla.). Mr. Aviles, who was convicted of narcotics offenses, brought a motion to vacate his conviction on a *pro se* basis. He moved to recuse me under 28 U.S.C. §§ 144 and 455(a) because I was allegedly biased against him and his co-defendants during his trial, based on rulings and statements I had made during the trial. Because my previous rulings and statements did not form a viable basis for recusal, I did not recuse.

(iv) *United States v. Steinger, et al.*, Case No. 08-21158-Cr-Jordan (S.D. Fla.). Mr. Steinger and Mr. Steiner – both accused of engaging in a viatical fraud scheme – moved to disqualify me (and all other judges in the Southern District of Florida) under 28 U.S.C. § 455(a). Two other defendants joined the motion, but a fifth defendant did not. The basis for their motion was that all the judges in district had ties to current and former public officials whom an individual, Mr. Mendelhsen, had claimed to the defendants he could bribe in exchange for their efforts to dissuade then-U.S. Attorney Alexander Acosta from bringing federal charges against them. Among the public officials named by Mr. Mendelhsen was Paul C. Huck, Jr., the son of U.S. District Judge Paul Huck. The Department of Justice's Public Integrity Section eventually charged Mr. Mendelhsen with mail and wire fraud (and he pled guilty to the charges), but it found that his story regarding his dealings with current and former public officials was completely fabricated.

I limited my consideration of the defendants' recusal motion to myself, and referred the motion to recuse all of the district's other judges to the district's chief judge. I found that there was no reason for me, or any of the district's judges, to be biased against the defendants since it was not them, but Mr. Mendelsohn, whose actions would create any semblance of partiality, and also because it was ultimately uncovered that the entire story was fabricated.

(v) *Thompson v. The Florida Bar*, Case No. 07-21256-Civ-Jordan (S.D. Fla.). Mr. Thompson, proceeding *pro se*, moved to recuse me over a dozen times from his case. I denied all of the motions. For example, in one instance, Mr. Thompson suggested that an order to show cause that I issued – due to his having submitted pornographic images in a public court filing – showed that I was not impartial. I construed this as a motion to recuse under 28 U.S.C. § 455(a). I found that the order to show cause was warranted in light of the graphic images filed by Mr. Thompson, and that – though I had not yet sanctioned him or held him in contempt – any decision to sanction him based on that conduct would not demonstrate any impartiality. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) (“judicial rulings alone almost never constitute a valid basis for a bias or partiality motion”).

On another occasion, Mr. Thompson moved for relief from an order dismissing his case against the Florida Bar under Rule 60(b)(6). He argued that I was biased as a result of my participation in public seminars and speaking engagements for the Florida Bar. Among other reasons, I denied the motion because there was nothing improper or extraordinary about my participation in these events which would require that I disturb the finality of the judgment. *See e.g., Hirsch v. Justices of the Supreme Court of California*, 67 F.3d 708, 715 (9th Cir. 1995); *Hu v. American Bar Association*, 2009 WL 1796441, *1 (7th Cir. 2009). Mr. Thompson has been permanently disbarred by the Florida Bar.

(vi) *Barnes v. Home Equity Mortgage Corp.*, Case No. 07-60650-Civ-Jordan (S.D. Fla.). Mr. Barnes moved to recuse me from the case because one of my law clerks had been offered employment by the law firm representing one of the litigants. But under Eleventh Circuit precedent, in this scenario I was only required to isolate that law clerk from working on the matter, which I had done. I denied his motion to the extent it sought my recusal.

(vii) *Copeland, et al. v. Schwartz*, Case No. 07-60818-Civ-Jordan (S.D. Fla.). After the case had been thoroughly litigated at both the trial level and in the Eleventh Circuit, Ms. Copeland, proceeding *pro se*, moved to recuse me. Because the case had been exhaustively tried, and had been resolved, I denied her motion.

(viii) *Awala v. Levi, et al.*, Case No. 06-21014-Civ-Jordan (S.D. Fla.). I denied Mr. Awala's motion to recuse as moot because it was filed after the case had been dismissed and closed.

(ix) *Pintado v. Miami-Dade Housing Agency*, Case No. 04-22856-Civ-Jordan (S.D. Fla.). Mr. Pintado moved to disqualify me for bias under 28 U.S.C. § 144 primarily based on an order I had issued. In that order, I had incorrectly ruled that his Rule 59(e) motion was untimely, and thereby construed it as a Rule 60 motion, which I ultimately denied. But I vacated that erroneous order, and thus, cured any effect it had on Mr. Pintado's right to file a timely appeal. In fact, Mr. Pintado was able to file an appeal in the Eleventh Circuit. Mr. Pintado also argued that I should have been disqualified because counsel for the County and I had a mutual friend, also an attorney, in common. But he did not provide any case law suggesting that such a mutual third-party friendship is proper grounds for disqualification under § 144. Finally, I found that, to the extent Mr. Pintado sought to disqualify me based on my rulings against him on summary judgment or his post-trial motion, his argument did not have any merit.

(x) *United States v. Prada*, Case No. 04-20446-Cr-Jordan (S.D. Fla.). Mr. Prada, a criminal defendant facing narcotics trafficking charges, moved on a *pro se* basis to disqualify me for various rulings entered in the case. His reasons included that I "thwarted" a refund that he was supposedly owed by his former counsel; that I improperly rejected "affidavits" which he had submitted regarding the applicable law; and that I failed to provide him access to all grand jury transcripts. I denied Mr. Prada's motion because the reasons he offered for my disqualification were invalid and did not warrant recusal or disqualification under 28 U.S.C. § 455(a).

(xi) *Massachusetts Mutual Life Ins. Co. v. May*, Case No. 99-06774-Civ-Jordan (S.D. Fla.). Ms. May moved to recuse me under 28 U.S.C. § 455(a) because – while working in private practice at Steel Hector & Davis – I had represented Massachusetts Mutual in matters unrelated to her litigation. I denied the motion because a judge's previous representation of a party in an unrelated matter, or a judge's previous employment with a law firm representing a party before him, are not grounds for recusal under Eleventh Circuit and Supreme Court precedent.

(xii) *Azubko v. Commissioner of Police for the City of Boston, et al.*, Case No. 04-21072-Civ-Jordan (S.D. Fla.). Mr. Azubko, proceeding *pro se*, filed a document entitled "Plaintiff's Complaint Against Judge Jordan," which I construed as a motion to recuse. I denied the motion as moot because the case had already been closed for several months prior to the filing of the motion.

(xiii) *Lans v. Stuckey, et al.*, Case No. 04-22173-Civ Jordan (S.D. Fla.). Mr. Lans, proceeding *pro se*, moved to recuse me after I entered judgment in favor of the defendants following a bench trial. Mr. Lans contended that I was biased because I am Hispanic (like some of the defendants and their counsel) and because of prior rulings that I made against him. I found that neither reason was valid as a matter of law.

(xiv) *Stahl v. United States*, Case No. 07-20631-Civ-Jordan (S.D. Fla.). Mr. Stahl filed an "Emergency Health Letter," which I construed as a motion to recuse

under 28 U.S.C. § 455(a). Because the apparent basis for his motion was that I had ruled against him in part on summary judgment, I denied the motion.

(xv) *Awala v. Zloch*, Case No. 07-20863-Civ-Jordan (S.D. Fla.). In this case Mr. Awala sued all of the active and senior judges in the district – myself included – some of whom had issued rulings in his pro se cases. Although Mr. Awala did not raise the issue, I *sua sponte* determined that recusal was not warranted because of the rule of necessity, because the case was being dismissed without prejudice for lack of prosecution (i.e., Mr. Awala’s failure to take any action in 18 months), and because I did not have to address the merits. In a footnote, I explained that recusal might have been warranted if the merits had to be reached.

The following is a motion for recusal that I have granted:

Comm-Lease International Limited, et al. v. Lucent Technologies, Inc., Case No. 01-05109-Civ-Martinez (Jordan) (S.D. Fla.). At calendar call in a case set for a bench trial, the plaintiffs indicated that a friend of mine was an important witness of theirs on both liability and damages. As a result, the plaintiffs stated that they were not comfortable with me remaining on the case. Despite the fact that the plaintiffs waited until basically the eve of trial to bring this matter to my attention, I found it appropriate to recuse.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public office other than judicial office.

- 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 served as a member of, or rendered services to, any political party or election committee. I have also not held a position or played a role in a political campaign.

16. Legal Career: Answer each part separately.

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

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

I served as a law clerk to Judge Thomas A. Clark, United States Court of Appeals for the Eleventh Circuit, from 1987 to 1988.

I served as a law clerk to Justice Sandra Day O'Connor, United States Supreme Court, from 1988 to 1989.

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

I never practiced alone.

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

1989 – 1994

Steel Hector & Davis LLP (now Squire Sanders & Dempsey)

200 South Biscayne Boulevard

Suite 4100

Miami, Florida 33131

Associate (1989 – 1993)

Non-equity Partner (1994)

1994 – 1999

United States Attorney's Office

Southern District of Florida

99 N.E. Fourth Street

Miami, Florida 33132

Assistant U.S. Attorney (1994 – 1999)

Deputy Chief, Appellate Division (1996 – 1998)

Chief, Appellate Division (1998 – 1999)

Special Counsel to U.S. Attorney on Legal Policy (1997 – 1999)

- 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 never served as a mediator or arbitrator as an attorney.

- b. Describe:

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

After clerking in the Eleventh Circuit and in the Supreme Court, I joined Steel Hector & Davis' litigation department in 1989. At SH&D, I initially handled First Amendment matters and commercial litigation cases. With respect to First Amendment matters, I worked on defamation (libel and slander) and media access cases as well as contempt proceedings involving media clients. In the commercial setting, I worked on business disputes that had resulted in litigation. The substantive areas of law included ERISA, insurance, contracts, attorney malpractice, civil rights, banking, zoning, products liability, foreclosures, personal injury, and wrongful death. The majority of my work in commercial litigation was on behalf of civil defendants.

Following my first several years at SH&D, I began to specialize in appellate practice, writing briefs and presenting oral arguments in the federal and state appellate courts. My appellate work was on behalf of both appellants and appellees. In addition, I handled numerous pro bono cases while at SH&D, including the appellate representation of abused and neglected children (through the Guardian Ad Litem Program) in state dependency/termination proceedings, the appellate representation of a death row inmate in a federal habeas corpus appeal in the Eleventh Circuit, the representation at trial of an inmate suing Dade County under 42 U.S.C. § 1983 for injuries sustained at the Dade County Jail, and the representation of an individual who alleged that he had been beaten by correctional officers in St. Lucie County.

From August of 1994 to September of 1999, I worked as an Assistant United States Attorney in the Appellate Division of the U.S. Attorney's Office and worked mainly on civil and criminal appeals involving the government. I became the Deputy Chief of the Appellate Division in October of 1996, and became the Chief of the Division in January of 1998. All of my work (except for some pro bono cases) was in the federal system. Approximately 80-90% of my work was in substantive and procedural criminal law (including the constitutional issues raised in criminal proceedings); the remaining 10-20% involved civil and asset forfeiture matters. I handled civil and criminal matters from all of the different trial sections in the U.S. Attorney's Office (e.g., Public Corruption, Organized Crime, Economic Crimes, Narcotics, Major Crimes, Environmental Crimes, Civil, and Asset Forfeiture).

In October of 1997, the U.S. Attorney, Thomas Scott, named me Special Counsel to the U.S. Attorney on Legal Policy and appointed me Chairperson of the Hiring Committee. As Special Counsel, I provided advice to Mr. Scott on legal and policy issues, including those arising in

pending criminal matters and investigations. I also worked on special projects he assigned to me.

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

While I was at Steel Hector & Davis (from 1989 to 1994), the non-pro bono clients for whom I did work were mainly mid- to large-sized corporations. The media/entertainment clients included *The St. Petersburg Times*, *The Miami Herald*, *The Palm Beach Post*, Turner Network Television, CNN, Cowles Media, Barbour-Langley Productions, and Post-Newsweek Stations. Other clients included Prudential Securities, Mass Mutual, Mitsubishi, Dupont, Espirito Santo Bank, Atlantic Gulf, Transportes Aereos de Honduras, Provident Insurance Company, Southeast Bank, Reedy Creek Improvement District (Walt Disney World's governmental arm), Paramount Pictures, Peat Marwick, Telesat, John Hancock, Florida Power & Light, and Goodyear Tire Company. During my first several years at SH&D, I did some First Amendment work, which mainly involved the representation of media clients in defamation (libel and slander) and access cases, as well as contempt proceedings. After my first couple of years at SH&D, and during my employment at the U.S. Attorney's office, I specialized in appellate litigation. I wrote over 125 appellate briefs (in both civil and criminal cases) in the federal and state courts, and had 36 appellate oral arguments in those courts.

From August of 1994 to September of 1999, my only client (except for pro bono cases) was the United States.

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

At Steel Hector & Davis, I appeared in court an average of once a month. At the U.S. Attorney's Office, where I did mostly appellate work, I appeared in court approximately once a month.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 65%
- 2. state courts of record: 35%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 55%
- 2. criminal proceedings: 45%

- 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 seven cases to judgment, including two preliminary injunction evidentiary hearings that resulted in final judgments. Of the seven cases, six were in federal district court, and the other was in state circuit court. I was sole counsel in one case, lead counsel in one case, and associate counsel (i.e., second chair) in the other five cases.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 57% |
| 2. non-jury: | 43% |

- 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.

In re Investigation: Florida Statute 27.04, Subpoena of Tim Roche, 589 So. 2d 978 (Fla. 4th DCA 1991), *rev. denied*, 599 So. 2d 1279 (Fla. 1992), *cert. denied*, 506 U.S. 1071 (1993). I drafted (along with Martin Reeder and Wifredo Ferrer of Steel Hector & Davis) an *amicus* brief on behalf of *The Palm Beach Post* and *The Miami Herald* in support of a petition for writ of certiorari filed by a reporter who had been found guilty of criminal contempt for not revealing his sources for a story. Copy supplied.

Camp v. St. Paul Fire & Marine Fire Ins. Co., 928 F.2d 428 (11th Cir. 1993), *cert. denied*, 510 U.S. 964 (1993). I helped draft a brief opposing a petition for a writ of certiorari. Copy supplied.

Transportes Aereos Nacionales, S.A. v. De Brenes et al., 625 So. 2d 4 (Fla. 3d DCA 1993), *cert. denied*, 512 U.S. 1222 (1994). I helped draft a brief opposing a petition for a writ of certiorari. Copy supplied.

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.

In chronological order, these are the 10 most significant litigated matters which I personally handled.

(1) *Ocean Bio-Chem, Inc. v. Turner Network Television, Inc.*, 741 F. Supp. 1546 (S.D. Fla. 1990); District Judge Kenneth Ryskamp; 1989 – 1990.

In December of 1989, Turner Network Television (TNT) broadcast a fictional made-for-television movie entitled “Incident at Dark River.” The movie portrayed the anguish of a father over his daughter’s death, which had been caused by the river pollution of a company called “Starbrite Batteries.” Ocean Bio-Chem, a company which marketed numerous products under the Starbrite name, filed suit against TNT, asserting federal and state trademark infringement and dilution claims. I was associate counsel on behalf of TNT. I handled portions of an evidentiary hearing held on Ocean BioChem’s request for a preliminary injunction and co-drafted TNT’s legal memoranda. The evidentiary hearing resulted in a final summary judgment in favor of TNT. Judge Ryskamp issued a lengthy published opinion on First Amendment protections and federal trademark law.

Opposing Counsel:

John Oltman, Esq., 915 Middle River Drive, Suite 403, Ft. Lauderdale, Florida 33304, (954) 563-4814

Co-Counsel:

Thomas Julin, Esq., Hunton & Williams, 1111 Brickell Avenue, Suite 2400, Miami, Florida 33131, (305) 810-2516

Norman Davis, Esq., Squire Sanders & Dempsey, 200 South Biscayne Boulevard, Suite 4000, Miami, Florida 33131, (305) 577-2988

(2) *Camp v. St. Paul Fire and Marine Ins. Co.*, 127 B.R. 879 (N.D. Fla. 1991); 958 F.2d 340 (11th Cir. 1992); 616 So. 2d 12 (Fla. 1993); 989 F.2d 428 (11th Cir. 1993), *cert. denied*, 510 U.S. 964 (1993); United States Court of Appeals for the Eleventh Circuit Judges: Circuit Judges Phyllis Kravitch, Lanier Anderson, and Stanley Birch; 1990 – 1994.

This diversity case involved claims that St. Paul Fire and Marine Insurance Company had acted in bad faith in refusing to settle a negligence claim asserted against its insured, a neurosurgeon named Dr. Kimbell, and that this conduct had led to an excess judgment being entered against Dr. Kimbell. We represented the trustee of Dr. Kimbell’s

bankruptcy estate. Our theory was that St. Paul had improperly tried to use Dr. Kimbell's bankruptcy as a shield to avoid a bad faith claim. The district court granted summary judgment in favor of St. Paul, and we appealed to the Eleventh Circuit. I drafted about 80% of our initial and reply briefs and presented oral argument. The Eleventh Circuit ended up certifying the case to the Florida Supreme Court on state law issues.

In the Florida Supreme Court, I again drafted about 80% of our appellate briefs, and Sandy D'Alemberte of Steel Hector & Davis handled the oral argument. In 1993, the Florida Supreme Court held that under Florida law a named insured's bankruptcy does not bar a bad faith action by the bankruptcy trustee against the insurer. When the case returned to the Eleventh Circuit, the panel reversed the district court's summary judgment based on the Florida Supreme Court's ruling. At trial, the jury returned a verdict in favor of our client for \$2.7 million (the excess amount). After I left SH&D for the U.S. Attorney's Office, the Eleventh Circuit affirmed the jury verdict, rejected St. Paul's attempts to overturn the prior appellate rulings, and held that our client was entitled to pre-judgment interest.

Opposing Counsel:

Elmo Hoffman, Esq., 5401 Hansel Avenue, Apt. G-1, Orlando, Florida 32809, (407) 240-1799

Gus Small, Esq., Jr., Cohen Pollock Merlin & Small, 3350 Riverwood Parkway, Suite 1600, Atlanta, Georgia 30339, (770) 857-4806

J. Dixon Bridgers, Esq., III, 55 Ferry Lane, Phoenixville, Pennsylvania 19460, (904) 537-6402

Co-Counsel:

Talbot "Sandy" D'Alemberte, Esq., President Emeritus, Florida State University College of Law, 211 Wescott Building, Tallahassee, Florida 32306, (850) 644-0800

Judge Jonathan Sjostrom, Florida Circuit Judge, Leon County Courthouse, 301 South Monroe Street # 331-A, Tallahassee, Florida 32301, (850) 577-4321

George Estess, Esq., and Robert Kerrigan, Esq., Kerrigan Estess et al., 400 East Government Street, Pensacola, Florida 32501, (904) 444-4444

Lefferts Mabie, III, Esq., Levin Middlebrooks et al., P.O. Box 12308, Pensacola, Florida 32581, (850) 435-7000

Joel Perwin, Esq., 169 East Flagler Street, Suite 1422, Miami, Florida 33131, (305) 779-6090

(3) *United States v. Browne*, Case No. 92-6101-Cr-Ryskamp; District Judge Kenneth Ryskamp; 1992 – 1993.

A federal grand jury charged Mr. Browne, a Port Everglades Commissioner and union leader, with mail fraud and tax offenses. Thomas Scott (a former federal district judge and U.S. Attorney in Miami), Henry Salas, and I represented Mr. Browne. I was responsible for developing our legal theories and for handling the portions of the case relating to the tax charges. I worked with our tax expert and cross-examined the government's tax witness (Mr. Browne's accountant) at trial. I also presented the Rule 29 acquittal arguments on all of the charges to Judge Ryskamp after the government rested its case. Judge Ryskamp agreed with our arguments and acquitted Mr. Browne of all charges without submitting the case to the jury.

Opposing Counsel:

Assistant U.S. Attorneys Jeff Kay, Esq., and Paul Schwartz, Esq., U.S. Attorney's Office, 299 East Broward Boulevard, Ft. Lauderdale, Florida 33301, (954) 356-7255

Co-Counsel:

Thomas Scott, Esq., Cole Scott & Kissane, 9150 South Dadeland Boulevard, Suite 1400, Miami, Florida 33156, (305) 350-5300

Henry Salas, Esq., Cole Scott & Kissane, 9150 South Dadeland Boulevard, Suite 1400, Miami, Florida 33156, (305) 350-5300

(4) *Crow v. Transportes Aereos Nacionales. S.A. et al.*, 625 So. 2d 4 (Fla. 3d DCA), *rev. denied*, 632 So. 2d 1025 (Fla. 1993), *cert. denied*, 512 U.S. 1232 (1994); District Judges Alan Schwartz, Wilkie Ferguson, and Mario Goderich; 1993 – 1994.

In October 1989, a Boeing 727 aircraft operated by Transportes Aereos Nacionales, S.A., and Servicios Aereos de Honduras, S.A. ("TAN-SAHSA") crashed near Tegucigalpa, Honduras, killing 127 passengers and 4 crew members and injuring 15 others. Over 30 lawsuits were filed against our client, TAN-SAHSA, in Dade County Circuit Court by representatives of Nicaraguan citizens killed in the crash. The parties stipulated that Nicaraguan law governed, and that TAN-SAHSA would not contest liability for compensatory damages recoverable under Nicaraguan law. The parties disagreed, however, about whether or not the plaintiffs could recover "daños morales" ("moral damages" or damages based on noneconomic harm such as pain and suffering) under Nicaraguan law given the facts presented. After an evidentiary hearing, the circuit court ruled that the plaintiffs could recover damages for non-economic harm.

I drafted TAN-SAHSA's motion for reconsideration and the majority of its initial and reply briefs in the Third District. The appellate briefs focused on whether the circuit court had misapplied Nicaraguan law in its ruling on "moral damages." I also presented oral argument to the Third District panel on TAN-SAHSA's behalf. In March 1993, the

Third District reversed the circuit court's rulings. The Third District held that under Nicaraguan law TAN-SAHSA was not liable for "moral damages" given the facts presented, and set aside the \$2.9 million award for such damages in the two cases on appeal.

Opposing Counsel:

Aaron Podhurst, Esq., and Joel Eaton, Esq., Podhurst, Orseck, Josefsberg et al., 25 West Flagler Street, Suite 800, Miami, Florida 33130, (305) 358-2800

Victor Diaz, Esq., Diaz & Associates, 119 Washington Avenue, Suite 402, Miami Beach, Florida 33139, (305) 704-3200

Daniel Pearson, Esq., (deceased), Holland & Knight, 701 Brickell Avenue, Miami, Florida 33131, (305) 789-7738

Co-Counsel:

Thomas Scott, Esq., Cole Scott & Kissane, 9150 South Dadeland Boulevard, Suite 1400, Miami, Florida 33156, (305) 350-5300

Desmond Barry, Jr., Esq., Condon & Forsyth, 7 Times Square, New York, New York 10036, (212) 894-6770

Marilyn O'Mara, Esq., 62 Quail Run, Elmira, New York 14903, (607) 738-7419

(5) *Ivory v. Dade County*, Case No. 88-2321-Civ-Marcus (Sorrentino); United States District Court for the Southern District of Florida; Magistrate Judge Charlene Sorrentino; 1992 – 1993.

In 1993, Jon Sjostrom and I tried, on a pro bono basis, a civil rights action against Dade County under 42 U.S.C. § 1983. We received the case from the Florida Justice Institute, which had filed the suit on behalf of plaintiff Ivory. In 1986, while a pre-trial detainee at the Dade County Jail, Mr. Ivory had been stabbed multiple times by an inmate with a history of violent attacks on others. The inmate, despite his prior actions, had not been segregated from non-violent inmates and had, in fact, been placed on a general population floor at the Dade County Jail. We asserted that Dade County was liable under § 1983 because it had a policy, custom, or practice of not maintaining adequate records by which to identify and segregate violent inmates, and because that policy had led to Mr. Ivory's stabbing.

With the consent of the parties, the case was tried before Magistrate Judge Sorrentino. Mr. Sjostrom and I divided the trial work. I handled the jury selection, conducted the direct examination of two officials from the Dade County Corrections Department, and worked on the jury instructions. Mr. Sjostrom presented the opening statement, conducted the direct examination of Mr. Ivory and four expert witnesses, and presented

closing argument. We were able to establish that the Dade County Jail, which was overcrowded, did not have any practical way to compile incident reports on violent inmates so as to segregate them from pre-trial detainees and non-violent inmates. The jury returned a verdict in Mr. Ivory's favor and awarded him \$375,000 for his injuries and pain and suffering. Magistrate Judge Sorrentino later remitted (i.e., reduced) the sum awarded by the jury, and we settled the case on Mr. Ivory's behalf for a sum larger than the remittitur but smaller than the jury verdict.

Opposing Counsel:

Assistant County Attorney Roy Wood, Esq., Office of the Dade County Attorney, 111 N.W. First Street, Suite 2810, Miami, Florida 33132, (305) 375-5151

Co-Counsel:

Jonathan Sjostrom, Florida Circuit Judge, 2nd Judicial Circuit, Leon County Courthouse, 301 South Monroe Street, # 331-A, Tallahassee, Florida 32301, (850) 577-4321

(6) *Routly v. Singletary*, 33 F.3d 1279 (11th Cir. 1994); Circuit Judges Gerald Tjoflat, Emmet Cox, and Stanley Birch; 1993 – 1994.

In 1993, Professor Steve Goldstein of the FSU Law School and the Volunteer Lawyers' Resource Center asked me to handle, on a pro bono basis, the Eleventh Circuit habeas corpus appeal of Mr. Routly. Mr. Routly had been convicted of murder in Ocala in 1980, and had been sentenced to death by a Florida judge who had overridden the jury's recommendation of life imprisonment. I agreed to take the case and, with the help of other attorneys and law clerks at Steel Hector & Davis, drafted a 70-page initial brief and a reply brief on behalf of Mr. Routly. Among the claims were constitutional challenges to Florida's jury override system in capital cases and an argument that the prosecution had knowingly permitted false testimony and failed to turn over exculpatory evidence. The record in the case was voluminous and had produced three published opinions in the Florida Supreme Court. I spent hundreds of hours on the case.

I presented oral argument before the Eleventh Circuit on July 19, 1994. At argument, the panel requested supplemental briefs on Mr. Routly's challenge to Florida's jury override system, and I prepared and filed a supplemental brief. Several months later, the Eleventh Circuit issued a published opinion adopting the district court's order and denying Mr. Routly relief.

Opposing Counsel:

Richard Martell, Esq., Office of the State Attorney, 201 S.E. Sixth Street, Suite 660A, Ft. Lauderdale, Florida 33301, (954) 831-7913

Co-Counsel:

Greg Anderson, Esq., and Lazaro Fernandez, Esq., Stack Fernandez Anderson & Harris, 1200 Brickell Avenue, Suite 950, Miami, Florida 33131, (305) 371-0001

Assistant U.S. Attorney Eduardo Sanchez, Esq., U.S. Attorney's Office, 99 N.E. Fourth Street, Miami, Florida 33132, (305) 961-9057

(7) *Arango v. U.S. Department of the Treasury*, 115 F.3d 922 (11th Cir. 1997); Circuit Judges Gerald Tjoflat and James Edmonson and Senior District Judge Thomas O'Neill; 1996 – 1997.

Under the customs laws, property valued at less than \$500,000 can be forfeited administratively. To prevent summary forfeiture and obtain a hearing, a claimant must file a claim to the seized property and post a bond. The regulations of the U.S. Customs Service provide that the bond requirement will be waived “upon satisfactory proof of financial inability to post [the] bond.” 19 C.F.R. § 162.47(e). In 1992, U.S. Customs agents seized \$476,590 from Mr. Arango's home during an undercover money laundering investigation. When U.S. Customs sought to forfeit the money, Mr. Arango requested that the matter be referred for judicial forfeiture proceedings. He later sought to have the bond requirement waived, and filed a sworn declaration of indigency and a copy of his 1991 joint tax return. Because of discrepancies in the documents submitted by Mr. Arango, U.S. Customs asked him for an interview to clarify his financial status. Mr. Arango, invoking his Fifth Amendment privilege against self-incrimination, declined to submit to the interview. U.S. Customs then informed Mr. Arango that he would have to post the required cost bond. He did not post the bond, and therefore did not obtain a judicial forfeiture hearing.

In late 1994, Mr. Arango filed a civil action in federal district court alleging that U.S. Customs had acted arbitrarily in denying his request for waiver of the cost bond. The district court dismissed the complaint, and Mr. Arango appealed to the Eleventh Circuit. I drafted the government's brief and presented oral argument to the Eleventh Circuit, which affirmed the dismissal of Mr. Arango's complaint. The Eleventh Circuit agreed with the government's arguments that Mr. Arango had been provided with due process and that the U.S. Customs Service's application of § 162.47(e) was not arbitrary or capricious under the Administrative Procedure Act. The opinion was the first published federal appellate decision in the United States dealing with the constitutional and administrative implications of § 162.47(e).

Opposing Counsel:

Alan Karten, Esq., 1888 N.W. Seventh Street, Miami, Florida 33125, (305) 541-6300

Co-Counsel:

Assistant U.S. Attorney Neal Stephens, Esq., U.S. Attorney's Office, 99 N.E. Fourth Street, Miami, Florida 33132, (305) 961-9289 (former address and phone number)

(8) *United States v. Brand*, 163 F.3d 1268 (11th Cir. 1998); Circuit Judge Joseph Hatchett and Senior Circuit Judges Paul Roney and Donald Lay; 1997 – 1998.

This case involved an issue of first impression concerning the restitution provisions of the Child Support Recovery Act of 1992 (codified at 18 U.S.C. § 228). The CSRA, which criminalizes the willful failure to pay “a past due support obligation with respect to a child who resides in another state,” § 228(a), provides in § 228(c) that “upon conviction ... the court shall order restitution ... in an amount equal to the past due support obligation as it exists at the time of sentencing.” The term “past due support obligation” is defined in § 228(d)(1)(A) of the CSRA as the amount due “for the support and maintenance of a child or of a child and the parent with whom the child is living.” The issue of first impression was whether a defendant convicted of violating the CSRA could be made to pay, as restitution, the full amount set forth in a state court dissolution judgment which ordered the defendant to pay his spouse a lump sum for multiple, interrelated purposes.

The Eleventh Circuit agreed with the arguments set forth in the government's brief, which I drafted, and held that the defendant could be ordered to pay restitution of \$4.5 million based on an underlying state court lump sum award. Significantly, the Eleventh Circuit rejected Mr. Brand's argument that the CSRA should be interpreted in light of state family law. The Eleventh Circuit also ruled (1) that the underlying state court order was not unconstitutionally vague, (2) that the CSRA does not permit collateral attacks on underlying support judgments, and (3) that due process concerns are not implicated by the refusal to entertain collateral attacks in CSRA cases where the defendant has not sought to challenge, modify, or clarify the underlying state court order. Finally, the Eleventh Circuit noted that the government's position that restitution under the CSRA was mandatory was “well taken,” but said that it did not have to address that argument given its resolution of Mr. Brand's appeal.

Opposing Counsel:

David Bogenschutz, Esq., 1600 South Andrews Avenue, Suite 500, Ft. Lauderdale, Florida 33301, (954) 764-2500 (former address and phone number)

Co-Counsel:

Assistant U.S. Attorney Dawn Bowen, Esq., U.S. Attorney's Office, 99 N.E. Fourth Street, Miami, Florida 33132

(9) *United States v. Sepe*, 1 F. Supp. 2d 1372 (S.D. Fla. 1998), *rev'd*, Case No. 98-4607, 168 F.3d 506 (11th Cir. Jan. 4, 1999) (table); Circuit Judges Lanier Anderson and Joel Dubina and Senior Circuit Judge Peter Fay; 1998 – 1999.

In April 1998, before the RICO / “Operation Courtbroom” retrial of former state judge Alfonso Sepe, Senior District Judge Norman Roettger issued a ruling excluding the testimony of Mr. Sepe’s convicted co-defendant. Judge Roettger found that the government had engaged in misconduct by, among other things, not being forthright with Mr. Sepe’s lawyer about the co-defendant testifying on behalf of the government, and concluded that suppression of the testimony was the appropriate sanction. The government appealed Judge Roettger’s ruling, and I drafted the government’s brief, arguing that Judge Roettger’s findings were not supported by the record and that the suppression of the co-defendant’s testimony was erroneous. I also presented oral argument to a panel of the Eleventh Circuit, which reversed the suppression of the testimony.

Opposing Counsel:

G. Richard Strafer, Esq., 201 South Biscayne Boulevard, Suite 1380, Miami, Florida 33131, (305) 374-9091

Co-Counsel:

Assistant U.S. Attorney Anne Schultz, Esq., 99 N.E. Fourth Street, Miami, Florida 33132, (305) 961-9117

(10) *United States v. Cerceda*, 869 F. Supp. 1574 (S.D. Fla. 1994), *aff'd*, 139 F.3d 847 (11th Cir. 1998), *panel opinion vacated and rehearing en banc granted*, 161 F.3d 652 (11th Cir. 1998) (*en banc*), *rev'd*, 172 F.3d 806 (11th Cir. 1999) (*en banc*) (over 20 consolidated cases); Circuit Judges Gerald Tjoflat and Stanley Birch and Senior Circuit Judge Paul Roney (panel); 1994 – 1999.

On October 11 and 13, 1993, two Miami newspapers printed articles reporting that District Judge K. Michael Moore of the Southern District of Florida was under investigation by the U.S. Attorney’s Office in Brooklyn, New York, for allegedly accepting gratuities worth thousands of dollars from officials of Central Security Systems, Inc. (“CSSI”) while he served as Director of the U.S. Marshals Service. A few days later, Judge Moore entered an order recusing himself from all cases in which the United States was a party. In early 1994, various defendants who had been tried before and/or sentenced by Judge Moore prior to his recusal filed motions for new trials or new sentencing hearings. They argued that the grand jury investigation of Judge Moore had been ongoing since November 1992, and that Judge Moore should have recused himself at that earlier date pursuant to 28 U.S.C. § 455(a). Ultimately, Eleventh Circuit Chief Judge Gerald Tjoflat appointed District Judge William C. O’Kelley of Atlanta to rule on the new trial motions because judges in the Southern District of Florida had disqualified themselves from the cases. After an evidentiary hearing at which Judge Moore testified,

Judge O'Kelley ruled in a published opinion that Judge Moore should have recused himself in November of 1992, when he learned that he was a "subject" in the grand jury investigation. As a result, Judge O'Kelley granted new trials and new sentencing hearings in over 20 cases involving over 35 defendants.

The United States appealed, and I wrote the government's brief in the more than 20 consolidated cases. The case presented an issue of first impression in the entire country – whether a federal district judge who is a "subject" but not a "target" of a federal grand jury investigation is required to recuse himself from all cases in which the United States is a party. I presented oral argument to the Eleventh Circuit on October 7, 1997, in a proceeding that lasted over 2 hours.

In April 1998, an Eleventh Circuit panel issued a published opinion affirming Chief Judge O'Kelley's rulings and rejecting the government's arguments. I drafted and filed the government's suggestion of rehearing *en banc* in June 1998, and rehearing *en banc* was granted in November 1998. I drafted about 90% of the government's initial and reply *en banc* briefs, and represented the government at the *en banc* oral argument on January 27, 1999. The *en banc* Eleventh Circuit was evenly divided with respect to whether Judge Moore should have recused under § 455(a) but ruled that a defendant should be granted a new trial only upon a showing of prejudice.

Lead Opposing Counsel:

G. Richard Strafer, Esq., 201 South Biscayne Boulevard, Suite 1380, Miami, Florida 33131, (305) 374-9091

Roy Black, Esq., and Howard Srebnick, Esq., Black Srebnick et al., 1300 Miami Center, Miami, Florida 33131, (305) 371-6421

Michael Pasano, Esq., Carlton Fields, 100 S.E. Second Street, Suite 4200, Miami, Florida 33131, (305) 530-0050

Co-counsel:

Assistant U.S. Attorney Dawn Bowen, Esq., U.S. Attorney's Office, 99 N.E. Fourth Street, Miami, Florida 33132

Assistant U.S. Attorney Evelio Yera, Esq., U.S. Attorney's Office, 99 N.E. Fourth Street, Miami, Florida 33132, (305) 961-9125 (former address and phone number)
Current address, U.S. Embassy Bogota, JSRP-OPDAT, Unit 3030 Box 5143, DPO, AA 34004, United States of America

Linda Collins Hertz, Esq., 1257 Ortega Avenue, Coral Gables, Florida 33134, (305) 446-0977

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.)

Throughout my career in private practice and at the U.S. Attorney's office, I regularly provided pro bono representation to indigent litigants. I am proud of my pro bono work – which was very informative and fulfilling – and which is summarized in the answer to question 25.

In 1989, the United States Supreme Court ruled that state and local affirmative action programs were subject to strict scrutiny. *See City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989). The *Croson* decision led many state and local government entities to analyze whether their minority-set aside programs passed constitutional muster. My former firm, Steel Hector & Davis, joined together with the accounting firm of KPMG Peat Marwick, TEM Associates, and other consultants to conduct discrimination studies for state and local government entities and to make recommendations concerning their programs. I worked on the legal aspects of the studies together with two then-SH&D partners, Frank Scruggs and Sam Dubbin. My job on these studies consisted of taking the data assembled by other components of the team and analyzing it to see if the affirmative action program at issue was constitutional under *Croson* and its progeny. We conducted studies for the State of Florida (two studies – one for the Department of Transportation and the other for the remaining state agencies), the City of Miami, and the West Coast Regional Water Supply Authority. My work on these various studies allowed me to meet and work with government officials at the state and local levels, and permitted me to merge legal analysis with the public policy and planning involved in administering affirmative action programs.

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.

CDO (“Career Development Office”) Externship Roundtables – University of Miami School of Law (2010 – present) (no syllabus used)

Death Penalty Seminar – University of Miami School of Law (1990 – 1999, 2004 – 2005 (with Assistant U.S. Attorney E.J. Yera), 2010 – present) (copy of current syllabus supplied)

Federal Courts – University of Miami School of Law (2010 – present) (copy of current syllabus supplied)

Federal Courts – Florida International University College of Law (2007 – present) (copy of current syllabus supplied)

Federal Criminal Practice Seminar (co-taught with Assistant U.S. Attorney E.J. Yera) – University of Miami School of Law (2006 – 2007) (copy of syllabus not available)

Judicial Inherent Powers Seminar (co-taught with Professor Ricardo Bascuas) – University of Miami School of Law (2001 – 2002) (copy of syllabus supplied)

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 do not have any such anticipated receipts or arrangements.

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.

If possible, I plan to continue my law school teaching, and have agreed to teach at Florida International University College of Law in the Spring of 2012. If possible, I also plan to continue serving as a volunteer soccer coach at St. Brendan High School.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If I am confirmed, I will recuse in all cases involving any of my family members. I will also recuse in any cases involving the University of Miami and Florida International University (where I teach), in cases involving the Archdiocese of Miami (where my wife is employed as a high school teacher), in cases involving the City of Hialeah (where my brother-in-law is employed as a firefighter and paramedic), in cases where my former law clerks are listed as counsel of record and have primary responsibility for litigating the matter, and in cases involving close friends.

I would recuse in any cases that were pending before me as a district judge. I would also follow any recusal protocol that the Eleventh Circuit has for cases arising out of the Southern District of Florida for a certain period of time.

I would further recuse in cases involving close friends involved in the practice of law. Those friends are listed on the clerk's recusal list in the Southern District of Florida, and I would ask the clerk of the Eleventh Circuit to provide some mechanism for notification (in addition to the certificate of interested persons) if any of those friends appeared in a case so that I could recuse.

- 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 apply the standards set forth in 28 U.S.C. §§ 144 and 455 to any scenario involving a potential conflict of interest or appearance of partiality.

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.

As a judge, I am not allowed to practice law on behalf of others, so I have not engaged in any pro bono legal work since my confirmation in September of 1999. From 2000 – 2010, however, I was the court liaison to the Volunteer Lawyers Project, the pro bono program of the District Court for the Southern District of Florida. I regularly attended meetings of the Project's advisory committee and visited law firms to encourage attorneys to do pro bono work through the Project. My work as liaison ended in 2010, when I became chair of the Magistrate Judges Committee and the Rules Committee for the Southern District of Florida.

Before I became a judge, I regularly provided pro bono legal representation to the indigent, and received pro bono awards in 1993, 1996, and 1998. My pro bono work included the following matters:

Representation of a teacher wrongfully accused by the Florida Department of Health and Rehabilitative Services (now the Department of Children and Families) of fondling students by bouncing them on his knee (1990 – 1991).

Representation of a Florida death row inmate in federal habeas corpus proceedings in the Eleventh Circuit, district court, and state court (1990 – 1991).

Guardian ad Litem representation of a child who was the subject of a dependency proceeding (1991 – 1992).

Representation of plaintiff in a civil rights action for excessive force against St. Lucie County and several correctional officers (1991 – 1994).

Guardian ad Litem representation of a child who was the subject of a dependency proceeding (1992).

Representation of various individuals and families who had lost their homes and/or suffered property losses during Hurricane Andrew (1992).

Representation of a pretrial detainee who had been stabbed by another inmate while awaiting trial at the Dade County Jail, in a civil rights action (1992 – 1993).

Guardian ad Litem representation of children who were the subjects of a proceeding to terminate their mother's parental rights due to abuse and neglect (1992 – 1995).

Representation of a Florida death row inmate in a federal habeas corpus appeal in the Eleventh Circuit (1993 – 1994).

Representation of a minor mother seeking to obtain a domestic abuse/violence restraining order against the father of her child (1995 – 1996).

Representation of the Guardian ad Litem Program in litigation between the Program and Miami-Dade County over the payment of expert witness fees in dependency/termination proceedings (1996 – 1997).

Representation of a woman in a proceeding to obtain a domestic violence injunction against her husband (1998).

Guardian ad Litem representation of children who were the subjects of proceedings to terminate the parental rights of their mother and unknown father(s) (1998 – 1999).

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.

There is no selection commission in my jurisdiction to recommend candidates for nomination to the United States Court of Appeals for the Eleventh Circuit.

On April 13, 2011, at the suggestion of former Florida Senator Bob Graham, I sent my resume to senior officials at the White House Counsel's Office. I did not speak to any attorneys from the office at this time. The following day, I was asked by a staff member from the White House Counsel's Office to send a copy of my resume to her so that it could be provided to another senior attorney in the office. I did so, and called the staff member later that same day to confirm that she had received the resume.

Since May 11, 2011, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On June 14, 2011, and on July 26, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On August 2, 2011, President Obama submitted my nomination to the Senate.

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

No.