

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

William McCrary Ray, II. My nickname is Billy.

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

United States District Court Judge for the Northern District of Georgia

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.

Court of Appeals of Georgia
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

Residence: Lawrenceville, Georgia

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

1963; Macon, Georgia

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

1987 – 1990, University of Georgia Lumpkin School of Law; J.D., 1990
1981 – 1986, University of Georgia Terry School of Business; B.B.A., 1985; M.B.A., 1986

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.

2012 – present
Court of Appeals of Georgia
47 Trinity Avenue SW, Suite 501

Atlanta, Georgia 30334
Judge

2002 – 2012
Superior Court of Gwinnett County
75 Langley Drive
Gwinnett Justice and Administration Center
Lawrenceville, Georgia 30046
Judge

1997 – 2002
State of Georgia
353 State Capitol
Atlanta, Georgia 30334
State Senator

Summer 1989; 1990 – 2002
Andersen, Davidson & Tate P.C. (now known as Andersen, Tate & Carr P.C.)
One Sugarloaf Centre
1660 Satellite Boulevard, NW #4000
Duluth, Georgia 30097
Partner (1995 – 2002)
Associate (1990 – 1995)
Summer Associate (1989)

Summer 1989
Elrod & Thompson
(now defunct)
Atlanta, Georgia
Summer Associate

Summer 1988 & Summer 1989
Kilpatrick & Cody (now known as Kilpatrick Townsend)
999 Peachtree Street, Suite 1500
Atlanta, Georgia 30309
Summer Associate (1988 in the Washington, DC office)

1985 – 1989
Terry School of Business
University of Georgia
Athens, Georgia 30602
Teaching Assistant

1986 – 1988
Milledge Avenue Baptist Church
1690 South Milledge Avenue

Athens, Georgia 30605
Youth Minister

1986 – 1987
Office of Judicial Programs
(now known as the Office of Student Conduct)
University of Georgia
Athens, Georgia 30602
Student Affairs Advisor

Summer 1986
Georgia 4-H Camping Program
University of Georgia Cooperative Extension
Hoke Smith Annex
Athens, Georgia 30602
Camp Counselor

Other Affiliations (uncompensated):

2012 – present
Georgia 4-H Foundation
Hoke Smith Annex
University of Georgia
Athens, Georgia 30602
Trustee

2012
Council of Superior Court Judges
18 Capitol Square SW #104
Atlanta, Georgia 30334
Secretary/Treasurer

2006 – 2012
Judicial Retirement System
State of Georgia
Two Northside 75
Atlanta, Georgia 30318
Trustee

1996 – 2006 (approximate)
First Baptist Church of Lawrenceville
165 South Clayton Street
Lawrenceville, Georgia 30046
Trustee and Deacon

1993 – 1995

Gwinnett County Republican Party
2100 Pleasant Hill Road, Suite J19
Duluth, Georgia 30096
Chairman

1993 – 1995 (approximate)
American Heart Association, Gwinnett County Division
1101 Northcase Parkway, SE
Marietta, Georgia 30067 (Gwinnett Division no longer exists)
Member, Board of Directors

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

I have never served in the U.S. Military, but I did register for the selective service on or near my 18th birthday.

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.

2012 Leadership Award, Gwinnett Drug Court

2002 Friend of City of Suwanee Award

2001 Legislative Service Award, Georgia Municipal Association

2001 Legislative Service Award, Georgia Conservation Voters

2000 Legislative Award, Council of Magistrate Court Judges

2000 Legislative Achievement Award, Mothers Against Drunk Driving (MADD)

2000 rated as "AV" by Martindale Hubbell

1999 Friend of 4-H Award, Georgia Association of County Extension Agents

1990 *Cum Laude* graduate, Order of the Barristers and Order of the Coif, University of Georgia Lumpkin School of Law

1985 *Magna Cum Laude* graduate, BBA, University of Georgia Terry School of Business

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.

Bleckley Inn of Court, Georgia State University School of Law
Master (2012 – present)

Council of Superior Court Judges
Secretary/Treasurer (2012)
Legislation Committee Chairman (2006 – 2011)

Gwinnett County Bar Association (1990 – present)

Judicial Retirement System
Trustee (2006 – 2012)

Lumpkin Inn of Court, University of Georgia School of Law
Master (2012 – present)

10. **Bar and Court Admission:**

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

Georgia, 1990

There has been no lapse in membership.

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

United States District Court for the Northern District of Georgia, 1991
Supreme Court of Georgia, 1990
Court of Appeals of Georgia, 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.

American Heart Association, Gwinnett County Division
Board of Directors (approximately 1993 – 1995)

First Baptist Church of Lawrenceville
Trustee and Deacon 1996 – 2006 (approximate)

Georgia 4-H Foundation
Trustee (2012 – present)

Georgia 21st Century Voting Commission (2001)

Chief Justice's Commission on Indigent Defense (2000)

Georgia Education Reform Commission (1999 – 2001)

Gridiron Club, University of Georgia (1986 – present)

Gwinnett County Republican Party
Chairman (1993 – 1995)

Kiwanis Club, Lawrenceville Chapter (approximately 1992 – 1998)

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

The Gridiron Club is an honor organization at the University of Georgia whose membership is limited to men. There is a corresponding organization for women. To the best of my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Letter to the Editor, "Judge Barrett's Work, Enthusiasm Will Be Missed," Fulton

County Daily Report, March 2, 2012. Copy supplied.

Letter to the Editor, "Bobby Petrino," Atlanta Journal Constitution, December 14, 2007. Copy supplied.

"Battle for Redistricting Beginning to Heat Up," Alpharetta Revue & News, February 10, 2000. Copy supplied.

Letter to the Editor, "Criticism of Election Worker Not Justified," Atlanta Journal Constitution, May 28, 1998. Copy supplied.

With Senator Casey Cagle and Representatives Mike Evans and Keith Breedlove, Letter to the Editor, "Legislators Thank Keiffer and Jenkins," Forsyth County News, April 6, 1997. Copy supplied.

"Welfare, Teen Driving among Hottest Bills," Forsyth County News, March 21, 1997. Copy supplied.

Letter to the Editor, "Voter Education Is a Factor," Atlanta Journal Constitution, July 31, 1994. Copy supplied.

With a partner of Kilpatrick & Cody, Tax Advantages in the Sale of Radio and Television Broadcast Stations to Minorities," Georgia Bar Journal, 1988. Copy supplied.

During my 2000 re-election campaign for the State Senate, I maintained a campaign website. Copy supplied. Over the course of my campaigns for State Senate, my campaign also produced occasional mailers or other campaign materials, and some of the content was created by me or with my input. Copies supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of or 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.

From 1997 to 2002, I served as a State Senator for the State of Georgia for District 48, representing Forsyth, Fulton and Gwinnett Counties. During this time, I sponsored or co-sponsored 125 bills and resolutions as reported by the Georgia Secretary of the Senate, some of which became law. A list of all such bills and resolutions, as well as copies, are supplied.

While serving in the State Senate, I was appointed as a member of the Governor's Education Reform Commission, which met from 1999 to 2001. This was a large

commission which studied public education in the State of Georgia and recommended changes regarding the funding and governance of public schools. I have been unable to locate any reports from the Commission.

While serving in the State Senate, I was appointed as a member of the 21st Century Voting Commission. The Commission issued a report in 2001. Copy supplied.

While serving in the State Senate, I was appointed in 2000 as an *ex officio* member of the Chief Justice's Commission on Indigent Defense. The Commission issued two reports on its findings. I do not recall being active in the organization after the initial report. Copies 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.

Approximately 2012: Testimony before the House Judiciary Committee of the Georgia General Assembly on behalf of the Council of Superior Court Judges. I have no notes, transcript, or recording, but press coverage supplied.

I submitted a questionnaire to be considered for the Georgia Supreme Court in 2009. I did not maintain a copy, but press coverage quoting the questionnaire is supplied.

March 2007: Testimony before the House State Institutions and Property Committee meeting regarding House Bill 527. I have no notes, transcript, or recording, but press coverage supplied.

January 11, 2002: Report of the Joint Hazardous Sites Response Act Reauthorization Study Committee. Copy supplied.

As a state senator from 1997 to 2002, I occasionally made remarks on the senate floor regarding pending legislation. I have no notes, transcripts, or recordings, other than one partial speech from Fall 2001 regarding the state reapportionment plan after the 2001 census. Copy supplied.

Approximately November 22, 2001: As state senator, I attended the annual Legislative Forum in Roswell, Georgia, sponsored by the North Fulton Council of PTAs. I have no notes, transcript, or recording.

February 22, 2000: Town hall meeting at Creekland Middle School. I have no notes, transcript, or recording, but press coverage is supplied.

September 20, 1999: While a state senator, I met with Gwinnett's office of the

Department of Family Services in a public meeting. I have no notes, transcript, or recording, but press coverage is supplied.

March 6, 1997: Town hall meeting. I have no notes, transcript, or recording, but press coverage is supplied.

While a candidate for the State Senate in 1996, 1998, and 2000, I filed out a number of candidate questionnaires. I was able to locate one from 1996. Copy supplied. I have not retained copies of any other questionnaires, and I do not recall the groups for whom I filled out a questionnaire.

- 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.

March 23, 2017: Panelist, Professionalism and Ethical Dilemmas in Litigation, Institute of Continuing Legal Education, Atlanta, Georgia. Video supplied.

February 17, 2017: Panelist, Georgia Court of Appeals Panel, Gwinnett County General Practice CLE, Institute of Continuing Legal Education, Duluth, Georgia. Outline supplied.

February 9, 2017: Panelist, Frivolous Appeal Penalties under Georgia Court of Appeals Rule 15(b), Abusive Litigation CLE, Institute of Continuing Legal Education, Atlanta, Georgia. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

September 23, 2016: Speaker, Family Law, Court CLE for staff attorneys, Court of Appeals of Georgia, Atlanta, Georgia. Handout and notes supplied.

June 26, 2016: Speaker, Citizenship Ceremony, Georgia 4-H 2016 State Council, Georgia Extension Service, Rock Eagle 4-H Center, Eatonton, Georgia 31024. I have no notes, transcript, or recording. The address of the Georgia 4-H is Hoke Smith Annex, The University of Georgia, Athens, Georgia 30602.

May 19 – 21, 2016: Speaker, Everything You Wanted to Know about Appellate Issues Relating to Family Law, Family Law Institute, Institute of Continuing Legal Education, Jekyll Island, Georgia. I have no notes, transcript or recording.

The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

April 27, 2016: Speaker, 2016 Law Day Program on Miranda, Dougherty Circuit Bar Association, Albany, Georgia. Outline supplied.

March 24, 2016: Panelist, Professionalism and Ethical Dilemmas in Litigation, Institute of Continuing Legal Education, Atlanta, Georgia. Video supplied.

March 11, 2016: Speaker, Appellate Practice, Trial and Error CLE, Institute of Continuing Legal Education, Atlanta (Webcast), Georgia. Video is available at <http://www.iclega.org/online/asx/010jRb6XLV3xThZiaCWqeJ1y.html>. Handout supplied.

February 5, 2016: Panelist, Frivolous Appeal Penalties under Georgia Court of Appeals Rule 15(b), Abusive Litigation CLE, Institute of Continuing Legal Education, Atlanta, Georgia. Video supplied.

September 21, 2015: Speaker, Opening Ceremonies, Empire Mock Trial Competition, Omni Hotel in Atlanta, Georgia. Notes supplied.

May 21 – 23, 2015: Speaker, What's New: The Five Most Important Cases since Last Year's Institute, Family Law Institute, Institute of Continuing Legal Education, Amelia Island, Florida. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

March 26, 2015: Panelist, Professionalism and Ethical Dilemmas in Litigation, Institute of Continuing Legal Education, Atlanta, Georgia. Video supplied.

February 20, 2015: Speaker, Amicus Briefing, Georgia Appellate Practice CLE, Institute of Continuing Legal Education, Atlanta, Georgia. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

January 10, 2015. Speaker, The Inner Workings of the Georgia Court of Appeals, Gwinnett County Republican Breakfast, Lawrenceville, Georgia. I was requested to speak about the court at this monthly meeting by the then Chairman of the party. I have no notes, transcript, or recording. The address of the Gwinnett County Republican Party is 2100 Pleasant Hill Road, Duluth, Georgia 30096.

December 19, 2014: Presenter, The Inner Workings of the Georgia Court of Appeals, Andersen, Tate and Carr, Duluth, Georgia. Notes supplied.

May 1, 2014: Speaker, Walton County Law Day Celebration, Monroe, Georgia. Outline supplied.

April 2014: Speaker, JPO Alumni Address, University of Georgia, Athens, Georgia. I spoke regarding the history of the University of Judiciary and the contributions of Jenny Penny Oliver. I have no notes, transcript, or recording. The address of University Judiciary is 247 Memorial Hall, University of Georgia, Athens, Georgia 30602.

March 27, 2014: Panelist, Professionalism and Ethical Dilemmas in Litigation, Institute of Continuing Legal Education, Atlanta, Georgia. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

February 25, 2014: Speaker, Professionalism in the Appellate Practice, Georgia Appellate Practice CLE, Institute of Continuing Legal Education, Atlanta, Georgia. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

December 2013: Speaker, Fundraiser Event, Atlanta, Georgia. While a candidate for re-election to the Court of Appeals, I had a fundraiser event at the Commerce Club in Atlanta, Georgia. I have no notes, transcript, or recording. The event was organized by my campaign.

October 2013: Speaker, Hall County Bar Association Lunch Meeting, Gainesville, Georgia. Outline supplied.

October 18, 2013: Speaker, Bar Luncheon, Gwinnett County Bar Association, Duluth, Georgia. I have no transcript or recording, but I believe that I used the same outline as supplied for the Hall County Bar Association lunch.

October 11, 2013: Speaker, Ethical Considerations in the Trial and Appeal of a Premises Liability Case, Premises Liability CLE, Institute of Continuing Legal Education, Atlanta, Georgia. Video and handout supplied.

September 19, 2013. Speaker, The Inner Workings of the Court of Appeals, Rotary Club of Rome, Rome, Georgia. Outline and press coverage supplied.

June 2013: Speaker, Young Lawyer's Division of State Bar of Georgia Mass Oath Ceremony, held in the Chambers of the Supreme Court of Georgia, Atlanta, Georgia. Outline and notes supplied.

May 2013: Speaker, Fundraiser Event, Georgia Trial Lawyers Association, Atlanta, Georgia. While a candidate for re-election to the Court of Appeals, I had a fundraiser event organized by local attorney Gerald Davidson at the annual meeting of the Georgia Trial Lawyers Association at the Lowes Hotel in Atlanta, Georgia. I have no notes, transcript, or recording. The address of the Georgia Trial Lawyers Association is 101 Marietta Street NW, #3550, Atlanta, Georgia

30303.

May 21, 2013: Panel Participant, The Inner Workings of the Court of Appeals of Georgia, Atlanta Lawyers Chapter of the Federalist Society, Atlanta, Georgia. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Atlanta Chapter Federalist Society is 1170 Peachtree Street, NE, Atlanta, Georgia 30309.

April 30, 2013: Speaker, Fundraiser Event, Andersen Tate & Carr, Duluth, Georgia. While a candidate for re-election to the Court of Appeals, I had a fundraiser event at my former law firm, Andersen Tate & Carr, in Duluth, Georgia. I have no notes, transcript, or recording. The address of Anderson Tate & Carr is One Sugarloaf Center, 1960 Satellite Boulevard, NW #4000, Duluth, Georgia 30097.

March 28, 2013: Panelist, Professional and Ethical Dilemmas in Litigation, Institute of Continuing Legal Education, Atlanta, Georgia. Video supplied.

March 14 – 16, 2013: Speaker, Voir Dire, General Practice and Trial Institute CLE, Institute of Continuing Legal Education, Amelia Island, Florida. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

March 1, 2013: Speaker, Best Practices before the Georgia Court of Appeals, Georgia Appellate Practice CLE, Institute of Continuing Legal Education, Atlanta, Georgia. I have no notes, transcript, or recording. The address of the Institute of Continuing Legal Education is 248 Prince Avenue, Athens, Georgia 30601.

January 11, 2013: Speaker, Lunch Meeting, State Bar of Georgia Appellate Section Meeting, Atlanta, Georgia. Video is available at <https://www.youtube.com/watch?v=i0e3uSXIIIRA>. Press coverage is supplied.

September 4, 2012: Speaker, Swearing In Ceremony, Georgia Court of Appeals, held in the Georgia State Capitol, Atlanta, Georgia. Video is available at <http://www.dailyreportonline.com/id=1202570213362>. Press coverage supplied.

Date unknown (sometime after 2012): As a Judge on the Court of Appeals of Georgia, I also recollect having given a speech to the Gainesville-Northeastern Bar Association. I do not recall the precise date or details for this event. I have no notes, transcript, or recording. The address of the Gainesville-Northeastern Bar Association is P.O. Box 922, Gainesville, Georgia 30503.

2006 – 2012: Presider, Graduation Ceremonies, Gwinnett County Drug Court, Lawrenceville, Georgia. I presided over the graduation ceremony for the Gwinnett County Drug Court twice per year, on the following dates: December

11, 2012; June 8, 2012; November 29, 2011; May 20, 2011; December 20, 2010; June 14, 2010; December 3, 2009; June 11, 2009; December 8, 2008; May 15, 2008; November 15, 2007; April 12, 2007; February 1, 2007; and October 19, 2006. On February 1, 2007 and December 11, 2012, I served as the guest speaker. I have no notes, transcripts, or recordings. The address of the Gwinnett Justice & Administration Center is 75 Langley Drive Lawrenceville, Georgia 30046.

2002 – 2012: As a Judge on the Superior Court of Gwinnett County, I would from time to time give speeches to local civic organizations regarding the operation of the courts and, in particular, regarding the Gwinnett County Drug Treatment Court. These organizations included local Kiwanis and Rotary clubs. I have not maintained any calendars which would include the dates on which I gave these speeches. I have no notes, transcripts, or recordings. The addresses of these organizations are as follows: (1) Kiwanis Club of Lawrenceville, no mailing address; (2) Duluth Kiwanis, P.O. Box 1197, Duluth, Georgia 30096; (3) Kiwanis Club of North Gwinnett, no mailing address; (4) Rotary Club of Gwinnett County, 6500 Sugarloaf Parkway, Duluth, Georgia 30097; (5) Rotary Club of Lawrenceville, P.O. Box 1796, Lawrenceville, Georgia 30046 (6) Rotary Club of Duluth, no mailing address; and (7) Rotary Club of South Gwinnett, P.O. Box 957531, Duluth, Georgia 30095.

March 12, 2010: Speaker, Judicial Perspectives on Rookie Mistakes and Effective Trial Advocacy, Trial and Error CLE, Institute of Continuing Legal Education, Atlanta, Georgia. Video supplied.

March 7, 2007: Speaker, Drug Prevention in the Workplace, Gwinnett Chamber of Commerce, Duluth, Georgia. I have no notes, transcript, or recording. The address of the Gwinnett Chamber of Commerce is 6500 Sugarloaf Parkway, Duluth, Georgia 30097.

May 2002: Speaker, Fundraising Event-Superior Court, Lawrenceville, Georgia. While a candidate for reelection to the Superior Court, I had a fundraiser event with local attorneys at a local restaurant in Lawrenceville, Georgia. I have no notes, transcript, or recording. The event was organized by my campaign.

January 14, 2002: Speaker, Oath of Office Ceremony for Superior Court, Senate Chambers, Georgia State Capitol, Atlanta, Georgia. Outline supplied.

1997 – 2002: As a State Senator, I often gave speeches and remarks to local chapters of the Republican Party and to civic groups in the counties that I served. I do not have any personal calendars that cover that period of time and cannot remember the details of any specific speech that I gave. I have no notes, transcripts, or recordings. I would often speak to civic organizations like the Rotary Clubs and the Kiwanis Clubs in Gwinnett, Forsyth and Fulton Counties. The addresses of these organizations are as follows: (1) Kiwanis Club of

Lawrenceville, no mailing address; (2) Duluth Kiwanis, P.O. Box 1197, Duluth, Georgia 30096; (3) Kiwanis Club of North Gwinnett, no mailing address; (4) Rotary Club of Gwinnett County, 6500 Sugarloaf Parkway, Duluth, Georgia 30097; (5) Rotary Club of Lawrenceville, P.O. Box 1796, Lawrenceville, Georgia 30046 (6) Rotary Club of Duluth, no mailing address; (7) Rotary Club of South Gwinnett, P.O. Box 957531, Duluth, Georgia 30095; (8) Gwinnett County Republican Party, 2100 Pleasant Hill Road, Duluth, Georgia 30096; (9) Forsyth County Republican Party, 540 Lake Center Parkway, Suite 108, Cumming, Georgia 30040; and (10) the Fulton County Republican Party, 5920 Roswell Road, #A208, Sandy Springs, Georgia 30328.

December 13, 2001: Speaker, Candlelight Vigil for Crime Victims, Gwinnett District Attorney's Office, Lawrenceville, Georgia. I have no notes, transcript or recording. The address of the Gwinnett District Attorney's Office is 75 Langley Drive, Lawrenceville, Georgia 30046.

May 2001: Speaker, Commencement Address, Grayson High School, Loganville, Georgia. I spoke on the importance of working hard and education. I have no notes, transcript, or recording. The address of Grayson High School is 50 Hope Hollow Road, Loganville, Georgia 30052.

February 1, 2000: Speaker, Legislative Update, Forsyth County Young Republicans Meeting, Cumming, Georgia. I have no notes, transcript, or recording. The address of the Forsyth County Republican Party is 540 Lake Center Parkway, Suite 108, Cumming, Georgia 30040.

April 1, 1999: Luncheon Speaker, Legislative Update on "Heidi's Law, Lawrenceville Kiwanis Club, Lawrenceville, Georgia. I have no notes, transcript, or recording. The Lawrenceville Kiwanis Club has no mailing address.

May 1998: Speaker, Baccalaureate Address, Central Gwinnett High School, Lawrenceville, Georgia. I spoke on the importance of working hard, education, and faith. I have no notes, transcript, or recording. The address of Central Gwinnett High School is 564 West Crogan Street, Lawrenceville, Georgia 30046.

April – November 1996: Speaker, Monthly Meetings, Republican Parties of Gwinnett, Fulton, and Forsyth Counties, various cities, Georgia. While a candidate for the State Senate, I often spoke at monthly gatherings of the Republican Parties of Gwinnett, Fulton and Forsyth Counties, such counties which were part of the 48th District. I do not remember the exact dates of these meetings or the locations. I have no notes, transcripts, or recordings. The address of the Gwinnett County Republican Party is 2100 Pleasant Hill Road, Duluth, Georgia 30096. The address of the Forsyth County Republican Party is 540 Lake Center Parkway, Suite 108, Cumming, Georgia 30040. The address of the Fulton County Republican Party is 5920 Roswell Road, #A208, Sandy Springs, Georgia 30328.

January – November 1996: Speaker, Fundraising Events, Suwanee and Atlanta, Georgia. While a candidate for the State Senate, I had three separate fundraiser events that I can recall. One event was at the former Falcon Inn, which was located in Suwanee, Georgia. It was organized and hosted by my campaign. A second event was hosted by the Atlanta law firm then known as Kilpatrick and Cody, now known as Kilpatrick Townsend. A third event was held at the Capitol City Club in Atlanta; I am unsure who organized this event, which was after the election. I have no notes, transcripts, or recordings. The address of Kilpatrick Townsend is 1100 Peachtree Street, NE, #2800, Atlanta, Georgia 30309.

May 14, 1993: Welcome Speaker, Georgia Republican State Convention, Duluth, Georgia. I have no notes, transcript or recording. The address of the Georgia Republican Party is 3110 Maple Drive, NE, Atlanta, Georgia 30305.

1993 – 1995: Speaker, Monthly Meetings and Annual Convention, Gwinnett County Republican Party, in Duluth, Lawrenceville, and Suwanee, Georgia. As chairman of the party, I gave extemporaneous remarks at these events on the party building issues of the day, such as upcoming elections, reapportionment, fundraising, and volunteer recruitment. I have no notes, transcripts, or recordings. The address of the Gwinnett County Republican Party is 2100 Pleasant Hill Road, Suite J19, Duluth, Georgia 30096.

- 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.

Camie Young, Georgia Court of Appeals Takes Field Trip to Lawrenceville, Gwinnett Daily Post, Mar. 10, 2014. Copy supplied.

Balfour Says Travel Expense Errors Were Unintentional, www.11alive.com, December 2013. Copy supplied.

Interview, “Face to Face: Judge William M. Ray from the Georgia Court of Appeals,” Rome News Tribune (published Sept. 19, 2013). Video is available at <https://www.youtube.com/watch?v=5q6rga-VMhs>.

Staff Reports, Alcovy Circuit Superior Court Judges Sworn In, The Newton Citizen, January 15, 2013. Copy supplied.

Charles Efstration, Interview with Judge William “Billy” Ray, GCBA Newsletter, Fall 2012. Copy supplied.

Andria Simmons, Appeals Judge is Latest Role on his “Walk of Faith”, August 13, 2012. Copy supplied.

Alyson M. Palmer, Ray Has Deep Political Roots, The Daily Report, Aug. 8, 2012. Copy supplied.

Bill Rankin, Judge, Lawyer Named to Ga. Appeals Court, The Atlanta Journal-Constitution, July 26, 2012. Copy supplied.

Tom Crawford, A Government Programs Works, Flagpole, Athens, GA, June 13, 2012. Copy supplied.

Tom Crawford, A Program That Actually Works, Forsyth County News, June 13, 2012. Copy supplied.

Tom Crawford, Political Notes-Saluting the Success of Drug Courts, The Georgia Report, June 8, 2012. Copy supplied.

Josh Green, Drug Court Torch Passed at Georgia Supreme Court, Gwinnett Daily Post, June 7, 2012. Copy supplied.

Gwinnett Judge to Trade Drug Court for Council Work, ATLaw, March 7, 2012. Copy supplied.

Alyson Palmer, Judicial Races Could Move Back to Summer; Switching to Primary Season Would Save Counties Money, Say Bill's Supporters, The Daily Report, April 12, 2011. Copy supplied.

Kathleen Baydala Joyner, Ten Days Left to Decide Bills' Fate; Bills on Rules of Evidence, Power in Indigent Defense System and Compilation of Juror Lists Survive Crossover Day, The Daily Report, March 18, 2011. Copy supplied.

Kathleen Baydala Joyner, House Passes Direct Appeals Bill; Prosecutors Push for Right to Direct Appeal of Granted Defense Motions for New Trial, The Daily Report, March 14, 2011. Copy supplied.

Andria Simmons, Judges Group Opposes Bill Requiring Bond for Release; Council: Measure Wouldn't Allow for Special Cases, The Atlanta Journal Constitution, February 1, 2011. Copy supplied.

Camie Young, Gwinnett Judge to Hear Ga. Supreme Court Case, The Gwinnett Daily Post, February 2011. Copy supplied.

Kathleen Baydala Joyner, Judges' Council Fights Trooper Bill; LeCroy Act Would Prohibit Judges From Releasing Defendants Accused of Violent Felonies On Own Recognizance, The Daily Report, January 24, 2011. Copy supplied.

Andy Peters, Judges Press Senator on Court-Cutting Proposal; They Tell Lawmaker Who Wants to Cut 19 Judges that Bill Threatens Prosecutions, The Daily Report, March 19, 2010. Copy supplied.

Alyson Palmer, Justices Propose Recusal Rules; Their Plan Would Not Set Bright-line Rule, Instead Suggesting Subjective Factors to Guide Recusals Based on Campaign Contributions, The Daily Report, August 27, 2010. Copy supplied.

Camie Young, Judges Up Next for Cuts, Gwinnett Daily Post, Mar. 11, 2010. Copy supplied.

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Lucy Soto, GOP to Hold State Convention in County for First Time, The Atlanta Journal Constitution, May 10, 1993. Copy supplied.

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Linda Jacobson, Lawrenceville Lawyer Billy Ray to Challenge White in District 48, The Atlanta Journal Constitution, November 9, 1991. Copy supplied.

Carlos Campos, Attorney Announces Plan to Run for Georgia Senate, Gwinnett Extra of The Atlanta Journal Constitution, November 9, 1991. Copy supplied.

I have never purchased or used newspaper or internet ads in any of my elections to the State Senate, Superior Court, or the Court of Appeals. I did have two cable television ads, one during the 1996 State Senate campaign and another during the 2000 State Senate campaign. I have been unable to locate a copy of the ad from

the 1996 campaign. The ad from 2000 is available at
<https://www.youtube.com/watch?v=k6G7hBc7cvE>.

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

In 2002, I was appointed to serve as a judge on the Superior Court of Gwinnett County by Governor Roy Barnes. I was then re-elected by the voters of Gwinnett County in 2004, 2008, and 2012 to additional four-year terms. The Superior Court is the general jurisdiction trial court in Georgia. I presided over felony trials, including serious offenses such as murder, rape, aggravated assault, kidnapping, drug trafficking and child molestation; family law matters, such as divorce, child custody, and child support; complex civil litigation, such as trade secrets, contracts, products liability and class actions; election challenges; equity matters; appeals from administrative hearings; appeals from Magistrate Court (small claims); and property disputes.

During my time as a Superior Court Judge, I also founded and presided over the Gwinnett Drug Treatment Court. This specialize division of the Gwinnett Superior Court diverted individuals charged with low level property crimes and/or drug possession charges away from the regular criminal justice system and incarceration, and into a specialized court which focused on drug and alcohol treatment, counseling and rehabilitation.

In July 2012, I was appointed by Governor Nathan Deal to serve on the Court of Appeals of Georgia. The Court of Appeals is the intermediate appellate court for the state. There are 15 judges who serve on the Court of Appeals, and most of our decisions are issued from panels consisting of 3 judges.

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

During my nearly 11 years on the Superior Court bench, I presided over approximately 13,000 criminal and civil cases. I do not have exact records of how many went to verdict or judgement; as might be expected, most criminal cases resulted in negotiated or non-negotiated pleas, and most civil cases were resolved through settlements. Of those that went to trial, most were bench trials because almost all contested divorce cases which go to trial do so through a bench trial. I would try approximately 300 bench trials (mostly family law) per year and approximately 24 jury trials each year.

I have served as a judge on the Court of Appeals of Georgia for 5 years. During this time, I have authored more than 580 opinions, roughly 30% in criminal cases and 70% in civil cases.

jury trials:	10%
bench trials:	90%

civil proceedings:	33%
criminal proceedings:	67%

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

See attached list of cases.

- 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. *Atlanta Humane Society v. Mills*, No. 01-A-13269-1 (Sup. Ct. Gwinnett County), *rev'd*, 591 S.E.2d 423 (Ga Ct. App. 2003), *aff'd in part, rev'd in part*, 603 S.E.2d 289 (Ga. 2004), *remanded to* 618 S.E.2d 18 (Ga. Ct. App. 2005)

The Atlanta Humane Society (AHS) and its director, Mr. Garrett, sued Ms. Mills for allegedly defamatory statements she made on an Internet bulletin board regarding the practices of AHS at an animal shelter that it operated pursuant to a contract with the City of Atlanta. Ms. Mills moved to strike the complaint under Georgia's anti-SLAPP statute and both parties moved for summary judgment on the defamation claim. Among other rulings, I determined that, for purposes of this case, AHS was a governmental entity which could not bring an action for defamation and that Mr. Garrett was a limited-purpose public figure, which subjected any defamation action by him regarding statements about his acts at AHS to a higher standard of proof. Decision supplied. Both AHS and Mr. Garrett appealed these rulings. Ultimately, after the appeal bounced between the Court of Appeals of Georgia and the Supreme Court of Georgia, the Court of Appeals affirmed my holdings.

Atlanta Humane's Attorney:

James V. Zito
The Zito Law Group
150 East Ponce deLeon Avenue, Suite 200
Decatur, Georgia 30030
(404) 574-2441

Ms. Mills' Attorney:

Alan Begner
Begner & Begner
5180 Roswell Road

South Building, Suite 100
Atlanta, Georgia 30342
404-531-0103

2. *State v. Smith*, No. 11 CR 66637 (Sup. Ct. Bibb County), *aff'd*, No. A14A0361 (Ga. Ct. App. July 11, 2014)

Due to conflicts in the local circuit, I substituted as a judge in the Superior Court of Bibb County for this case. The defendant was charged with, among other things, rape, aggravated assault, and kidnapping. This trial was the second trial for this defendant on these charges, as the first trial was a mistrial when the jurors could not agree. The defendant was convicted in the re-trial and was sentenced to life in prison. I denied defendant's motions for a new trial. Decisions supplied. In an unpublished opinion, the Court of Appeals of Georgia affirmed.

District Attorney:

Dorothy Vinson Hull
Bibb County District Attorney's Office
Third Floor Grand Building
661 Mulberry Street
Macon, Georgia 31201
(478) 621-6268

Mr. Smith's Attorney:

Wendell Rocky Adams
Dublin Public Defender's Office
1506 Bellevue Road
Dublin, Georgia 31021
(478) 272-7210

3. *Leach v. Carter*, No. 09-A-9545-1 (Sup. Ct. Gwinnett Cty.), *aff'd*, No. A11A1468 (Ga. Ct. App. Apr. 13, 2011)

Mr. Leach and Ms. Carter never married, but were parents to a young son. Ms. Carter moved from Gwinnett County, Georgia to her parents' home in Mississippi, and Mr. Leach brought an action in Georgia for legitimation of, and custody or visitation with, his son. Ms. Carter contended that Mr. Leach should not be recognized as the child's legal father. After a three-day bench trial in 2010, I disagreed, finding that Mr. Leach would be a good father and wanted an active role in the child's life. I granted his petition. Decision supplied. On appeal, the Court of Appeals of Georgia affirmed my rulings in an unpublished opinion.

Mr. Leach's Attorney:

D. Warren Auld
Law Offices of D. Warren Auld
2388 Scenic Highway
P.O. Box 1438
Snellville, Georgia 30078
(770) 972-3693

Ms. Carter's Attorney:

Anthony M. Zezima
Anthony M. Zezima, P.C.
2201 Buckeye Road, Suite 201
Atlanta, Georgia 30341
(770) 884-1692

4. *State v. Carlisle*, No. 97-B-0731-1 (Sup. Ct. Gwinnett Cty.), *rev'd in part and aff'd in part*, 615 S.E.2d 543 (Ga. Ct. App. 2005), *rev'd*, 631 S.E.2d 347 (Ga. 2006), *cert. denied*, 549 U.S. 1034 (2006)

In 2004, I conducted a bench trial of Ms. Carlisle on charges of aggravated stalking. Ms. Carlisle's friend had been convicted of aggravated stalking of his former girlfriend, who at the time of the crime had a restraining order against him. Aggravated stalking is when a defendant stalks the victim in violation of a restraining or protective order. Ms. Carlisle had assisted her friend in committing his stalking activities, and I found her guilty of aggravated stalking despite that there wasn't a restraining order against her at the time. I concluded that she was a "party to the crime" of aggravated stalking committed by her co-defendant; in other words, an aider and abettor. While the Court of Appeals reversed the conviction, the Georgia Supreme Court agreed with me and reinstated the conviction.

District Attorney:

Danny J. Porter
Gwinnett Justice and Administration Building
75 Langley Drive
Lawrenceville, Georgia 30046
(770) 822-8400

Ms. Carlisle's Attorney:

Brian Steel
The Steel Law Firm, P.C.
1800 Peachtree Street NW, Suite 300
Atlanta, Georgia 30309

(404) 605-0023

5. *State v. Sanders*, No. 04-B-4517-1 (Sup. Ct. Gwinnett Cty.), *aff'd*, 631 S.E.2d 344 (Ga. 2006)

The defendant was charged with a gruesome murder of an elderly woman. For some reason, he was indicted twice. The State filed a Notice of Intent to seek the death penalty immediately after the return of the second indictment. However, when the first case came before me for arraignment, the defendant attempted to enter a plea of guilty. Had I accepted such plea, the defendant would have been sentenced to a life sentence and the death penalty option sought in the second indictment would have been foreclosed. When I refused to accept the plea of guilty to the first indictment, the defendant appealed. On appeal, the Georgia Supreme Court affirmed and held that there was no merit to the defendant's claim that he had a "legal right" to plead guilty to the first indictment. Thus, his case was returned to trial, wherein the State dismissed the first indictment and proceeded on the second indictment where it had the option of seeking a death sentence. Ironically, the State and defendant ultimately worked out a plea on the second indictment that did not call for the death penalty.

District Attorney:

Danny J. Porter
Gwinnett Justice and Administration Building
75 Langley Drive
Lawrenceville, Georgia 30046
(770) 822-8400

Mr. Sander's Attorney:

Walt Britt
Chandler, Britt & Jay, LLC
4350 South Lee Street
P.O. Box 1749
Buford, Georgia 30515
(770) 271-2991

6. *Stump ex rel. the Estate of Rowland v. Young*, No. 07-A-5547-1 (Sup. Ct. Gwinnett Cty.), *aff'd*, 669 S.E.2d 148 (Ga. Ct. App. 2008)

Mr. Rowland and Ms. Young were formerly married, but they divorced in 2000. Their settlement agreement provided that Mr. Rowland was entitled to retain any and all retirement accounts in his name and that Ms. Young waived and forever relinquished any and all claims to such funds. The problem was that when he died some seven years after the divorce, Mr. Rowland had failed to remove Ms. Young as the beneficiary of one of his IRAs. The issue was whether Mr. Young

had relinquished any claim to these funds pursuant to the waiver provision in the settlement agreement, despite that she was still named as the beneficiary. I concluded that she had so waived her claims to these funds. Decision supplied. The Court of Appeals of Georgia agreed.

Ms. Young's Attorney:

Alan Mullinax
(Retired)
1400 Natchez Way
Grayson, Georgia 30017
(770) 337-3688

Ms. Stump's Attorney:

Randall Constantine
Mazursky Constantine, LLC
999 Peachtree Street NE
Atlanta, Georgia 30309
(404) 888-8820

7. *In re Gwinnett Grand Jury*, No. 07-A-08988-1 (Sup. Ct. Gwinnett Cty.), *aff'd*, 668 S.E.2d 682 (Ga. 2008)

The Gwinnett County grand jury reviewed the dissolution of the County's Office of Internal Audits, and it issued public presentments and recommendations to the County critical of the county's decision. Gwinnett County then made a request under the Open Records Act seeking a copy of the records and files used by the grand jury in its civil investigation. When the District Attorney refused to produce the material, Gwinnett County filed an action in the Superior Court to obtain the records. In ruling on this issue, I concluded that the grand jury materials were not court records subject to public inspection and disclosure under Georgia law. Decision supplied. The Supreme Court of Georgia affirmed.

District Attorney:

Danny J. Porter
Gwinnett Justice and Administration Building
75 Langley Drive
Lawrenceville, Georgia 30046
(770) 822-8400

Gwinnett County Attorney:

Richard Carothers
Carothers & Mitchell

1809 Buford Highway
Buford, Georgia 30518
(770) 932-3552

8. *State v. Chenoweth*, No. 02-B-03695-1 (Sup. Ct. Gwinnett Cty.), *aff'd*, 635 S.E.2d 730 (Ga. 2006)

Mr. Chenoweth, along with two co-defendants, was charged with various crimes in Gwinnett County, including murder. Previously, he had been arrested on a theft by receiving a motor vehicle charge in DeKalb County, where he requested and received appointed counsel. While in the DeKalb jail, Gwinnett County police officers interviewed Mr. Chenoweth for the murder that incurred in Gwinnett County without contacting the attorney who had been appointed to represent in DeKalb County on the theft charge. At trial on the murder charge, Mr. Chenoweth contended that the failure to contact his DeKalb attorney before questioning him for the murder in Gwinnett was a violation of his constitutional rights and rendered his statements to police inadmissible. I ruled that his statements were admissible and denied his motion for a new trial. Decisions supplied. On appeal, the Supreme Court of Georgia agreed.

District Attorney:

Danny J. Porter
Gwinnett Justice and Administration Building
75 Langley Drive
Lawrenceville, Georgia 30046
(770) 822-8400

Mr. Chenoweth's Attorney:

Wystan Getz
DeKalb County Solicitor General's Office
556 North McDonough Street, Suite 500
Decatur, Georgia 30030-3355
404-371-2201

9. *State v. Sanders*, No. 04-B-04516-1 (Sup. Ct. Gwinnett Cty.), *aff'd in part, rev'd in part, Britt v. Georgia*, 653 S.E.2d 713 (Ga. 2007)

Attorneys representing an indigent defendant in a capital punishment case served subpoenas for the production of evidence on the Public Defender Standards Council and on the Office of Capital Defender regarding the indigent capital defendant funding crisis, which had resulted in a lack of money to pay for counsel and for expert witnesses. I denied the Council's motion to quash the subpoenas, but held the attorneys in contempt for refusing to go forward with the proceedings. Decisions supplied. On appeal, the Supreme Court of Georgia held

that the requested documents had no bearing on the defendant's guilt or innocence and were irrelevant. At the same time, the Supreme Court upheld the citation of contempt which I had issued. After this appeal, the Office of Capital Defender became more responsive in providing the financial resources so as to let this case proceed. It ended with a plea deal in which the defendant did not receive a death sentence.

District Attorney:

Danny J. Porter
Gwinnett Justice and Administration Building
75 Langley Drive
Lawrenceville, Georgia 30046
(770) 822-8400

Mr. Sanders' Attorney:

Walt Britt
Chandler, Britt & Jay, LLC
4350 South Lee Street
Buford, Georgia 30515
(770) 271-2991

Public Defenders Standards Council Attorney:

Robert Remar
Rogers & Hardin
2700 International Tower
229 Peachtree Street NE
Atlanta, Georgia 30303
(404) 420-4631

10. *Hamilton State Bank v. Twenty-Nine Management, LLC et al.*, No. 11A06828-1 (Sup. Ct. Gwinnett Cty.), *aff'd*, No. A13A0468 (Ga. Ct. App. 2013)

Hamilton State Bank sued to collect amounts due on promissory notes given by Twenty Nine and personally guaranteed by Mr. Gatson. In their answer, the defendants denied owing any amount on the notes, asserted various affirmative defenses, and counterclaimed for damages based on allegations of fraudulent inducement and breach of the duty of good faith and fair dealing. I granted summary judgment on all claims in favor of Hamilton State Bank. Decisions supplied. On appeal, the Court of Appeals agreed and affirmed.

Twenty-Nine Management's Attorney:

Matthew Parks Benson

Mahaffey Pickens Tucker, LLP
1500 North Brown Road, Suite 125
Lawrenceville, Georgia 30043
(770) 232-0000

Hamilton State Bank's Attorney:

Joseph Cooley, III
Wayne Farms LLC
4100 Continental Drive
Oakwood, Georgia 30566
(770) 297-3403

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

1. *State v. Hammonds*, 755 S.E.2d 214 (Ga. Ct. App. 2014).

District Attorney:

Peter J. Skandalakis
Coweta Circuit
Troup County Courthouse Annex, 3rd Floor
100 Ridley Avenue, Suite 3500
LaGrange, Georgia 30240
(706) 298-3708

Defense Attorney:

Jerry Mac Christian Pilgrim
The Pilgrim Group LLC
845 S. Carroll Road Suite A & B
P.O. Box 2200
Villa Rica, Georgia 30180
(770) 459-9210

2. *Bharadia v. State*, 755 S.E.2d 273 (Ga. Ct. App. 2014), *aff'd*, 774 S.E.2d 90 (Ga. 2015).

Appellant's Attorney:

Steven Lee Sparger
Jackson & Schiavone
1111 Bull Street

Savannah, Georgia 31401
(912) 232-2646

District Attorney:

Meg Heap
Chatham County
133 Montgomery Street, Suite 600
P.O. Box 2309
Savannah, Georgia 31402
(912) 652-7308.

3. *Deal v. Miller*, 739 S.E.2d 487 (Ga. Ct. App. 2013), *aff'd*, 761 S.E.2d 274 (Ga. 2014).

Appellant's Counsel:

Chris Carr
Attorney General of Georgia
40 Capitol Square, SW
Atlanta, Georgia 30334
(404) 656-3300

Appellees' Counsel:

Sarah Elisabeth Geraghty
Southern Center for Human Rights
83 Poplar Street, NW
Atlanta, Georgia 30303
(404) 688-1202

4. *Cost Management Group, Inc. v. Bommer*, 755 S.E.2d 537 (Ga. Ct. App. 2014).

Appellant's Attorney:

G. Brian Raley
Raley & Sandifer
945 East Paces Ferry Road #2650
Atlanta, Georgia 30326
(404) 995-9000

Appellee's Attorney:

Gary Stuart Freed,
Freed Howard LLC

101 Marietta Street NW, Suite 3600
Atlanta, Georgia 30303
(470) 839-9300

5. *Hodge v. URFA-Sexton*, 746 S.E.2d 142 (Ga. Ct. App. 2013), *aff'd*, 758 S.E.2d 314 (Ga. 2014).

Appellant's Attorney:

Michael Arthur Mills
1349 W. Peachtree Street NW, Suite 1995
Atlanta, Georgia 30309
(404) 815-9220

Appellee's Attorney:

Brynda Rodriguez Insly
The Mayfair Royal
181 14th Street NE, Suite 200
Atlanta, Georgia 30309
(404) 876-9818

6. *State v. Hughes*, 750 S.E.2d 789 (Ga. Ct. App. 2013), *aff'd*, 770 S.E.2d 636 (Ga. 2015).

District Attorney:

Julia Slater
Chattahoochee Judicial Circuit
100 Tenth Street, Third Floor Tower
Columbus, Georgia 31901
(706) 653-4336

Defense Attorney:

Richard Hagler
Hagler, Jackson & Walters, Attorneys at Law
927 Third Avenue
P.O. Box 2055
Columbus, Georgia 31902

7. *Lewis v. State*, 767 S.E.2d 771 (Ga. Ct. App. 2014), *aff'd*, 779 S.E.2d 643 (2015).

Appellant's Attorney:

Michael Brown
Alton & Bird
One Atlantic Center
1201 West Peachtree Street
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(404) 881-7589

Assistant District Attorney:

Leonora Grant
DeKalb District Attorney's Office,
556 N. McDonough Street, Suite 700
Decatur, Georgia 30030
(404) 371-2561

8. *Piedmont Newman Hospital, Inc. v. Barbour*, 774 S.E.2d 811 (Ga. Ct. App. 2015).

Appellant's Attorney:

Paul Weathington
Weathington McGrew, Attorneys at Law
191 Peachtree Street NE, Suite 3900
Atlanta, Georgia 30303
(404) 524-1600

Appellee's Attorney:

Lloyd Noland Bell
Bell Law Firm
1201 Peachtree Street NE, Suite 2000
Atlanta, Georgia 30361
(404) 249-6768

9. *Montgomery v. Bank of America*, 740 S.E.2d 434 (Ga. Ct. App. 2013).

Appellant's Attorney:

Douglas Daum
Douglas R. Daum LLC
3260 Highway 78
Snellville, Georgia 30078
(770) 979-9369

Appellee's Attorney:

Brooke Fanklin Voelzke,
Hunton & Williams
600 Peachtree Street NE, Suite 4100
Atlanta, Georgia 30308
(404) 888-4171

10. *State v. Kazmierczak*, 771 S.E.2d 473 (Ga. Ct. App. 2015).

District Attorney:

Victor Reynold
Cobb County District Attorney
70 Haynes Street
Marietta, Georgia 30090
(770) 528-3080

Defense Attorney:

Hylton Dupree, Jr.
Hylton Dupree Jr., PC
49 Green Street SE
Marietta, Georgia 30060
(770) 424-7171

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

Bickerstaff v. Suntrust, 770 S.E.2d 903 (Ga. App. 2015), *rev'd*, 788 S.E.2d 787 (Ga. 2016) *cert. denied*, 137 S. Ct. 571 (2016)

Castaneira v. State, 740 S.E.2d 400, (Ga. App. 2013), *cert. denied*, 2013 Ga. LEXIS 814, *cert. denied*, 134 S. Ct. 1797 (2014)

Cook v. Bottesch, 740 S.E.2d 752 (Ga. App. 2013), *rev'd*, 761 S.E.2d 267 (Ga. 2014), *cert. denied*, 135 S. Ct. 727 (2014)

Georgia v. Carlisle, No. 97-B-0731-1 (Sup. Ct. Gwinnett Cty.), *rev'd in part and aff'd in part*, 615 S.E.2d 543 (Ga. App. 2005), *rev'd*, 631 S.E.2d 347 (Ga. 2006), *cert. denied*, 127 S. Ct. 584 (2006)

Hutchinson v. Whaley, 777 S.E. 2d 251 (Ga. App. 2015), *cert. denied*, 2016 Ga. LEXIS 59 (2016), *cert. denied*, 136 S. Ct. 2491 (2016)

In the Interest of S.M.B., 735 S.E.2d 122 (Ga. App. 2012), *cert. denied*, 2013 Ga. LEXIS 392 (2013), *cert. denied*, 134 S. Ct. 237, 187 (2013)

Leopold v. State, 777 S.E. 2d 254 (Ga. App. 2015), *cert. denied*, 2016 Ga. LEXIS

27 (2016), *cert. denied*, 136 S. Ct. 2468 (2016)

Lima Delta Co. v. Global Aero., Inc., 752 S.E. 2d 135 (Ga. App. 2013), *cert. denied*, 2014 Ga. LEXIS 279 (2014), *cert. denied*, 135 S. Ct. 166 (2014)

Redford v. State, 782 S.E.2d 791 (Ga. App. 2016), *cert. denied*, 2016 Ga. LEXIS 433 (2016), *cert. denied*, 137 S. Ct. 392 (2016)

- 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.

Reversals of Georgia Court of Appeals opinions I authored:

As a judge on the Court of Appeals of Georgia for nearly five years, I have authored approximately 305 unpublished opinions and 276 published opinions. Of those 581 cases, the Supreme Court of Georgia reversed, in whole or in part, or affirmed using a different rationale in the following 12 cases:

Bickerstaff v. Suntrust, 770 S.E.2d 903 (Ga. App. 2015), *rev'd*, 788 S.E.2d 787 (Ga. 2016). This case involved a dispute between a bank customer and his bank over allegedly usurious bank overdraft fees. The Court of Appeals agreed with the trial court that the plaintiff could not seek class certification of his claims because the class members did not timely notify the bank of their intent to reject arbitration of the underlying dispute. However, the Supreme Court disagreed, finding that the filing of the complaint by the plaintiff implicitly represented a rejection of the arbitration agreement and tolled the time period that the putative class members likewise had to reject arbitration.

Lyman v. Cellchem International, Inc., 779 S.E.2d 474 (Ga. App. 2015), *rev'd in part*, 769 S.E.2d 255 (Ga. 2017). Plaintiff won a jury trial on claims for computer trespass and computer theft, breach of fiduciary duty, and tortious interference with business relations. The Court of Appeals reversed the judgment on various claims and remanded for a new trial on others. Upon consideration, the Supreme Court largely affirmed our holdings, but did conclude that the Court of Appeals was incorrect when it ruled that punitive damages were allowable as a remedy under the Georgia Computer Systems Protection Act.

State v. Springer, 762 S.E.2d 433 (Ga. App. 2014), *rev'd*, 744 S.E.2d 106 (Ga. 2015). Defendant was convicted for both aggravated assault and involuntary manslaughter for the same act. Although these verdicts seemed to be internally inconsistent, the Court of Appeals affirmed the convictions based on precedent, but encouraged the Supreme Court to review and potentially set aside its precedent. The Supreme Court did review and overturn its precedent, which

meant that it also reversed the Court of Appeals judgment.

Shirley v. State, 765 S.E.2d 491 (Ga. App. 2014), *rev'd*, 777 S.E.2d 444 (Ga. 2015), 785 S.E.2d 24 (Ga. App. 2016). The Court of Appeals agreed with the trial court that a magistrate judge properly granted a warrant to search the computer of a man suspected of receiving child pornography from a website based in Germany. Indeed, when the computer was searched, it did contain the suspected pornographic images. However, the Supreme Court did not believe that the magistrate had sufficient facts to make an independent determination of probable cause to issue the warrant and, thus, reversed.

Hartley v. Agnes Scott College, 741 S.E.2d 199 (Ga. App. 2013), *rev'd*, 759 S.E.2d 857 (Ga. 2014). The plaintiff alleged that she was wrongly arrested by the police of a private college. The Court of Appeals held that the trial court should have granted summary judgement to the college, because the police had immunity under the Georgia Tort Claims Act. The Supreme Court disagreed, concluding that police officers of private colleges and universities did not qualify for immunity under the Act.

Rollins v. Rollins, 741 S.E.2d 251 (Ga. App. 2013), *rev'd in part*, 755 S.E.2d 727 (Ga. 2014), upon remand, 766 S.E. 162 (Ga. App. 2014), *vacated*, 780 S.E.2d 328 (Ga 2015), upon remand, 790 S.E.2d 157 (Ga App. 2016), *cert. denied* (April 17, 2017). This case, which is still pending in the trial court, is an intergenerational fight between the children and the grandchildren of a deceased businessman who set up a series of complicated and interrelated trusts designed to perpetuate his businesses, hold his wealth, and parcel such wealth to his descendants over a long period of time. The Court of Appeals has twice been reversed by the Supreme Court in its review of the various legal issues confronting the parties. Ultimately, however, the Supreme Court has agreed with the Court of Appeals that issues remain for trial as to whether there exists breach of fiduciary duties and breach of trusts, and if so, the amount of any damages.

Hodge v. Urfa Sexton, LP, 746 S.E.2d 142 (Ga App. 2013), *vacated*, 758 S.E.2d 314 (Ga. 2014). In a case of first impression in Georgia, the Court of Appeals agreed that a law firm's employment of proper screening measures could remedy a conflict of interest involving a non-lawyer. The Supreme Court of Georgia granted certiorari and agreed with our conclusion. However, the Court vacated and remanded for the trial court to determine whether the firm timely gave written notice regarding the conflict.

State v. Lampl, 750 S.E.2d 685 (Ga. App. 2013), *rev'd*, 770 S.E.2d 629 (Ga. 2015). A city employee testified regarding city business before a special purpose grand jury that was empaneled to investigate corruption by county employees and county officials. The Court of Appeals agreed with the trial court that the grand jury exceeded its scope and the statements would be inadmissible and the counts related thereto should be dismissed. The Supreme Court agreed with our holding

that the grand jury had exceeded its authority in its investigation, but it found that the dismissal of the counts in the indictment and the suppression of the evidence discovered in the unauthorized investigation was too extreme of a sanction.

State v. Hughes, 750 S.E.2d 789 (Ga. App. 2013), *aff'd*, 770 S.E.2d 636 (Ga. 2015). Following a fatal accident, defendant's blood test indicated he was on drugs. The trial court suppressed the results of the drug test, saying the police officers did not have probable cause to conduct the test. The Court of Appeals reversed. The Supreme Court upheld our decision, although it concluded that some of the evidence upon which we relied to find that there was probable cause did not give proper deference to the trial judge's conclusions.

Deal v. Miller, 739 S.E.2d 487 (Ga. App. 2013), *aff'd*, 761 S.E.2d 274 (Ga. 2014). This lawsuit involved indigent parents who were held in contempt and incarcerated for failure to pay child support following civil contempt proceedings where they alleged they could not afford a lawyer. The trial court granted class certification, and the Court of Appeals reversed, concluding certification was not warranted. The Supreme Court granted certiorari and affirmed the denial of class certification, but used in part different reasoning. The Supreme Court interpreted our opinion to state that a person who had a right to counsel at government expense could waive that right even if he or she did not know that it was a right, which the Supreme Court stated was incorrect.

Williams v. The State, 732 S.E.2d 531 (Ga. App. 2012), *rev'd*, 750 S.E.2d 355 (Ga. 2013). We affirmed the trial court's denial of a motion to suppress evidence obtained against a drunk driver arrested at a roadblock. The defendant claimed the stop violated his Fourth Amendment rights. The Supreme Court agreed with our conclusion that the officer who decided to implement the roadblock was acting as a supervisor, but reversed because it found the state failed to prove the roadblock program had a primary purpose other than ordinary crime control.

Johnson v. Omondi, 736 S.E.2d 129 (Ga. App. 2012), *rev'd*, 715 S.E.2d 288 (Ga. 2013). This case involved the interpretation and application of a recent Georgia tort reform statute related to legal actions brought against hospitals and attending professionals for emergency room care. The Court of Appeals' decision affirmed the trial court, which had granted summary judgment to the hospital on the grounds that the plaintiff could not prove the required "gross negligence" by the heightened standard of "clear and convincing evidence." Upon further review, the Supreme Court disagreed and held that facts issues remained for trial.

Reversals of Opinions of the Court of Appeals of Georgia where I had concurred with the majority:

As a judge on the Court of Appeals of Georgia for nearly five years, I have joined the majority opinion written by a colleague in approximately 484 unpublished opinions and 1,456 published opinions. Of those 1,940 cases, on direct further

review the Supreme Court of Georgia reversed, in whole or in part, or affirmed using a different rationale, in the following 13 cases:

Six Flags Over Georgia II, L.P. v. Martin, 780 S.E.2d 796 (Ga. App. 2015), *aff'd in part and rev'd in part*, 2017 WL 2414685 (Ga. 2017). This case involved a jury verdict awarding damages to an amusement park patron who was attacked by gang members. In this *en banc* appeal, I joined the majority opinion which upheld the liability of the amusement park, but reversed the judgment and remanded for a new trial due to the trial court's error on the jury verdict form under Georgia's apportionment statute. On certiorari, the Supreme Court agreed that the amusement park had liability, but ruled that the new trial on remand could be limited to apportionment, rather than a full retrial.

Fletcher v. Water Applications Dist. Group, 773 S.E.2d 859 (Ga. App. 2015), *aff'd in part and rev'd in part*, 794 S.E.2d 641 (Ga. 2016). The daughter of a pipe fitter sued the manufacturer for injuries to her alleged to arise out of contact with her father's asbestos-tainted work clothing. The trial court dismissed the claim. The majority opinion of the Court of Appeals reversed, concluding that a genuine issue of material fact existed as to whether the manufacturer had a duty to warn. I joined the dissent, which would have affirmed the trial court's dismissal on the grounds of a lack of foreseeability. On certiorari review, the Supreme Court agreed with the dissent that the trial court's dismissal of this claim was correct, but its rationale was based on the issue of duty rather than foreseeability.

Scapa Dryer Fabrics, Inc. v. Knight, 770 S.E.2d 334 (Ga. App. 2015), *rev'd*, 788 S.E.2d 241 (Ga. 2016). A jury awarded damages to a contractor against a manufacturing plant for alleged injuries arising out of exposure to asbestos. The manufacturer appealed, and I joined in "judgment only" to the majority opinion which affirmed the judgment. The Supreme Court of Georgia reversed, as it held that certain expert testimony for the plaintiff was inadmissible to prove causation.

Watson v. State, 765 S.E.2d 24 (Ga. App. 2014), *aff'd in part and rev'd in part*, 777 S.E.2d 24 (Ga. 2015). The defendant was convicted in a jury trial for sexual offenses involving his teenaged daughter and her friend. On appeal, I joined the majority's opinion that affirmed his conviction to all counts. On certiorari, however, the Supreme Court reversed the defendant's conviction for one count of sexual battery, holding that one of the jury instructions given by the trial court as to such count was improper.

Oliver v. McDade, 762 S.E.2d 96 (Ga. App. 2014), *aff'd in part and vacated in part*, 772 S.E.2d 701 (Ga. 2015). In this *en banc* case, the majority affirmed the trial court's denial of partial summary judgement on the issue of emotional distress claims resulting from a deadly motor vehicle accident. The Supreme Court affirmed that fact questions remained for trial, but vacated the Court of Appeal's rationale as to how Georgia's pecuniary loss rule applied in this case, as the Supreme Court felt that it any such decision in that regard was premature.

Callaway v. Garner, 755 S.E.2d 526 (Ga. App. 2014), *aff'd in part and rev'd in part*, 772 S.E.2d 668 (Ga. 2015). I joined the majority opinion in the Court of Appeals affirming a trial court's grant of specific performance of a stock purchase agreement. On certiorari, the Supreme Court also affirmed the verdict, but it reversed the award of attorney's fees.

Parker v. State, 756 S.E.2d 300 (Ga. App. 2014), *rev'd in part and vacated*, 769 S.E.2d 329 (Ga. 2015). A defendant convicted of speeding and driving under the influence appealed, arguing that the trial court erred in denying the defendant's motion to subpoena out of state agents for the company that manufactured the breath test machine. I joined the majority opinion of the Court of Appeals which affirmed the decision of the trial court not to issue the subpoena. On certiorari, the Supreme Court concluded that the trial court improperly excluded evidence proffered by the defendant under the hearsay rule, and remanded to the trial court to consider the issue anew.

Georgia Dept. of Corrections v. Couch, 744 S.E.2d 432 (Ga. App. 2013), *aff'd in part and rev'd in part*, 759 S.E.2d 804 (Ga. 2014). A jury awarded an inmate damages against the Department of Corrections for injuries sustained while the inmate was on a work detail. I joined the Court of Appeal's decision affirming the judgment at trial and concluding that the claim for attorney's fees was not barred by sovereign immunity. On certiorari, the Supreme Court affirmed the judgment, but disagreed with the manner in which the attorney's fees were calculated.

Cook v. Bottesch, 740 S.E.2d 752 (Ga. App. 2013), *rev'd*, 761 S.E.2d 267 (Ga. 2014). The Court of Appeals reversed lower court rulings which had deferred to administrative agencies' interpretation of a certain federal statute regarding whether a Medicaid applicant's purchase of an annuity was subject to an asset transfer penalty. The Court of Appeals concluded that the terms of the underlying statute did not provide for such penalty. However, on certiorari, the Supreme Court of Georgia concluded that the statute at issue was ambiguous, such that reviewing courts were required to defer to the agency interpretation.

Andrews v. State, 739 S.E.2d 445 (Ga. App. 2013), *vacated*, 2013 Ga. LEXIS 703 (Ga. 2013). The Court of Appeals affirmed the denial of the defendant's motion to withdraw his guilty plea entered ten years earlier and held that the defendant waived the issue as to whether two counts merged for purposes of sentencing. The Supreme Court of Georgia vacated this ruling and directed that we reconsider the issue of merger in light of its recent decision in *Nazario v. State*, 746 S.E.2d 109 (2013), which had overruled long-standing precedent of the Supreme Court by holding that the entry of a guilty plea does not waive a claim that the convictions based on the guilty plea merged as a matter of law or fact.

Rodriguez v. State, 746 S.E.2d 366 (Ga. App. 2013). I concurred “in judgment only” to this per curiam, en banc opinion of the Court of Appeals, which affirmed defendant’s drug conviction and the denial of defendant’s motion to suppress. The Supreme Court agreed on the merits, but vacated the Court of Appeals’ opinion due to jurisdictional considerations because the case should have been transferred to the Supreme Court in light of the divided Court of Appeals, which is one reason why I initially had concurred “in judgment only” to the opinion.

Walker v. State, 747 S.E.2d 51 (Ga. App. 2013), *rev’d*, 764 S.E.2d 804 (Ga. 2014). In this case, the majority opinion reversed a defendant’s conviction for drug charges and obstruction, holding the trial court erred in denying defendant’s motion to suppress evidence. The majority concluded that the police officer improperly escalated his encounter with the defendant into an investigatory stop, but that the officer did not have reasonable suspicion of criminal activity. I joined the dissent, which concluded that the police officer had legal authority to briefly detain the defendant under the circumstances of the case. On certiorari review, the Supreme Court of Georgia reversed the majority opinion of the Court of Appeals, finding that the defendant was not seized at the time of his initial encounter with the officer, such that evidence subsequently recovered should not have been suppressed.

Hargis v. State, 735 S.E.2d 91 (Ga. App. 2012), *rev’d*, 756 S.E.2d 529 (Ga. 2014). On appeal from the defendant’s conviction for drug crimes, the Court of Appeals held that the trial court erred when it did not recuse itself after receiving ex parte communications from a co-defendant’s counsel and also erred in failing to grant the defendant’s motion to suppress. The Supreme Court reversed, finding that the issue of the disqualification of the judge had not been preserved for appellate review and that the police officer had probable cause to enter defendant’s vehicle incident to the defendant’s arrest for providing a false identification document so as to search for evidence of that crime.

Reversals of Superior Court decisions:

During my ten plus years as a Judge on the Superior Court of Gwinnett County, I presided over more than 13,000 civil and criminal cases. Of those cases, the Court of Appeals of Georgia or the Supreme Court of Georgia reversed decisions that I made or reversed the jury verdict in the following 16 cases:

Patterson v. Long, No. 12A03678-1, *aff’d in part and rev’d in part*, 741 S.E.2d 242 (Ga. App. 2013). I denied a motion to modify an arbitration award, but nonetheless vacated and remanded the award, finding that the arbitrator had manifestly disregarded the law of strict liability, and instead applied contributory and comparative negligence principles. Decision supplied. The Court of Appeals held that I erred in vacating the arbitration order, as the facts did not demonstrate sufficiently that there were clearly governing legal principles which the arbitrator intentionally disregarded in his ruling.

Fox v State, No. 07-B-4721-1, *affirmed in part and rev'd in part*, 709 S.E.2d 202 (Ga. 2011). The defendant was convicted in a jury trial of malice murder and armed robbery. On direct appeal, the Supreme Court of Georgia found that while the evidence was sufficient to support the conviction of malice murder, the evidence was insufficient to support the conviction for armed robbery.

Wilken Investments, LLC v. Plamondon, No. 06-A-05114-1, *vacated*, 712 S.E.2d 576 (Ga. App. 2011). The plaintiffs filed suit asserting breach of contract and other claims. After they obtained a default judgment against one defendant, the other defendant filed a motion to dismiss, which I granted in a summary written order. Order supplied. On appeal, the Court of Appeals vacated the order dismissing the plaintiffs' claims because it was unable to determine from the order whether the decision was or was not warranted. It remanded the case for further consideration.

Walker v. State, No. 08-B-5183-1, *aff'd in part and rev'd in part*, 675 S.E.2d 270 (Ga. App. 2009). In a jury trial, the defendant was convicted of various sexual offenses against a minor. The Court of Appeals affirmed two counts against the defendant, but it reversed one count. As to such count, it found that the defendant was prejudiced due to defense counsel's failure to object to impermissible bolstering testimony.

Britt v. State, No. 04-B-04516-1, *aff'd in part, rev'd in part*, 653 S.E.2d 713 (Ga. 2007). Attorneys representing an indigent defendant in a capital punishment case served subpoenas for the production of evidence on the Public Defender Standards Council and on the Office of Capital Defender regarding the indigent capital defendant funding crisis, which had resulted in a lack of money to pay for attorney's fees and for expert witnesses. I denied the Council's motion to quash the subpoenas, as I was hoping that such subpoenas would cause the State to come up with money to fund the defense. Decisions previously supplied in response to Question 13c. On appeal, the Supreme Court of Georgia reversed, holding that the requested documents had no bearing on the defendant's guilt or innocence and were irrelevant. At the same time, after it prevailed in this appeal, the Office of Capital Defender became more responsive in providing the financial resources so as to let this case proceed.

Edwards v. State, No 98-B-03762-1, *vacated*, 641 S.E.2d 193 (Ga. App. 2007). The defendant filed a motion for credit for the time he served in pretrial confinement for his drug charges. I granted some, but not all, of the credit he requested toward his sentence by filing a written amended sentence. Order supplied. The defendant appealed seeking more credit than I had allowed. On appeal, the Court of Appeals concluded that the decision as to how much credit he was entitled to receive should be resolved by the Department of Corrections. Thus, while it denied the relief that the defendant was seeking, it vacated the trial court ruling.

Valdez v. R. Construction, Inc., No. 05-A-07894-1, *rev'd*, 646 S.E.2d 329 (Ga. App. 2007). A worker filed an action against his employer alleging that the employer failed to pay for work he performed under the contract. I dismissed the complaint due to a previous action which had been filed in another court wherein the worker had asserted the same claims. Decisions supplied. On appeal, however, the Court of Appeals found that the record did not indicate that the previous action had resulted in a decision on the merits, as the worker's claim therein was dismissed for want of prosecution. Thus, the decision was reversed and the case remained for further consideration.

Mowell v. Marks, No. 02-A-8523-1, *rev'd*, 627 S.E.2d 141 (Ga. App. 2006). The mother of a 16 year old minor killed in a single car accident after leaving a party brought action against the hosts and owner of the home where the party was held who allegedly furnished beer to the minor. I granted summary judgment to the defendants. Decision supplied. However, the Court of Appeals reversed and remanded for trial, as it believed that fact issues remained as to whether the defendants intentionally provided the minor with beer, and it concluded that the fact that the homeowner was not present during the party and did not know that the minor was in attendance did not preclude the possibility of liability for intentionally furnishing alcohol to the minor.

Nationwide Mut. Ins. Co. v. Progressive Bayside Ins. Co., No. 04-A-13398-1, *rev'd*, 628 S.E.2d 177 (Ga. App. 2006). A motorcyclist's automobile insurer brought a declaratory judgment action against the motorcyclist and the insurer for his motorcycle, contending that the insurance policy covering the motorcycle provided the primary underinsured motorist (UM) coverage. I entered a summary judgment that prorated coverage between the two policies. Decision supplied. However, the Court of Appeals held that the UM coverage on the motorcycle policy was primary and that the UM coverage for the automobile was excess.

Insight Tech., Inc. v. Freightcheck, No. 04-A-2940-1, *aff'd in part and rev'd in part*, 633 S.E.2d 373 (Ga. App. 2006). A freight factoring company brought action against its former president and competitors, alleging a breach of fiduciary duty, misappropriation of trade secrets, misappropriation of corporate opportunities, and fraud. I granted the defendants a partial summary judgment. Decision supplied. The Court of Appeals affirmed in part and reversed in part, agreeing that some of the claims which I dismissed were invalid, but finding that genuine issues of material fact remained for trial on several of the counts.

Hobbs v. Lovelady, No. 03-A-03610-1, *aff'd in part and rev'd in part*, 611 S.E.2d 661 (Ga. App. 2005). A landowner brought action to quiet title to disputed property and to establish a prescriptive easement across the property of an adjoining landowner who planned to erect a fence that would block a shared driveway. I granted summary judgment to the adjoining landowner. Decision supplied. On appeal, the Court of Appeals determined that a genuine issue of

material fact as to the location of the boundary remained, and it remanded the case to trial.

Florescu v. State, No. 02-B-3560-1, *rev'd*, 623 S.E.2d 147 (Ga. App. 2005). In a jury trial, the defendant was convicted of aggravated stalking. Thereafter, his attorney filed a motion for new trial. I refused to rule on the motion immediately because I found that the defendant was mentally incompetent and unable to assist his counsel in challenging his conviction. My order reasoned that the defendant had a right to be present at the hearing, and that he would have to be mentally able to participate and present evidence to be able to prove his claim. Decision supplied. However, in a case of first impression, the Court of Appeals found that the defendant did not have to be mentally competent while his appellate counsel pursued the motion.

Carlisle v. State, No. 97-B-0731-1, *rev'd*, 615 S.E. 2d 543 (Ga. App. 2005), *rev'd*, 631 S.E.2d 347 (Ga. 2006). In a bench trial, the defendant was convicted as a “party to the crime” of aggravated stalking for assisting her friend with the stalking of his former girlfriend. The victim had obtained a restraining order against her former boyfriend, which meant that any further effort by him to harass her would be aggravated stalking. The Court of Appeals reversed, essentially concluding that one could not be guilty of aggravated stalking by assisting someone else in committing such offense. In certiorari review of this case, however, the Supreme Court of Georgia disagreed with the Court of Appeals and reinstated the verdict that I rendered in the bench trial.

Hostetler v. Answerthink, Inc., No.03-A-04759-1, *rev'd*, 599 S.E.2d 271 (Ga. App. 2004). A former employee brought action against his former employer for declarative and injunctive relief, challenging a non-solicitation agreement he had with his former employer that contained a Florida choice-of-law provision. The non-solicitation agreement was invalid under Georgia law as it was overbroad, but not necessarily invalid under Florida law. Accordingly, my orders invalidated the non-solicitation agreement only in the State of Georgia, leaving it to Florida as to whether it would enforce the non-solicitation agreement in its jurisdiction. Orders supplied. The Court of Appeal disagreed, holding that it was proper for Georgia to declare the agreement invalid, even in Florida, since Georgia found the agreement to be against its public policy.

State v. Colack, No 02-A-12459-3, *rev'd*, 578 S.E.2d 893 (Ga. App. 2003). This defendant had been sentenced many years earlier in a plea as a first offender for a minor offense, had completed his probation, and had no state criminal record. His attorney came to me on a Friday afternoon seeking habeas relief as he was scheduled for immediate deportation based on his state “conviction,” which, if effect, was no conviction at all. His attorney claimed that he would have never entered such a plea years earlier if he knew that it could result in his deportation. As I sensed that there were fundamental due process concerns and possibly that he had received constitutionally ineffective assistance of counsel when he entered

his plea, I granted his habeas petition ex part in a written order. Order supplied. In hindsight, I understand that this was not the proper action procedurally, and on appeal the Supreme Court reversed and remanded for me to conduct a full hearing. However, at that time I believed that it was the only way that I could preserve the status quo so that the defendant would not be prematurely deprived of his right to challenge his original plea.

Atlanta Humane Society v. Mills, No. 01-A-13269-1, *rev'd*, 591 S.E.2d 423 (Ga. Ct. App. 2003), *aff'd in part, rev'd in part*, 603 S.E.2d 289 (Ga. 2004), *remanded to* 618 S.E.2d 18 (Ga. Ct. App. 2005). The Atlanta Humane Society (AHS) and its director sued the defendant for the allegedly defamatory statements she made on an internet bulletin board regarding the practices of AHS at an animal shelter that it operated pursuant to a contract with the City of Atlanta. The defendant moved to strike the complaint under Georgia's anti-SLAPP statute and moved for summary judgment for defamation. Among other rulings, I determined that for purposes of this case that AHS was a governmental entity which could not bring an action for defamation and that its director was a limited-purpose public figure, which subjected any defamation action by him regarding statements about his acts at AHS to a higher standard of proof. Both AHS and the director appealed these rulings. Decision previously supplied in response to Question 13c. Ultimately, after the Court of Appeals reversed my initial rulings, the Supreme Court of Georgia reversed the Court of Appeals. In the end, most of the essential and material rulings that I made at the trial level were affirmed.

- 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.

If two of three judges on a panel agree, any opinion of that panel may be unpublished. These opinions do not constitute precedent of the Court. They are maintained in the public files of the case in the offices of the Clerk of Court and are available for inspection. They are maintained in paper and digital form. My practice has been to designate opinions as unpublished that do not add to the body of law or which have novel/unusual facts affecting the outcome which are not likely to reoccur in future cases. When the Court of Appeals reverses the trial court or where the judge on the panel files a dissent or concurring opinion, the opinion in that case is normally published. Since I became a Judge on the Court of Appeals of Georgia, approximately half of my opinions have been published and half have been unpublished.

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

In Georgia, appellate jurisdiction for cases involving the constitutionality of a statute, whether the State Constitution or the United States Constitution, is reserved for review by the Supreme Court of Georgia. At the Court of Appeals,

we are often called upon to consider whether certain actions by law enforcement or the procedures used in a specific trial comport with constitutional principles.

Williams v. State, 732 S.E.2d 531 (Ga App. 2012), *rev'd*, 750 S.E.2d 355 (Ga. 2013)

Deal v. Miller, 739 S.E.2d 487 (Ga. App. 2013), *aff'd*, 761 S.E.2d 274 (Ga 2014)

Valentine v. State, 748 S.E.2d 122 (Ga. Ct. 2013)

State v. Hughes, 750 S.E.2d 789 (Ga. App. 2013), *aff'd*, 770 S.E.2d 636 (Ga. 2015).

Lewis v. State, 767 S.E.2d 771 (Ga. App 2014), *aff'd*, 779 S.E.2d 643 (Ga. 2015)

State v. Richards, 755 S.E.2d 367 (Ga. App. 2014)

Springer v. State, 762 S.E.2d 433 (Ga App. 2014), *aff'd*, 774 S.E.2d 106 (2015)

Bettis v. State, 761 S.E.2d 570 (Ga. App. 2014)

Lewis v. State, 767 S.E.2d 771 (Ga. App. 2014), *aff'd*, 779 S.E.2d 643 (Ga. 2015)

Chavez-Ortega v. State, 771 S.E.2d 179 (Ga. App. 2015)

State v. Kazmierczak, 771 S.E.2d 473 (Ga. App. 2015)

Gillespie v. State, 774 S.E.2d 255 (Ga. App. 2015)

Cesari v. State, 780 S.E.2d 56 (Ga. App. 2015)

Jackson v. State, 782 S.E.2d 691 (Ga. App. 2016)

Ray v. State, 798 S.E.2d 82 (Ga. App. 2016)

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

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

As a Judge on the Court of Appeals of Georgia, I have never been asked to recuse by a party or attorney. We do not use an "automatic" recusal system, but if I determine from a review of the case file either that I can't be fair or that it would present the appearance of a conflict of interest should I serve as a judge, then on my own initiative I will recuse. If I do not believe either that I would be unfair or that the case presents an inescapable appearance of a conflict of

interest, but on the other hand that the parties and/or the attorneys should be aware of a limited connection that I might have to the case, then I will disclose that information and invite the parties to file a motion to recuse if they feel it is warranted. The cases in which I recused on the Court of Appeals are as follows:

Jehle v. Silver Dollar City, Stone Mountain Park, Inc et al., No. A12A1272. I recused from this case because the appellant was a friend of mine. I coached her son in youth baseball, football and basketball.

Berman v. State, No. A13A1437. I recused from this case because it came from Division 1 of the Superior Court of Gwinnett. Although the case was decided by a magistrate judge below, the case had been assigned to my division.

Smith v. State, No. A131759. I recused because I was the trial judge in this case.

Katuz v. Powell, No. A13A1963. I recused because I am friends with Snellville Mayor Katuz and with Powell, the city attorney of the City of Snellville.

City of Brookhaven, et al. v. City of Chamblee, No. A14A0762. I recused because one of the attorneys in the case serves as an officer on my campaign committee.

Saravia-Espinal v. State, No. A14A0835. I recused because this case was formerly pending before me on the Superior Court of Gwinnett.

Swilley v. State, No. A14A0939. I recused because this case was formerly pending before me on the Superior Court of Gwinnett.

Jurden v. HSBC, No. A14A1218. I recused because this case was formerly pending before me on the Superior Court of Gwinnett.

Erickson v. Mount Vernon Towers Condominium, No. A14A1244. I recused because the appellant was my former neighbor.

Pineda v. State, No. A14A1256. I can't recall why I recused from this case. It came from the Superior Court of Gwinnett. My speculation is that it may have formerly been assigned to my division.

McCommons v. Peoples Bank, No. A15A1512. I recused because my administrative assistant lives in a small rural town where the Peoples Bank is located and she does business with this bank.

Taylor v. State, No. A14I0193. I recused because this case had formerly been assigned to me in the Superior Court of Gwinnett.

Drury, III v. German Am. Capital Corp., No. A15D0020. I recused because the appellant was a fraternity brother at the University of Georgia.

Marks et al. v. Flowers Crossing Community Assoc., No. A15A0334. I recused because this case was formerly pending before me on the Superior Court of Gwinnett.

RES-Ga SCL, LLC v. Stonecrest Land, LLC et al., No. A15A0458. I recused because one of the principals in the Appellee was a former client.

RES-Ga Hightower, LLC v. Golshani, No. A15A0987. I recused because I had an inadvertent discussion about the case with an attorney not associated with this case, but who was interested in the outcome, before the opinion was released by the Court of Appeals. I was under the mistaken impression that the opinion had already been released. When I realized that it had not been released, I decided on my own to recuse to avoid the appearance of impropriety.

Stonecrest Land, LLC et al. v. RES-GA SCL, LLC, No. A15A1438. I recused because one of the principals in the Appellee was a former client.

Dillard Land Investments, LLC v. South Florida Investments, LLC et. al., No. A16A0562. I can't recall exactly why I recused in this case. I note that the attorney for the appellant is a former law partner, but I would not have recused for that reason. I suspect that one of the principals in the appellant was a former client of mine.

O'Neal v. Crawford County, No. A16A0912. I recused because I had discussed this case with the trial judge at a social event. I was interested in this case, which led to our discussion, because I am a native of Crawford County and I knew the family of the appellant.

Duron v. State, No. A16A1942. I can't recall why I recused from this case. I note that it originated from the Superior Court of Gwinnett County, and it is possible that I had presided over this case at one time when I was a trial judge.

In Re: Thompson, No. A16A0923. I recused in this case because the appellant, Thompson, is a State Senator from my home county and with whom I am personally acquainted since I am a former State Senator myself.

As a Judge on the Superior Court, I was asked from time to time to recuse from specific cases. If I believed that there was either a conflict of interest or even an appearance of such, then I would recuse. If I did not believe that to be the case, I would follow the Uniform Superior Court Rules in deciding the issue. This procedure involved temporarily suspending action on the case and calling in another judge to decide whether a recusal was warranted.

I did not personally keep track of the cases in which I recused when I was a trial judge, and for the most part, I do not remember the specific cases in which I

recused or the reason that I recused. Unfortunately, the records available to the Clerk of the Superior Court of Gwinnett County on this issue are sparse, and what records are available are often hard to interpret or understand. I do state, however, that for a period of 1-2 years after my appointment, I recused from any case in which an attorney in my former law firm represented a party and from any case which originated with the firm while I was still practicing there. I also would recuse from cases where a party was a former client. The cases listed below are those in which I recused in which there is some record of the recusal maintained by the Clerk of the Superior Court. I do not have records for recusals in 2004, 2006, or 2007. I have listed the reason for recusal where I can recall it specifically.

Anderson v. Riechel, No. 11-A-03621 (2012)
Beckford v. Clarke, No. 12-A-07319 (2012)
Boudreau-Alexander v. Alexander, No. 12-A-04595 (2012)
State v. Ringold, No. 09-B-04942 (2012)
Muirhead v. Evans, No. 11-A-00933 (2011)
Powell v. Georgia Dept. of Labor, No. 10-A-07387 (2011)
Nguyen v. State of Georgia, No. 11-A-04231 (2011)
Canino v. Davis, No. 11-A-04572 (2011)
Huttenbach v. State of Georgia, No. 11-A-06069 (2011)
Resga Seven LLC v. Riverside Development, No. 11-A-05649 (2011)
Hart v. Hart, No. 11-A-08892 (2011)
Shoemaker v. Shoemaker, No. 11-A-06707 (2011) (friends with parties)
Shoemaker v. Shoemaker, No. 11-A-06709 (2011) (friends with parties)
State v. Jackson, No. 07-B-05451 (2011)
Dykes v. Jackson, No. 09-A-09856 (2010)
Neely v. Blackhawk Builders, Inc., No. 10-A-01600 (2010)
Taji v. Gwinnett County Board of Tax Assessors, No. 09-A-08671 (2010)
Cisneros v. Turner, No. 10-A-00850 (2010)
Kuczka v. Cowan, No. 10-A-02935 (2010)
Calloway v. Calloway, No. 10-A-03969 (2010)
Bank of America v. Waldrop Partnership, No. 10-A-05879 (2010)
State v. Hueners, No. 10-B-01555 (2010)
State v. Bryant et al., No. 10-B-02127 (2010)
Johnson v Barrett et al., No. 07-A-09585 (2009)
Baffa v. Davis, No. 09-01697 (2009)
Winegarden v. Czachowski, No. 09-A-00899 (2009) (involved colleague on the Court)
Clark v. Clark, No. 08-A-05997 (2009)
City of Lawrenceville v. Kenessey et al., No. 08-A-07111 (2009) (friends with party)
Hill v. Clarke, No. 09-A-07165 (2009)
Ford Motor Credit Co. v. Clower, No. 09-A-02514 (2009)
Watkins v. Porter et al., No. 09-A-09666 (2009)

Taylor v. Superior Court of Gwinnet County, No. 09-A-09609 (2009) (my court was sued)
State v. Gomez, No. 08-B-05723 (2009)
State v. Perlotte, No. 06-B-04486 (2009)
State v. Abarea, No. 07-B-04486 (2009)
State v. Arceortiz, No. 08-B-04211 (2009)
State v. Sanders et al., No. 08-B-02046 (2009) (hired State's attorney)
Mayfield v. Mayfield, No. 08-A-01763 (2008) (divorce of local lawyer)
Tzianabos v. Tzianabos, No. 08-A-04937 (2008)
Lore v. Suwannee Creek Homeowners Assoc., No. 07-A-09699 (2008)
Shelton v. Adeoya, No. 07-A-01775 (2008)
Espinoza v. Szczensny, No. 08-A-09277 (2008)
Seifa v. Wolde, No. 08-A-09424 (2008)
State v. Moreno, No. 08-B-03425 (2008)
Clark v. Clark, No. 05-A-01408 (2005)
Thomas v. Thomas, No. 04-A-07318 (2005)
Horner v. Horner, No. 05-A-03701 (2005) (involved a former client)
Clark v. Clark, No. 05-A-06640 (2005)
Cox v. Perdue et al., No. 05-A-07224-9 (2005) (served in legislature with Governor Perdue and friends with many other parties)
Goobich v. Waters et al., No. 05-A-03378 (2005)
Gann Enterprises v. Powell et al., No. 05-A-09491 (2005)
McRae v. Clackum, No. 03-A-0231 (2003)
Nichols v. Nichols, No. 02-A-11525 (2003)
Kappelmeier v. HSBC USA Inc. et al., No. 02-A-13562 (2003)
Taylor v. Christopher, No. 03-A-02333 (2003)
Colack v. State, No. 02-A-12459 (2003)
Lumpkin v. Crawford, No. 03-A-04459 (2003)
Walls v. Countrywide Home Loans, No. 03-A-13406 (2003)
Echols v. Davis, No. 03-A-07366 (2003)
Landers v. Griffin, No. 03-A-09903 (2003) (involved a former client)
Smith v. Smith, No. 03-A-08202 (2003)

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 served as a Georgia State Senator, District 48, representing Forsyth, Fulton and Gwinnett Counties, from January 1997 to July 2012. I was elected in 1996, defeating opponents both in the Republican Primary and in the General Election. I was re-elected in 1998 without opposition. I was re-elected in 2000, defeating an opponent in the Republican Primary and running unopposed in the General

Election.

I have never been unsuccessful in seeking an elective 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.

In December 1999, I served as one of four co-chairmen supporting the Bush Presidential Campaign in Gwinnett County.

I served as a general member of the Gwinnett Republican Party from 1990 to 1995, attending regularly monthly meetings and the annual party convention held in March of each year. In March of 1993, I was elected to serve a two year term as Chairman of the Gwinnett Republican Party, which was essentially the chief executive officer. My responsibilities also included raising money to fund the administrative and election activities of the party.

In 1992, I served as a volunteer in the campaign of Paul Coverdell for the United States Senate. My title was "Political Director" of the Gwinnett County election efforts. My responsibilities included helping to find other volunteers and distributing literature and campaign signs across Gwinnett County.

In 1982, I served as a volunteer in the campaign of Richard Ray for Congress. Congressman Ray was my uncle, and this was his first campaign for this office after having served as Chief of Staff for U.S. Senator Sam Nunn. My duties included door to door canvassing, holding election signs at shift changes at local manufacturing plants and military bases, distributing literature, and distributing campaign signs across the Third Congressional District.

In 1980, I served as a volunteer in the campaign of Robert Ray for State Representative, District 98. Representative Ray is my uncle, and this was his initial campaign for this office. My duties included door to door canvassing, distributing literature at public events and across the district, and distributing campaign signs across the district.

16. Legal Career: Answer each part separately.

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

I have never served as a clerk to a judge, federal or state.

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

I have never practiced alone.

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

1990 – 2002

Andersen, Davidson & Tate P.C. (now known as Andersen, Tate & Carr P.C.)

One Sugarloaf Centre

1960 Satellite Boulevard, NW #4000

Duluth, Georgia 30097

Associate (1990 – 1995)

Partner (1995 – 2002)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

When I began the practice of law, I reported to two partners, one who practiced primarily family law and the other who represented real estate developers and builders in the growing community of Gwinnett County, Georgia. Accordingly, I developed my practice in those areas. I devoted about 40% of my time to business litigation and 40% of my time to family law. The remaining 20% of my practice was devoted to areas common to a suburban or small town law practice, such as wills, real estate transactions, zoning, corporate, contracts, personal injury, and criminal matters.

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

In my family law practice, I represented both men and women. In some of these cases, there were children and child custody issues to resolve. From time to time, I also handled private adoptions.

In my business and civil litigation practice, I represented home builders and real estate developers, often in disputes with each other and sometimes in disputes with their customers. I also represented these companies in seeking re-zonings and in other land use matters.

As to other areas of my practice, I represented ordinary citizens who had issues in the civil and criminal justice systems, such as contract disputes, personal injury claims, property damage claims, criminal charges, probate and will issues, and in administrative hearings.

- 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.

My practice was as a trial attorney, about 90% of my case load, so I was constantly in court, appearing in Juvenile, Municipal, Magistrate, Probate, State, Superior, and occasionally in Bankruptcy and Federal District Court.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 5% |
| 2. state courts of record: | 80% |
| 3. other courts: | 10% |
| 4. administrative agencies: | 5% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

- 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.

As I have not practiced law since 2001 and my former law firm's records were not automated or computerized for the entire 11 years of my practice, I do not have access to all such records. However, I estimate that after I assumed control of my own practice, which occurred in or around 1994, that I tried approximately 12 matters per year to verdict or judgment, or once per month. This would include divorce bench trials. Further, from 1997 through 2001, which were my last five years of practice, I was sole or lead counsel in eight jury trials, which resulted from the approximately 358 civil and criminal matters for which I opened files during this period.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 10% |
| 2. non-jury: | 90% |

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

None.

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

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

Attachment 15 is the list of the ten most significant cases I handled as a trial attorney.

1. *Atlantic Coast Cable, Inc. et al. v. Mallory et al.*, No. 93CV116 (Sup. Ct. Troup Cty., Judge Allen B. Keeble), *rev'd*, 540 S.E.2d 206 (Ga. App. 2000, Judges Anne Elizabeth Barnes, G. Alan Blackburn, and Frank M. Eldridge)

In 1999, I filed this lawsuit on behalf of Atlantic Coast Cable and Mr. Wilbanks to collect on a commercial debt and to "pierce the corporate veil" to hold the individual defendants liable for the debt due to their fraud. My clients constructed a cable system in rural Georgia for the corporate defendant, which then sold the cable system to a competitor. However, the corporate defendant did not pay my clients their substantial fee for the construction of the system, instead transferring all the proceeds from the sale into the pockets of the individual defendants who were the shareholders and officers of the corporate defendant.

My clients prevailed before the jury, but the trial court granted a judgement notwithstanding the verdict (JNOV) in favor of the defendants. On appeal, the

Court of Appeals of Georgia reversed the decision of the trial court and reinstated my clients' judgment.

Opposing Counsel:

Kenneth D. Teal
Kenneth D. Teal, LLC
119 Ridley Avenue, #300
LaGrange, Georgia 30240
(706) 845-7971

2. *Carter v. RSE Grading, Inc.*, No. 93-C4243 (State Court Gwinnett Cty., Judge David Fuller)

This was an environmental tort case in which I represented RSE Grading from 1993 to 1994. My client was a real estate developer which was sued for allowing silt to migrate off its site and onto the property, and into the lake, owned by the plaintiff. My client always recognized its responsibility and liability for the unintentional damaged caused, and it offered to settle this matter even before litigation began. However, the parties could not agree on the terms.

I was sole counsel for RSE Grading at trial. The jury's verdict against my client, which had admitted liability, was less than its pretrial settlement offer. Additionally, recognizing the reasonable approach that we had taken from the beginning, the jury declined to award attorney's fees against my client.

Opposing Counsel:

Mark K. Gaffney
P.O. Box 2350
Stone Mountain, Georgia 30086
770-879-7434

3. *Horner v. Horner*, No. 97-A-4338-1 (Sup. Ct. Gwinnett Cty., Judge Robert Rodatus sitting by designation)

From 1997 to 1998, I represented the husband in this week-long, contentious child custody and divorce jury trial. My client received joint legal custody and generous visitation which his son, a division of marital property which was better than our pretrial offer, and an award of his attorney's fees to be paid by his wife.

Opposing Counsel:

Alan Mullinax (retired)

4. *Davis v. Arthur A. Jones & Associates*, No. 94CV3156 (N.D. Ga., Judge Horace Ward, deceased)

From 1994 to 1995, I represented the defendant, Arthur A. Jones & Associates ("Jones"), which was a regional landscape materials and sod wholesaler. The plaintiff was a former employee who was terminated and then sued, where she alleged that she was let go because she was a woman and because she had cancer. In her complaint, the plaintiff alleged violations of The Americans with Disabilities Act and other related statutes. My client denied the charges. Not only had it hired another female employee to replace the plaintiff, but also the principal owners of Jones had suffered from cancer themselves.

I was the main counsel for the defendant at trial. After a one week trial, the jury returned a verdict in favor of my client, finding that no violation of the law or the plaintiff's rights had occurred.

Opposing Counsel:

James Edward Goodman
Goodman & Associates
100 Peachtree Street, NW
2100 The Equitable Building
Atlanta, Georgia 30303
(404) 524-5626

5. *State of Georgia v. Foos*, No. 93-D01004-S (State Court Gwinnett Cty., Judge Robert Mock)

In 1993, I represented a former United States Marine who was charged with vehicular homicide after his car hydroplaned, crossing the center line and striking another vehicle. The driver of the other vehicle was killed in the collision. The two predicate charges to the vehicular homicide was driving on the wrong side of the road and driving over the center line. The defense that we pursued at trial was that the collision was simply an "accident" and that my client never intended either to drive on the wrong side of the road or over the center line.

I served as the sole counsel for the defendant during the jury trial. The verdict of the jury was that my client was "not guilty."

Opposing Counsel:

Gary Vey
Gwinnett Solicitor's Office
75 Langley Drive
Lawrenceville, Georgia 30045
(770) 822-8300

6. *Mason v. Gwinnett County Board of Assessors*, No. 00-09322 (Sup. Ct. Gwinnett Cty., Judge Fred Bishop)

This case began when the Gwinnett County Board of Assessors assigned an alleged fair market value to my client's property for taxation purposes which was based on the value of C-2 property, which then was the highest zoning allowed for commercial development and uses. While the property was zoned as C-2, it was wholly unusable as it was located entirely within a flood plain. Nonetheless, Gwinnett County took the position that the value of this property was consistent with the value of other C-2 property, such as the Mall of Georgia, which is the largest and most valuable shopping venue in Gwinnett County.

From 2000 to 2001, I was sole counsel for my client, the property owner. Each side presented expert testimony to establish the value of the subject property. After a trial, the jury set the value at an amount consistent with my client's position and the testimony of his expert, such value which was de minimus. My client also secured an award of his attorney's fees against Gwinnett County due to its unreasonable position in this case.

Opposing Counsel:

Forrest S. Fields, Jr.
Gwinnett Law Department
75 Langley Drive
Lawrenceville, Georgia 30046
(770) 822-8700

7. *Darby v. Darby*, Nos. 00-A-00460-3 and 01-A-07988-3 (Sup. Ct. Gwinnett Cty., Judge Dawson Jackson)

This case arose from a relative short-term marriage between the parties. From 2000 to 2001, I represented the husband in this divorce action. While the length of the marriage was short, the parties' assets were substantial. Much of Mr. Darby's estate was pre-marital and thus his separate property, but Ms. Darby made claims thereon in the way of alimony. There was also allegation of bad conduct of both of the parties for the jury to consider.

I tried this case before a jury in 2000. There was also a contempt action associated with this case which arose in 2001. The parties could not agree as to the division of retirement accounts in light of recent changes in the market values in the securities which were included in the accounts, such issue which had not been submitted to the jury because the parties had settled that matter before trial. My client's position prevailed in this dispute, which was submitted to arbitration for resolution.

Opposing Counsel:

Larry Duttweiler
Northeastern Circuit Public Defender's Office
111 Spring Street
Gainesville, Georgia 30503
(770) 297-3532

8. *Massey v. Robinson*, No. 93-A-02922-2 (Sup. Ct. Gwinnett Cty., Judge Homer M. Stark), *aff'd per curiam*, 441 S.E.2d 69 (Ga. 1994)

From 1993 to 1994, I represented the defendant, Ms. Robinson, in this child custody case. Ms. Robinson was opposing a visitation petition filed by the plaintiff, Mr. Massey, with regards to a minor child. The parties had previously been married and became parents to a daughter. The marriage ended, however, based at least in part upon allegations of abuse by Mr. Massey against Ms. Robinson. Many years later, after their daughter became an adult, she gave birth to a son. Ms. Robinson adopted her grandson and, thus, became the child's legal mother.

Mr. Massey then filed a petition asking the trial court to award to him visitation with his grandson. Ms. Robinson objected to that visitation. In this litigation, I argued that Ms. Robinson had the inherent right as a parent to decide whether and to what extent her legal son (and biological grandson) had visitation with his grandfather. Ms. Robinson contended that it would not be in her son's best interest to have visitation with Mr. Massey due to his alleged abusive past. The trial judge agreed and declared that the Georgia Grandparent Visitation Statute, as it was then constituted, to be unconstitutional as it infringed upon Ms. Robinson's right to parent and raise her son as she so fit. In a per curium opinion, the Georgia Supreme Court affirmed.

Opposing Counsel:

Thomas Michael Farrell (deceased)

9. *Sellmansberger v. Sellmansberger*, No. 98-A-06746-2 (Sup. Ct. Gwinnett Cty., Judge Richard Winegarden)

From 1998 to 2000, I represented the wife, Ms. Sellmansberger, in this high-asset, contentious divorce case involving a division of marital assets and non-marital assets, a claim for alimony and claims of adultery. The case lasted for approximately two years, and it included an interlocutory hearing and a bench trial on some issues, much discovery and several depositions, and a mediated settlement shortly before trial.

Opposing Counsel:

Mark E. Layng
Mark E. Layng Esq, PC
292 Culver Street South
Lawrenceville, Georgia 30046
(770) 985-6509

10. *Cain v. Cain*, No. 00-03300-1 (Sup. Ct. Gwinnett Cty., Judge James Oxendine)

From 2000 to 2001, I represented the defendant, Mr. Cain, in divorce proceedings. Mr. Cain was the owner of a very profitable forklift distributor. This case involved issues of child custody, child support, division of marital and non-marital assets, and alimony. The case was resolved after about 18 months, after the completion of discovery and two interlocutory hearings.

Opposing Counsel:

Tony A. Taylor
Daniels & Taylor, PC
390 West Crogan Street, Suite 300
Lawrenceville, Georgia 30046
(770) 604-1396

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

As a judge on the Superior Court of Gwinnett County, I founded the Gwinnett Drug Treatment Court, which provided an alternative to incarceration for those charged and/or convicted with low level drug crimes or other offenses where the use of drugs was the primary issue. Our Drug Court focused on counseling and the development of work opportunities, while at the same time holding participants accountable with random drug tests and progressive punishments for continued violations. Successful participants could earn a dismissal of their pending charges and/or a termination of their probation. Unsuccessful participants were sent to prison. The graduates of the programs had a recidivism rate fair better than defendants merely sentenced to prison without treatment or rehabilitation.

I also committed myself to the Council of Superior Court Judges, which is the statewide organization representing all Superior Court Judges in Georgia. I worked extensively on and later as Chairman of the Legislation Committee, which communicated to the General

Assembly of Georgia regarding the Council's views on proposed legislation that would impact the operation of the Courts. I also served as Secretary/Treasurer of the Executive Committee of the Council and was in line to ascend to President of the Council. However, after I was appointed to be a judge on the Court of Appeals of Georgia, I vacated this position.

I have never served as a lobbyist. While a superior court judge, I served as Legislation Committee Chairman for the Council of Superior Court Judges, where I represented judges' interests before the Judiciary Committees of both the Georgia State Senate and the State House. This was a volunteer position.

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

None.

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

Other than my interest in the Georgia Judicial Retirement System (vested) from my service as a Judge on the Superior Court of Georgia, in the Georgia Employee Retirement System (not vested) for my service as a Judge on the Court of Appeals of Georgia, and in the Georgia Legislative Retirement System (not vested) from my years as a State Senator, as well as my personal retirement monies in mutual funds, I have no deferred income or expected benefits from any arrangements, stock, options, or contracts from any source whatsoever.

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.

No.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I do not expect any conflicts of interest should I become a Judge on the District Court for the Northern District of Georgia. If there were to be any matter involving a member of my family or a close friend which would come before me, or involving any person or party where I did not feel that I could be impartial, then I would recuse from the consideration of such case.

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

My practice as a Judge on the Superior Court of Gwinnett County and on the Court of Appeals of Georgia has been to closely examine all cases that come before me to determine whether I feel that I have a conflict of interest with either the parties or their attorneys which would require me to recuse, or whether my involvement in the case would present even an appearance of a. In cases where I thought I did have a conflict, I recused. In cases where I felt that I could be fair and impartial, but that one or both parties might object to my involvement for some reason, I would promptly notify the parties through their counsel as to the situation to see if they wished for me to recuse. If any party or counsel objected, then I would normally recuse. If no party or counsel objected, then I would normally stay on the case.

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

I volunteered in the early 1990s for the Georgia or Atlanta Bar Association's 1000 Lawyers for Justice Program which sought attorneys to represent indigent citizens who were incarcerated and awaiting trial in the City of Atlanta and Fulton County. I only handled one criminal case in this program and worked out a plea for the defendant that resulted in probation and his release.

From time to time in my private practice, I would represent clients in family law matters and in other litigation who could not afford a private attorney. This was not a part of a formalize program, but occurred when people came to see me regarding matters who I believed had a meritorious case, but who could not afford my fees. I have no specific records of or memory of the specific cases, but believe that I handled at least one case per year on a pro bono basis. Often times, a case would start out as a fee case, but would later turn into a pro bono case, in whole or in part.

26. Selection Process:

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

On or about February 6, 2017, I applied for an open position on the District Court in the Middle District of Georgia. On March 15, 2017, I was interviewed in Macon, Georgia by the Federal Judicial Screening Committee created by U.S. Senators Isakson and Perdue. On March 29, 2017, I was contacted by a representative from the White House Counsel's Office and informed that my name had been forwarded by the screening committee to the White House for consideration. On April 5, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice in Washington, DC. Thereafter, I was asked to forward an updated resume on April 6, 2017, and then I was called by a member of the White House Counsel's Office on April 7, 2017, to inquire whether I would consider an appointment to the Northern District of Georgia (where I currently reside) rather than to the Middle District of Georgia. On July 13, 2017, the President submitted my nomination to the Senate.

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

No.