

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Sheri Polster Chappell
Sheri Jean Polster

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

United States District Judge for the Middle District of Florida

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

United States Courthouse and Federal Building
2110 First Street, Suite 5-107
Fort Myers, Florida 33901

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

1962; Sheboygan, Wisconsin

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

1984 – 1987, Nova Southeastern University Law School (formerly Nova Law Center);
J.D., 1987

1982 – 1984, University of Wisconsin-Madison; B.A., 1984

1980 – 1982, University of Wisconsin-Eau Claire; no degree awarded

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.

2003 – present

United States District Court for the Middle District of Florida
2110 First Street, Suite 5-107
Fort Myers, Florida 33901
United States Magistrate Judge

2000 – 2003

State of Florida, Twentieth Judicial Circuit
Lee County Justice Center
1700 Monroe Street
Fort Myers, Florida 33901
Lee County Court Judge

1987 – 2000

Office of the State Attorney, Twentieth Judicial Circuit
Lee County Justice Center
2000 Main Street, 6th Floor
Fort Myers, Florida 33901
Executive Staff Member (1999 – 2000)
Charlotte County Office Head (1998 – 2000)
Supervisor of Fort Myers Circuit Court Trial Division (1993 – 1998)
Hendry County Office Head (1991 – 1993)
Felony Attorney (1988 – 1991)
Misdemeanor Attorney (1987 – 1988)
Assistant State Attorney (1987 – 2000)

1990 – 2000

Southwest Florida Criminal Justice Academy
4312 Michigan Avenue
Fort Myers, Florida 33905
Legal Studies Instructor for Law Enforcement, Corrections, and Auxiliary Academies,
and Advanced Incentive Classes

Spring 1987

Performed law clerk duties for the following law firms:

Hitchcock and Cunningham, P.A.
613 S.E. First Avenue
Fort Lauderdale, Florida 33301

Law Office of Marc S. Nurik (later Nurik and Kyle, P.A.)
750 S.E. Third Avenue, Suite 300
Fort Lauderdale, Florida 33316
Additional term: Summer 1986

Daniel Tadesco, P.A.
320 S.E. Ninth Street
Fort Lauderdale, Florida 33316
Additional term: Summer 1986

Marc Gold, Esquire
750 S.E. Third Avenue, Suite 300
Fort Lauderdale, Florida 33316

Cummins and Bass, P.A.
700 S.E. Third Avenue, Suite 401
Fort Lauderdale, Florida 33316

Fall 1986

Office of the State Attorney – Seventeenth Judicial Circuit Court
210 S.E. Sixth Street
Fort Lauderdale, Florida 33301
Certified Legal Intern – Juvenile Division

Summer 1986

Michael Hursey, P.A.
2455 East Sunrise Boulevard
Suite #805
Fort Lauderdale, Florida 33304
Law Clerk

1985 – 1986

Kuvin and Carmen, P.A.
Andrews Avenue
Fort Lauderdale, Florida 33315
Law Clerk

Other Affiliations (Uncompensated):

1995 – present

Pinecrest Homeowner's Association
c/o Cornerstone Association Management
11940 Fairway Lakes Drive, Suite 4
Fort Myers, Florida 33913
President (1997 – present)
Vice President (1996 – 1997)
Board Member (1995)

2007 – 2011

Calusa Chapter of the American Inn of Court
12239 Championship Circle

Fort Myers, Florida 33913
Past President (2010 – 2011)
President (2008 – 2010)
Secretary/Treasurer (2007)

2000 – 2004
Gateway Trinity Church Council
Gateway Trinity Church
11381 Gateway Boulevard
Fort Myers, Florida 33913
Board Member (2000 – 2004)
President (2004)

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

I have not served in the military. I have never registered for selective service.

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

Calusa Inn of Court Distinguished Service (2010)

Jurist of the Year, Lee County Association of Women Lawyers (2003)

Outstanding Contribution and Dedicated Service, Office of the State Attorney, Twentieth Judicial Circuit (1987 – 2000)

Outstanding Leadership and Dedication Award, Office of the State Attorney, Twentieth Judicial Circuit, Fort Myers Felony Division (1993 – 1998)

Ten Year Service Award, Office of the State Attorney, Twentieth Judicial Circuit (1997)

Employee of the Year, Office of the State Attorney, Twentieth Judicial Circuit (1995)

Outstanding Service and Dedication as Office Head of Hendry County, Office of the State Attorney, LaBelle Division (1991 – 1993)

Five Year Service Award, Office of the State Attorney, Twentieth Judicial Circuit (1992)

ATLA Mock Trial Competition Winner, Nova Law Center (1986, 1987)

ATLA Mock Trial Competition Runner-Up, Nova Law Center (1985)

Psi Chi National Honor Society for Psychology Students, University of Wisconsin-Madison (1982 – 1984)

Area Jaycees Academic Scholarship (1980)

National Honor Society Academic Scholarship (1980)

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

American Bar Association (1987 – 1988)

American Trial Lawyers Association (1987 – 1988)

Calusa Chapter of the American Inns of Court
Past President (2010 – 2011)
President (2008 – 2010)
Secretary/Treasurer (2007)

Charlotte County Bar Association (1999 – 2000)

Conference of County Court Judges, State of Florida (2000 – 2003)

Federal Bar Association, Southwest Florida Chapter (2003 – present)

Federal Judicial Center and the Administrative Office of the U.S. Courts
Judges IT Training Advisory Committee (2009 – present)

Federal Magistrate Judges Association (2003 – present)

Florida Bar Association (1987 – present)

Florida Prosecuting Attorneys Association (1987 – 2000)

Hendry County Bar Association (1991 – 1993)

Lee County Bar Association (1987 – present)

Office of the State Attorney, Twentieth Judicial Circuit Executive Staff (1995 – 2000)

Southwest Florida Criminal Justice Academy Advisory Board (1995 – 2000)

United States District Court for the Middle District of Florida
Automation Committee (2003 – present)

Education Sub-Committee to the Historical Committee (2004 – present)
Congressional Relations Committee (2009 – present)
Security Committee (2010 – 2011)
Case Management and Judicial Relations Committee (2007 – 2008)
Bench Bar Committee (2003 – 2007)
Judicial Resources Committee (2005)
CM/ECF Policies and Procedures Committee (2004)
Jury Management Committee (2004)

At various times during my tenure with the State Attorney's Office, Twentieth Judicial Circuit, I served on the following committees: Domestic Violence Task Force, Juvenile Justice Council, Public Safety Coordination Council, and the Truancy Board. However, a diligent search of my records has not revealed the exact dates of participation.

10. **Bar and Court Admission:**

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

Florida, 1987

There have been no lapses in membership.

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

United States District Court for the Middle District of Florida, 1988

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.

Amateur Athletic Union (2002 – 2011)

Vikings Baseball Club, Parent Volunteer

Sidewinders Baseball Club, Parent Volunteer

Infinity Baseball Club, Parent Volunteer, and Team Mom

Gulf Coast Pelicans Baseball Club, Parent Volunteer, and Team Mom
Stoneybrook Sharks Baseball Club, Parent Volunteer

Buckingham Little League (2002 – 2012)
Assistant Coach, Parent Volunteer, and Team Mom

Cape Coral Little League (1988)
Softball Coach/Volunteer

Gateway Trinity Church (1995 – present)
Gateway Trinity Church Council (2000 – 2004)
President (2004)
Board Member (2000 – 2004)
Boomers Group (1995 – present)
Choir/Instrumental Group (2000 – 2004)

Pinecrest Homeowner's Association (1995 – present)
President (1997 – present)
Vice President (1996 – 1997)
Board Member (1995)

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

To the best of my knowledge, none of the organizations listed in response to Question 11(a) currently discriminates or previously discriminated on the basis of race, sex, religion, or national origin.

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.

As a faculty member for the Federal Judicial Center and the Administrative Office of the U.S. Courts Training Divisions, I have created a training module and presentation on Lotus Notes Calendaring and E-Mail – *Extreme Makeover: Getting Organized*. Copy supplied.

As a judge, I contributed to the Judges Information Technology Website established by the Federal Judicial Center and the Administrative Office of the U.S. Courts. In this capacity, I created the following training materials, copies of which are supplied.

Abridged Docket Reports
Docketing Orders Directly from a Pending Motions Report
Cross-Document Hyperlinks to Documents
Using Wireless Access Cards
Remote Desktop
VPN Access

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

Social Media Policy for the Middle District of Florida (2010). Copy supplied.

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

Having searched my records, memory and publicly available internet sources, I cannot locate or recall, and therefore have not identified any testimony, official statements or other communications relating to matters of public policy or legal interpretation.

- 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.

April 25, 2012: Judge of the final round of the Ave Maria School of Law Moot Court Competition. I served as one of the judges on the panel and offered evaluations and comments at the end of the round. I have no notes, transcripts, or recordings. The address for the Ave Maria School of Law is 1025 Commons Circle, Naples, Florida 34119.

April 17, 2012: Calusa Inn of Court presentation, *E-Discovery*. Presentation slides supplied.

March 21-23, 2012: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. Curriculum handouts and presentation slides supplied.

January 28, 2012: American Heroes Air Show and Naturalization Ceremony, Fort Myers, Florida. I have no notes, transcript, or recording, but press coverage is supplied.

January 26, 2012: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

January 24, 2012: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. I used the same slides as those supplied for the January 26, 2012 event.

November 2, 2011: Hodges University Legal Society presentation, *The Federal System's CM/ECF Filing System*, Fort Myers, Florida. Presentation slides supplied.

October 26, 2011: Lee County Emerging Leaders presentation, *Welcome to the Federal Courts*, Fort Myers, Florida. Presentation slides supplied.

August 24-26, 2011: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the March 21-23, 2012 event and my presentation slides are supplied.

August 8-12, 2011: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Diego, California. Presentation slides supplied.

May 17, 2011: Calusa Inn of Court presentation, *The Arizona Immigration Law*. Presentation slides supplied.

March 25, 2011: Twentieth Judicial Circuit presentation, *The Paperless Highway*. Presentation slides supplied.

March 15-17, 2011: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Orlando, Florida. Curriculum handouts and presentation slides supplied.

March 9-11, 2011: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the March 21-23, 2012 event.

February 8, 2011: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

October 27, 2010: Leadership Lee County presentation, *An Introduction to the Federal System*. I used the same slides as those supplied for the February 8, 2011 event.

October 8, 2010: Twentieth Judicial Circuit presentation, *The Paperless Highway*. I used the same slides as those supplied for the March 25, 2011 event.

September 24, 2010: Swearing in of Ave Maria Law School students. Notes supplied.

September 14-17, 2010: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Chicago, Illinois. Curriculum handout supplied.

August 4-6, 2010: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. Curriculum handouts and presentation slides supplied.

July 12-16, 2010: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Seattle, Washington. Curriculum handouts and presentation slides supplied.

May 19-21, 2010: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the August 4-6, 2010 event.

May 14, 2010: Charlotte County Bar Association, *Law Day 2010*. Presentation slides supplied.

April 20-23, 2010: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Boston, Massachusetts. Presentation slides and handout supplied.

March 16, 2010: Calusa Inn of Court presentation, *Inns of Court Feud: Social Media*, Fort Myers, Florida. Presentation slides supplied.

March 10-12, 2010: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the August 4-6, 2010 event.

February 11, 2010: Open Doors to the Federal Courts presentation, Canterbury School, Fort Myers, Florida. I used the same slides as those supplied for the February 8, 2011 event.

September 20-26, 2009: Training for Chambers IT Trainers, Federal Judicial Center and the Administrative Office of the U.S. Courts, Denver, Colorado. Presentation slides supplied.

September 21, 2009: Industry Day Courtroom Technology Conference and Roundtable. Court personnel related their experience with technology in the courtroom. I was a member of a discussion panel. I have no notes, transcripts, or recordings. The address for the U.S. District Courthouse is 901 19th Street, Denver, Colorado 81303.

August 31, 2009: Advanced Computer Skills for Judges, Federal Judicial Center, Washington, D.C. Presentation slides supplied.

August 12-14, 2009: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. Curriculum handout and presentations slides supplied.

July 16, 2009: Advanced Computer Skills for Judges, Federal Judicial Center, Milwaukee, Wisconsin. Handouts supplied.

May 7, 2009: Open Doors to the Federal Courts, Saint Francis Xavier Eighth Grade Class, *Social Justice*. Presentation slides supplied.

March 31, 2009: Open Doors to the Federal Courts, South Fort Myers High School Criminal Justice Academy, Fort Myers, Florida. Case outline supplied.

March 26, 2009: Bishop Verot High School Career Day presentation, *The Federal Magistrate Judge*. I described the duties of a Federal Magistrate Judge during breakout sessions with high school students during career day. I have no notes, transcripts, or recordings. The address for Bishop Verot Catholic High School is 5598 Sunrise Drive, Fort Myers, Florida 33919.

March 4-6, 2009: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts and slides as those supplied for the August 12-14, 2009 event.

February 10, 2009: Open Doors to the Federal Courts presentation, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

January 2009: I was filmed by the Federal Judicial Center in an informative training video for the federal judiciary entitled *Remote Access for Judges*. Video provided.

September 16, 2008: Joint Meeting of the Thomas S. Biggs Inn of Court and the Calusa Inn of Court: *Advance Sheet*, Fort Myers, Florida. Presentation slides supplied.

June 2, 2008: Keynote Speaker for the Commencement of the Kiel High School class of 2008, *Oh the Places You Will Go*. Speech supplied.

May 13, 2008: St. Francis Xavier School. Wrote and presented mock trial on criminal mischief for Saint Francis Xavier Third Grade. I have no notes, transcripts, or recordings. The address for Saint Francis Xavier School is 2055 Heitman Street, Fort Myers, Florida 33901.

March 18, 2008: Calusa Inn of Court presentation. *Last One Standing*. Presentation slides supplied.

February 13, 2008: Open Doors to the Federal Courts, Canterbury School, Fort Myers, Florida. Presentation slides supplied.

July 10, 2008: National Workshop for U.S. Magistrate Judges Break-Out Session, Seattle, Washington, *Improving Communications Through Technology*. Presentation slides and written materials supplied.

August 2007: Calusa Inn of Court presentation. *Getting to Know You, An Introduction of the New Members*. Pupilage group created a presentation to introduce the new members of the Inn to the existing membership. I have no notes, transcripts, or recordings. The address for Calusa Inn of Court is 12239 Championship Circle, Fort Myers, Florida 33913.

March 23, 2007: Open Doors to the Federal Courts, South Fort Myers High School Criminal Justice Academy. I used the same case outline as that supplied for the March 31, 2009 event.

March 14-16, 2007: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I have no notes, transcript, or recording, but the presentation slides are similar to those used for the 2009 New Magistrate Judge IT Orientation in San Antonio, which are supplied above. The address of the FJC is Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Washington, DC 20002.

March 8, 2007: Saint Francis Xavier School presentation, *Social Justice*. Presentation slides supplied.

December 5, 2006: Eleventh Judicial Circuit Conference Meeting, *IT Tips for Judges*. I taught the judges at the meeting how to use various computer tools. I have no notes, transcripts, or recordings. The address for The Hilton–Key West is 245 Front Street, Key West, Florida 33040.

September 19, 2006: Joint Meeting of Lee and Collier County American Inns of Court, *Meet the New Judges of the Twentieth Judicial Circuit*. My pupillage group prepared a presentation to introduce the newly elected judges of the court. I have no notes, transcripts, or recordings. The address for Calusa Inn of Court is 12239 Championship Circle, Fort Myers, Florida 33913.

Annually 2006 – 2009: Gateway Charter School presentation, *The Constitution*. Presentation slides supplied.

September 15, 2005: Board of Judges Meeting, Middle District of Florida, *Learning Through Information Sharing*. Presentation slides supplied.

February 18, 2004: Florida Association of Women Lawyers, *CM/ECF, the Paperless Highway*. I made a presentation to attorneys and judges on the implementation of the Court Management, Electronic Court Filing system. I have no notes, transcripts, or recordings. The address for the Collier County Bar Association is 3301 Tamiami Trail East, Building L, Naples, Florida 34112.

2004: Lee County Bar Association presentation, *The Implementation of CM/ECF in the Federal System*. I made a presentation to attorneys and judges on the implementation of the Court Management, Electronic Court Filing system. I have no notes, transcripts, or recordings. The address for the Lee County Bar Association is Box 1387, Fort Myers, Florida 33902.

2004 – 2007: Gateway Charter School presentation, *Tell It to the Judge*. I taught sixth grade students about the civil process. Students participated in mock trials. I have no notes, transcripts, or recordings. The address for Gateway Charter School is 12850 Commonwealth Drive, Fort Myers, Florida 33913.

July 30, 2003: Investiture of the Honorable Sheri Polster Chappell as a federal magistrate judge. Copy of speech provided.

2003: Federal Bar Association, Middle District of Florida, Fort Myers Division presentation, *Expectations from the Bench*. I participated in a question and answer session regarding my preferences as a new member of the bench. I have no notes, transcripts, or recordings. The address for the Federal Bar Association is 2110 First Street, Fort Myers, Florida 33901.

2003: Cape Coral Bar Association presentation, *Expectations from the Bench*. I participated in a question and answer session from attorneys regarding my preferences as a new member of the bench. I have no notes, transcripts, or

recordings. The address for Cape Coral Bar Association is 4223 Del Prado Boulevard South, Cape Coral, Florida 33904.

May 2001: Law Week presentation, *The Job of a County Court Judge*. I lectured grade school children on the duties of a county court judge. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

June 8, 2000: Investiture of the Honorable Sheri Polster Chappell as a Judge for the Lee County Court. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

2000: Southwest Florida Criminal Justice Academy, Graduation Speech, 76th Corrections Class. I have no notes, transcripts, or recordings. The address for the Southwest Florida Public Service Academy is 4312 Michigan Avenue, Fort Myers, Florida 33905.

2000 – 2009: I have judged roughly nine rounds of mock trial competitions for the Lee County High School Mock Trial Competition, and the Twentieth Judicial Circuit High School Mock Trial Competition. I served as the presiding judge and offered evaluations and comments at the end of the rounds. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901 and the address for the United States Courthouse is 2110 First Street, Fort Myers, Florida 33901.

2000 – 2009: I developed, wrote, and presided over mock trials for students of various ages, their teachers, and chaperones for courthouse visits. Mock trial scripts supplied.

2000 – 2004: Teen Court. I served as a presiding judge over Teen Court cases. I have no notes, transcripts, or recordings. The address for Teen Court is Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901.

2000 – 2003: I presented *County Court, The People's Court* to various grade schools, middle schools, and high schools. I discussed the job of a county court judge with school aged children. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

1998: Florida Gulf Coast University ("FGCU") presentation, *Forensic Science in the Courtroom*. I lectured FGCU students on the use of serology, fingerprints, ballistics, and DNA evidence for trial. I have no notes, transcripts, or recordings. The address for Florida Gulf Coast University is 10501 FGCU Boulevard, South Fort Myers, Florida 33965.

1997: Florida Gulf Coast University Police Department. During FGCU's inception, I lectured the University's Police Department on the topics of creating case reports, warrants, booking sheets, and lectured on specific crimes common to the University community. I relied upon the Florida Statutes as a guide for the presentation. I have no notes, transcripts, or recordings. The address for Florida Gulf Coast University is 10501 FGCU Boulevard, South Fort Myers, Florida 33965.

1997: Phoenix Center. I lectured nurse practitioners, who worked at the Phoenix Center, a facility for victims of sexual battery, on how to prepare a statement regarding their treatment of the victims and how to convey their findings in testimony at a hearing and/or trial. I have no notes, transcripts, or recordings. The address for the Phoenix Center is P.O. Box 6548, Fort Myers, Florida 33911.

1990 – 2003: Office of the State Attorney, Twentieth Judicial Circuit. As a senior attorney, I trained new attorneys on trial tactics, preparation, and execution of various parts of the trial. I have no notes, transcripts, or recordings. The address for the State Attorney's Office is Lee County Justice Center Complex, 2000 Main Street, 6th Floor, Fort Myers, Florida 33901.

1990 – 2000: Southwest Florida Criminal Justice Academy. As an instructor, I taught law enforcement recruits Legal I, II, and III, and how to apply the law to their duties. I also taught recruits at the Corrections Academy Legal I and II, and general criminal law and procedure at the Auxiliary Law Enforcement Academy. I taught Advanced Incentives Courses in search and seizure, domestic violence, sexual battery and sex crimes, courtroom demeanor and testimony, and advanced legal studies. I also taught prison officials and guards from Charlotte Correctional Institute and Glades County Correctional Facility how to apply the law to crimes committed by individuals while in custody. I utilized the Criminal Justice Standards and Training Commission's Curriculum applicable for each year, and supplemented it with statutory and case law authority. I have no notes, transcripts, or recordings. The address for the Southwest Florida Criminal Justice Academy is 4312 Michigan Avenue, Fort Myers, Florida 33905.

1989 – 1990: Florida Prosecuting Attorneys Association (FPAA). I lectured on trial preparation and the topics of *voir dire*, direct, and cross examination. After lecturing, I also critiqued the new attorneys attending the FPAA DUI Trial Tactics Seminar. I have no notes, transcripts, or recordings. The address for the Florida Prosecuting Attorneys Association, Inc. is 107 West Gaines Street, Suite L-066, Tallahassee, Florida 32399.

1987 – 2009: Lee County Bar Association. On various occasions I spoke to students during Law Week regarding my positions as an Assistant State Attorney, County Court Judge, and Federal Magistrate Judge. I have no notes, transcripts, or recordings. The address for the Lee County Bar Association is P.O. Box 1387, Fort Myers, Florida 33902.

1987 – 2000: New Laws Seminar. I lectured local law enforcement agencies and other assistant state attorneys on the new criminal laws enacted during the legislative session. I have no notes, transcripts, or recordings. The address for the Lee County Justice Center is 1700 Monroe Street, Fort Myers, Florida 33901.

As an Assistant State Attorney, County Court Judge, and United States Magistrate Judge, I have often been called upon to speak with visiting groups about the justice system. I have also administered oaths of office, and conducted courthouse tours. I have not maintained records of all of these events, but have tried to create as complete a list as possible by searching my personal records, public databases, and the internet. Despite these efforts, however, there may be other remarks or presentations that I have been unable to recall or identify. The addresses of the various locations where I conducted these talks are: Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901; Charlotte County Justice Center, 513 East Marion Avenue, Punta Gorda, Florida 33950; and the United States Courthouse and Federal Building, 2110 First Street, Fort Myers, Florida, 33901.

- 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.

Don Manley, *Court Opens Its Doors to High Schoolers*, NEWS-PRESS, Mar. 31, 2007. Copy supplied.

Carl Conley, *Following Her Dream*, GULF COAST WOMAN, Aug. 2000 at 10. Copy supplied.

Patricia Walsh, *Chappell Appointed to Lee County Bench*, SARASOTA HERALD-TRIBUNE, Mar. 17, 2000 at 3B. Copy supplied.

Patricia Walsh, *Driver Cleared in Bike Fatality*, SARASOTA HERALD-TRIBUNE, Oct. 19, 1999 at 1A. Copy supplied.

Scott Carroll, *Police: Evidence Lacking in Hit and Run*, SARASOTA HERALD-TRIBUNE, Oct. 6, 1999 at 1A. Copy supplied.

Patricia Walsh, *Suspect Indicted in Slaying of Teen*, SARASOTA HERALD-TRIBUNE, Aug. 13, 1999 at 1B. Copy supplied.

Matthew Henry, *Prosecutors Reduce Teen's Charge*, SARASOTA HERALD-TRIBUNE, Aug. 3, 1999 at 1B. Copy supplied.

Matthew Henry and Patricia Walsh, *Teen Pleads Guilty in Stomping*, SARASOTA HERALD-TRIBUNE, June 9, 1999 at 1B. Copy supplied.

Patricia Walsh, *Deep Creek Teen Gets Life for '97 Slaying*, SARASOTA HERALD-TRIBUNE, Apr. 28, 1999 at 1B. Copy supplied.

Patricia Walsh, *Meynard Convicted of Dentist's Slaying*, SARASOTA HERALD-TRIBUNE, Apr. 27, 1999 at 1A (reprinted in multiple outlets). Copy supplied.

Vanessa Bauza, *Father of Missing Girl Turns to Ryce Family*, SOUTH FLORIDA SUN-SENTINEL, Mar. 13, 1999 at 6B. Copy supplied.

Mike Nemeth, *Prosecuting Chief Praised After First Year*, CHARLOTTE SUN HERALD, Feb. 14, 1999 at 1. Copy supplied.

Patricia Walsh, *Mother Pleas No Contest to Abuse, Neglect of Child*, SARASOTA HERALD-TRIBUNE, Feb. 10, 1999 at 1B. Copy supplied.

Matthew Henry, *Police Accused in Beating of Man*, SARASOTA HERALD-TRIBUNE, Nov. 20, 1998 at 1B. Copy supplied.

Mother Who Missed Date in Court Turns Herself In, SARASOTA HERALD-TRIBUNE, Oct. 20, 1998 at 3B. Copy supplied.

Matthew Henry, *Brutally Beaten Teen Remains in Coma*, SARASOTA HERALD-TRIBUNE, Oct. 11, 1998 at 1A. Copy supplied.

Patricia Walsh, *Mother's Child Abuse Trial to Begin*, SARASOTA HERALD-TRIBUNE, Oct. 5, 1998 at 1B. Copy supplied.

Patricia Walsh, *New Prosecutor Heads Charlotte*, SARASOTA HERALD-TRIBUNE, Sept. 19, 1998 at 1B. Copy supplied.

Associated Press, *Sentence Overturned after Error*, SOUTH FLORIDA SUN-SENTINEL, Oct. 7, 1995 at 27A (reprinted in multiple outlets). Copy supplied.

Mitch McKenney, *Gunman in Murder Sentenced to Death*, PALM BEACH POST, Dec. 16, 1992 at 1A. Copy supplied.

Mitch McKenney, *Man Convicted of Glades County Millionaire's Murder*, PALM BEACH POST, Nov. 20, 1992 at 1B. Copy supplied.

Mitch McKenney, *Witness: 'I Tried Not to Breathe' after Shots*, PALM BEACH POST, Nov. 5, 1992 at 1B. Copy supplied.

Mitch McKenney, *Two Consider Plea Deals in Murder of Millionaire*, PALM BEACH POST, July 21, 1992 at 1B. Copy supplied.

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

April 10, 2000 – April 18, 2003: Lee County Court Judge, Twentieth Judicial Circuit. I was appointed to the position of Lee County Court Judge by Governor Jeb Bush. Because I was appointed to fill a mid-term vacancy, my position came up for election in 2002. I was elected without opposition to serve a six-year term in May 2002. I resigned my position as Lee County Court Judge on April 18, 2003, due to my selection and appointment as a United States Magistrate Judge for the Middle District of Florida. Jurisdiction of the county court is established by Fla. Stat. § 34.01 and extends to all misdemeanor cases not cognizable by the circuit courts, all violations of municipal and county ordinances, civil disputes involving \$15,000 or less, and disputes occurring in the homeowners' associations. My duties included the disposition of criminal, civil, small claims, traffic, and domestic violence matters.

April 21, 2003 – present: United States Magistrate Judge, United States District Court for the Middle District of Florida, Fort Myers Division. I was appointed by the court on April 21, 2003. I was reappointed to serve a second eight-year term in April 2011. A Magistrate Judge's jurisdiction is derived primarily from the Federal Magistrates Act of 1968 (28 U.S.C. §§ 631-636). In the Middle District of Florida, United States Magistrate Judges are given substantial authority to handle a wide range of criminal and civil cases.

As a Magistrate Judge assisting with the criminal docket, I preside over preliminary matters including initial appearances, arraignments, detention hearings, and discovery hearings. I am also responsible for conducting evidentiary hearings on dispositive motions such as motions to suppress in which a report and recommendation is submitted to the District Court concerning disposition. Additionally, I review and issue search warrants for persons and/or property, conduct proceedings on felony guilty pleas, misdemeanor trials, and sentence misdemeanor defendants. Magistrate Judges are also responsible for conducting hearings and trials in Central Violations Bureau cases.

In assisting with the civil docket, I rule on a broad variety of non-dispositive motions based upon the written pleadings submitted by the parties, including discovery motions, preliminary pretrial matters, motions to withdraw, motions regarding amendments to pleadings, and motions to strike. Additionally, I am required to handle dispositive issues referred by the District Court, including motions to dismiss, motions for summary judgment, and motions for attorney's fees for which a report and recommendation is prepared. Upon consent of the parties, I preside over the case from its inception to its disposition. I also handle prisoner litigation cases, habeas corpus cases filed pursuant to 28 U.S.C. § 2255, social security administrative appeals, ERISA cases, and IDEA cases. As a Magistrate Judge, I have been called upon by the District Court judges to conduct numerous settlement conferences in civil cases, including prisoner litigation.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 519

- i. Of these, approximately what percent were:

| | |
|-----------------------|-----|
| jury trials: | 12% |
| bench trials: | 88% |
| civil proceedings: | 56% |
| criminal proceedings: | 44% |

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

As a Lee County Court Judge I did not write any published opinions. I did, however, enter hundreds of written orders. All are maintained in case files by the Clerk of Court. The vast majority are routine orders without findings of fact or legal analysis, or docket orders prepared for me by the clerk's office following my oral rulings. These orders are also filed with the Clerk of Court. Because they are not published, I cannot provide citations for them without reviewing each and every case file.

As a United States Magistrate Judge, I prepare Reports and Recommendations on dispositive matters referred to me by the District Judges of this Court, who remain the presiding judge in the case. I also prepare orders on motions referred to me, which are not dispositive. From time to time, parties will consent to my jurisdiction. When I am the presiding judge, I do not prepare Reports and Recommendations. Instead, I enter orders for all motions adjudicated in the case. I am attaching a list of the Reports and Recommendations that I have prepared for matters that have been referred to me by the District Judges of this Court as well as orders I have entered when acting as the presiding judge. See attached lists.

- 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. *Royal Marco Point I Condo. Ass'n v. QBE Ins. Corp.*, No. 2:07-cv-16-99SPC, 2011 WL 470561 (M.D. Fla. Feb. 2, 2011); 2010 WL 5161111 (M.D. Fla. Dec. 14, 2010); 2009 WL 1592270 (M.D. Fla. Jan. 16, 2009); 2008 WL 4194792 (M.D. Fla. Aug. 8, 2008). Plaintiff filed a bad faith claim against defendant insurance carrier for failing to pay its claims in full and in a timely manner following hurricane damages. I was given significant responsibility over this case, which was on the unassigned docket. I entered numerous

discovery orders and Reports and Recommendations on disputed issues and ultimately settled the case after significant involvement.

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2. *Scott v. Lee Cnty. Sch. Bd.*, No. 2:03-cv-246-SPC (M.D. Fla. Aug. 19, 2004). Plaintiff, who worked as a Safety Director for defendant, brought this action pursuant to 42 U.S.C. § 1983, claiming the violation of his constitutional rights under the Fourteenth and Ninth Amendments. He further brought suit pursuant to Florida's Whistle Blower Act. I conducted the final pre-trial conference and all trial preparation and presided over a five-day jury trial by consent of the parties, which resulted in a verdict for the plaintiff. After verdict but prior to any appellate action, the parties settled. A copy of my summary judgment opinion in this case is supplied.

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3. *United States v. Ulrich*, No. 2:05-cr-130-SPC (M.D. Fla. 2006). I presided over this criminal misdemeanor case. The defendant was charged with taking a bald eagle's nest without permission and with wanton disregard for the consequences of his actions. I decided a motion *in limine*, conducted status conferences, and presided over a three-day jury trial which resulted in a defense verdict. Given the nature of this matter I have no written opinions to provide.

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4. *Reliable Salvage and Towing, Inc. v. 35' Sea Ray*, No. 2:09-cv-329-SPC, 2011 WL 1058863 (M.D. Fla. Mar. 21, 2011); 2011 WL 5418891 (M.D. Fla. June 13, 2011); 2011 WL 2173842 (M.D. Fla. June 2, 2011); 2011 WL 2038576 (M.D. Fla. May 20, 2011); *aff'd*, 2012 WL 1867166 (11th Cir. May 23, 2012). Plaintiff alleged that the defendant never paid for the salvage services rendered by plaintiff in order to tow defendant's boat to safety. I presided over this case by consent of the parties. The case proceeded to a bench trial. Based upon the evidence heard at trial and the memoranda of law submitted by the parties, I issued Findings of Fact and Conclusions of Law and entered Judgment in favor of the plaintiff. The Eleventh Circuit affirmed the decision.

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5. *DJM, Ltd. v. Island Yachting Mgmt., Inc.*, No. 2:02-cv-617-SPC (M.D. Fla. Mar. 23, 2004), *aff'd*, 132 F. App'x 246 (11th Cir. 2005), *cert. denied*, 546 U.S. 938 (2005). Plaintiff alleged negligence, fraudulent misrepresentation, breach of the implied warranty of merchantability, deceptive trade practices, strict liability in tort, and money owed for damage to the ship's air conditioning unit. I presided over this case by consent of the parties. All of the claims were resolved in favor of the defendant at the summary judgment stage, except for an alleged promise by the defendant to pay for damages caused by the vessel's faulty air conditioning unit. This issue went to a jury trial and a verdict was rendered in favor of the defendant. The Eleventh

Circuit affirmed the jury's verdict. A copy of my summary judgment opinion in this case is supplied.

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Counsel for Defendant: John Lakin
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6. *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 2:07-cv-42-29SPC, 2009 WL 6853402 (M.D. Fla. May 27, 2009); 2008 WL 4491248 (M.D. Fla. July 3, 2008). In this patent case, plaintiff alleged that the defendant's Keep the Change program infringed on its patent. As the magistrate judge, I presided over a complex and continuous discovery process and held a *Markman* hearing on claim construction. I subsequently issued a Report and Recommendation which was accepted in part, rejected in part, and modified in part regarding the definitions of the disputed claim terms. Summary judgment was ultimately issued in favor of the defendant.

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Counsel for Defendant: Anat Hakim
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7. *United States v. Derisma*, No. 2:09-cr-64-29SPC, 2012 WL 537553 (M.D. Fla. Feb. 18, 2012); 2012 WL 749405 (M.D. Fla. Mar. 8, 2012); 2011 WL 3878367 (M.D. Fla. June 27, 2011); 2011 WL 3878359 (M.D. Fla. Sept. 2, 2011). This is a criminal case in which I presided over a three-day competency hearing and issued a Report and Recommendation on defendant's competency to stand trial. I also presided over days of testimony on motions to suppress and issued a Report and Recommendation to the District Court.

Defendant ultimately pled guilty to all charges and is set to be sentenced in July.

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Counsel for Defendant: David Allen Brener
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8. *Coastal Conservation Ass'n v. Locke*, No. 2:09-cv-641-29SPC, 2011 WL 4530631 (M.D. Fla. Aug. 16, 2011); 2011 WL 4530544 (M.D. Fla. Sept. 29, 2011); 2010 WL 1439071; 2010 WL 1407681 (M.D. Fla. Jan. 19, 2010). The plaintiffs alleged that the defendants did not follow the proper procedures as delineated in the Administrative Procedures Act, the National Environmental Policy Act, the Regulatory Flexibility Act, and the Magnuson-Stevens Act in promulgating fishing quotas in the Gulf of Mexico. I entered preliminary orders. Based upon the party's cross motions for summary judgment and review of the record before the administrative agency, I issued a Report and Recommendation affirming the decision of the Agency and denying the plaintiffs' respective motions for summary judgment. The District Court supplemented and adopted my Report and Recommendation.

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9. *McCarthy v. Sherwin-Williams Co.*, No. 2:05-cv-61-SPC. I presided over this slip and fall personal injury case by consent of the parties and entered preliminary orders regarding discovery. I conducted the final pre-trial conference and all trial preparation. Prior to trial, defendant made several pretrial motions *in limine* which I granted based upon the newly-discovered medical evidence that was previously hidden by the plaintiff from the court and counsel. The plaintiff then elected to discharge her counsel and orally moved to dismiss the case without prejudice, which was granted. However, costs were imposed upon the plaintiff.

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10. *Sch. Bd. of Lee Cnty., Fla. v. M.M. and J.M. on behalf of a minor M.M. II*, No. 2:05-cv-5-29SPC (M.D. Fla. Mar. 17, 2006), *aff'd*, 348 F. App'x 504 (11th Cir. 2009). I presided as the magistrate judge in this record review case brought pursuant to the Individuals with Disabilities Education Act, in which the school board appealed the ALJ's determination to this Court. After I reviewed the record, and the parties' memoranda of law and briefs, I issued a Report and Recommendation recommending that judgment be entered in favor of the school board and that the decision of the ALJ be reversed. The District Court adopted the Report and Recommendation and dismissed the case leaving only Count VIII, a state action claim for malicious prosecution. The Eleventh Circuit affirmed the decision regarding counts I, II, III, IV, V, VI, VII, and IX, and vacated the determination dismissing Count VIII. The

malicious prosecution claim was subsequently dismissed and remanded to State Court. The Report and Recommendation entered in this case is supplied.

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

1. *Schneider v. Walgreen, Co.*, No. 2:10-cv-139-29SPC (M.D. Fla. Sept. 21, 2010). Copy supplied.

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Counsel for Defendant: Gregory Alan Hearing
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2. *United States v. Derisma*, No. 2:09-cr-64-29SPC (M.D. Fla. Dec. 9, 2011). Copy supplied.

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3. *Reliable Salvage and Towing, Inc. v. 35' Sea Ray*, No. 09-cv-329-SPC, 2011 WL 1058863 (M.D. Fla. Mar. 21, 2011).

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4. *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 07-cv-42-29SPC, 2008 WL 4491248 (M.D. Fla. July 3, 2008).

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5. *Coastal Conservation Ass'n v. Locke*, No. 2:09-cv-641-29SPC, 2011 WL 4530631 (M.D. Fla. Aug. 16, 2011).

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6. *Conservancy of Southwest Fla. v. United States Fish and Wildlife Serv.*, No. 10-cv-106-29SPC, 2010 WL 51408729 (M.D. Fla. Nov. 11, 2010).

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Counsel for Defendant: Jonathan Galler
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7. *United States v. Sereme*, No. 2:11-cr-97-29SPC (M.D. Fla. Mar. 27, 2012).
Copy supplied.

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Counsel for Defendant: Russell K. Rosenthal
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8. *Dunn-Fischer v. Dist. Sch. Bd. of Collier Cnty.*, No. 2:10-cv-512-29SPC, 2011 WL 4632568 (M.D. Fla. Aug. 30, 2011).

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Counsel for Defendant: Jonathan D. Fishbane
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5775 Osceola Trail
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9. *United States v. Sharma*, No. 08-cr-69-29SPC (M.D. Fla. Nov. 20, 2008).
Copy supplied.

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Counsel for Defendant: Ray Christopher Lopez
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10. *PC Connector Solutions LLC v. SmartDisk Corp.*, No. 2:00-cv-539-29SPC (M.D. Fla. Oct. 01, 2003). Copy supplied.

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

I know of no cases in which certiorari was granted. Certiorari was requested and denied in *DJM, Ltd. v. Island Yachting Mgmt., Inc.*, No. 2:02-cv-617-SPC (M.D. Fla. Mar. 23, 2004), *aff'd*, 132 F. App'x 246 (11th Cir. 2005), *cert. denied*, 546 U.S. 938 (2005).

- 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.

1. *United States v. Moore*, No. 2:06-cr-8-29SPC (M.D. Fla. Apr. 21, 2006); *rejected in part*, 2006 WL 1232811 (M.D. Fla. May 5, 2006). In a Report and Recommendation on a motion to suppress, I concluded that a mere passenger in a vehicle lacked standing to challenge the stop of the vehicle, determined that the traffic stop and subsequent detention were lawful, and recommended the motion to suppress be denied. The District Court disagreed with the standing portion, however agreed with my analysis of the lawfulness of the stop, concluding that the defendant had standing to challenge the stop of the vehicle. The District Court adopted the remaining portions of the Report and Recommendation and denied defendant's motion to suppress. The Report and Recommendation is supplied.

2. *United States v. Zaldivar*, No. 2:06-cr-50-29SPC (M.D. Fla. July 18, 2005); *accepted and adopted in part, rejected in part*, 2006 WL 2947827 (M.D. Fla. Oct. 16, 2006), *vacated in part on rehearing*, 2006 WL 3335060 (M.D. Fla. Nov. 16, 2006), *aff'd*, 292 F. App'x 868 (11th Cir. 2008). In a Report and Recommendation on a motion to suppress, I concluded that the impoundment and inventory search of the vessel was lawful, that defendant consented to the search, that there was probable cause to issue a warrant, and that the seizure of latent prints at the scene was within the scope of the warrant. The District Court disagreed, holding that the inventory search was unlawful and that the prints were

not lawfully seized. The District Court accepted and adopted the Report and Recommendation in all other respects. On reconsideration, the District Court determined that the prints were properly seized pursuant to the plain view exception to the warrant requirement.

3. *United States v. Flores*, No. 2:08-cr-108-29SPC (M.D. Fla. Dec. 8, 2008), *accepted and adopted in part, rejected in part*, 2009 WL 55022 (M.D. Fla. Jan. 7, 2009), *aff'd*, 380 F. App'x 921 (11th Cir. 2010). In a Report and Recommendation on a motion to suppress, I concluded that because the exigent circumstances were caused by the officers and the officers had time to obtain an anticipatory search warrant, the search of the residence was unlawful. The District Court disagreed, concluding that the exigent circumstances were caused by the suspects and the officers did not have probable cause to obtain an anticipatory search warrant. Since the District Court found that the search was lawful, it rejected the Report and Recommendation's findings on remaining issues that were based on the taint of the illegal search. The District Court accepted and adopted the Report and Recommendations in all other respects. The Report and Recommendation is supplied.

4. *United States v. Estrella*, No. 2:11-cr-40-29SPC (M.D. Fla. Sept. 12, 2011), *rejected*, 2011 WL 4946907 (M.D. Fla. Oct. 17, 2011). Even though I held an evidentiary hearing on defendant's motion to suppress, on one issue in my Report and Recommendation I concluded that a further evidentiary hearing was not required because the motion did not make a threshold showing of collusion between state and federal authorities. Defendant had not raised the argument regarding collusion in his motion to suppress. The District Court disagreed and did not accept or adopt the Report and Recommendation because it was not based upon an evidentiary hearing. The Report and Recommendation and District Court Order are supplied.

5. *United States v. Bergin*, No. 2:09-cr-75-29SPC, 2010 WL 3088471 (M.D. Fla. Mar. 26, 2010), *accepted and adopted in part, rejected in part*, 732 F. Supp. 2d 1235 (M.D. Fla. 2010). In a Report and Recommendation on a motion to suppress, I concluded that a safe that was seized from the residence should not be suppressed. The District Court disagreed, concluding that the third entry into the residence during which knowledge and the existence of the safe was obtained was unlawful. Therefore the District Court concluded the safe should be suppressed. The District Court affirmed the Report and Recommendation in all other respects.

6. *Warfield v. Stewart*, 2:07-cv-332-VMC (M.D. Fla. Nov. 2, 2009), *accepted and adopted* 2010 WL 731792 (M.D. Fla. Feb. 26, 2010), *rev'd*, 434 F. App'x 777 (11th Cir. 2011). In a Report and Recommendation on a motion for award of attorney's fees and costs, I concluded that attorney's fees should be awarded and expenses partially awarded to the prevailing parties under the provision of the contract for a sale of property. The District Court agreed, and accepted and adopted the Report and Recommendation. On appeal, the Eleventh Circuit

reversed, finding that defendants were not entitled to attorney's fees under the brokerage agreement.

7. *Leonard v. Comm'r of Soc. Sec.*, 2:05-cv-499-34SPC, 2009 WL 5908804 (M.D. Fla. Oct. 8, 2009), *accepted in part, rejected in part*, 2010 WL 680732 (M.D. Fla. Feb. 23, 2010). In a Report and Recommendation on a motion for attorney's fees under the Equal Access to Justice Act, I concluded that because defendant's position was substantially justified under the statute, an award of attorney's fees to plaintiff was not proper. The District Court disagreed in part, concluding that even if the defendant's position is substantially justified, the plaintiff is still entitled to the recovery of costs.

8. *Guevara v. Shutter-Man Storm & Sec., Inc.*, No. 2:06-cv-511-29SPC, 2008 WL 2474269 (M.D. Fla. May 13, 2008), *accepted in part, rejected in part*, 2008 WL 2474569 (M.D. Fla. June 16, 2008). In a Report and Recommendation on a motion for relief from judgment, default judgment, amended judgment, and underlying orders, I concluded that the motion should be denied because service of process was proper. The District Court disagreed, finding that an evidentiary hearing should be conducted due to conflicting affidavits.

9. *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 2:07-cv-42-29SPC, 2008 WL 4491248 (M.D. Fla. July 3, 2008), *accepted in part, rejected in part, and modified in part*, 2008 WL 4491113 (M.D. Fla. Sept. 29, 2008). In a Report and Recommendation after conducting a *Markman* hearing regarding claim construction issues, I recommended the construction to be given to five disputed terms. The District Court disagreed with certain definitions but otherwise accepted the Report and Recommendation.

10. *United States v. Bowlby*, No. 2:07-cv-606-34SPC, 2008 WL 3245469 (M.D. Fla. July 16, 2008), *adopted in part, rejected in part*, 2008 WL 3245467 (M.D. Fla. Aug. 7, 2008). In a Report and Recommendation, I concluded that the Government's motion for default judgment should be granted and recommended that the Government should be awarded damages and costs. The District Court adopted the recommendation but rejected the award of filing fees to the Government, finding that the filing fee award would not be permitted.

11. *Monacelli v. Lee Cnty. Educ. Ass'n*, No. 2:08-cv-920-29SPC, 2009 WL 1930186 (M.D. Fla. June 17, 2009), *adopted in part, rejected in part*, 2009 WL 1883872 (M.D. Fla. June 30, 2009). In a Report and Recommendation on a motion to proceed *in forma pauperis*, I recommended that the motion be denied and the case dismissed with prejudice due to the fact that the plaintiff's complaint failed to state a valid cause of action. The District Court ultimately denied the motion as well, but concluded that the dismissal should be without prejudice.

12. *Coastal Conservation Ass'n v. Locke*, No. 2:09-cv-641-29SPC, 2010 WL 1407681 (M.D. Fla. Jan. 19, 2010), *accepted and adopted in part, rejected in part*,

2010 WL 1407680 (M.D. Fla. Apr. 6, 2010). In a Report and Recommendation on a motion to intervene, I recommended that a group be denied their request to intervene because they had the same goals as the governmental defendants. The District Court disagreed, and found that the interveners had presented sufficient evidence that the governmental defendants may not pursue the same objectives as the interveners. The Report and Recommendation was adopted in all other respects.

13. *Conservancy of Southwest Fla. v. United States Fish and Wildlife Serv.*, No. 2:10-cv-106-29SPC, 2010 WL 5140729 (M.D. Fla. Nov. 12, 2010), *adopted in part, rejected in part*, 2011 WL 1326805 (M.D. Fla. Apr. 6, 2011). In a Report and Recommendation on a motion to dismiss in this record review case, I concluded that the motion to dismiss should be denied, finding that the court had subject matter jurisdiction under the Administrative Procedures Act. The District Court agreed that the court had jurisdiction but found that the plaintiffs did not have a right to relief under the Administrative Procedures Act because the Service substantially complied with the statute and gave prompt consideration to their petitions. The Report and Recommendation was adopted in all other respects.

14. *Scarola v. Deutsche Bank Nat'l Trust Co.*, No. 2:10-cv-677-29SPC, 2011 WL 5335618 (M.D. Fla. Aug. 15, 2011), *adopted in part, rejected in part*, 2011 WL 5357681 (M.D. Fla. Nov. 3, 2011). In a Report and Recommendation on plaintiff's motion for leave to file a second amended complaint, I concluded that diversity jurisdiction had been properly pled but the motion should be denied because the proposed amended complaint failed to state a claim. I further recommended that the case be dismissed. The District Court adopted the findings regarding jurisdiction to the extent that plaintiff may be able to demonstrate diversity jurisdiction, but permitted plaintiff to file a second amended complaint and afforded plaintiff additional time to effectuate service.

15. *Flagiello v. Breakers Rest., LLC*, No. 2:10-cv-687, 2011 WL 6002973 (M.D. Fla. Aug. 1, 2011), *rejected*, 2011 WL 6004077 (M.D. Fla. Dec. 1, 2011). This is a Fair Labor Standards Act case in which I concluded in a Report and Recommendation that plaintiff's motion to approve the settlement should be denied, because there was no good cause to grant approval of the settlement agreement as plaintiff had brought a claim which was unlikely to succeed due to the lack of evidence showing an FLSA violation. The District Court disagreed, finding that there was a proper settlement reached between the parties.

16. *Royal Marco Point I Condo. Ass'n v. QBE Ins. Corp.*, No. 2:07-cv-16-99SPC, 2008 WL 4194792 (M.D. Fla. Aug. 8, 2008), *accepted in part, rejected in part*, 2008 WL 4194807 (M.D. Fla. Sept. 10, 2008). In a Report and Recommendation I concluded that a stay of the case should be lifted, the appraisal award should be confirmed, and that plaintiff's attorney's fees should be paid. The District Court agreed that the stay should be lifted and the appraisal award confirmed, but disagreed that plaintiff was entitled to attorney's fees at that time.

17. *United States v. Nunez*, No. 2:04-cr-14-29SPC (M.D. Fla. May 14, 2004); *accepted and adopted*, No. 2:04-cr-14-29SPC (M.D. Fla. June 30, 2004), *ruling upheld on reconsideration*, No. 2:04-cr-14-29SPC (M.D. Fla. Aug. 27, 2004), *rev'd per curiam*, 455 F.3d 1223 (11th Cir. 2006). In a Report and Recommendation on a motion to suppress, I concluded that because the officer did not have reasonable suspicion that the defendants were engaged in criminal activity, the traffic stop was unlawful. The District Court agreed and accepted and adopted the Report and Recommendation and specifically incorporated it into the Order. On reconsideration, the District Court upheld the denial of the motion to suppress. The Eleventh Circuit reversed, concluding that the facts known by the officers were sufficient to support reasonable suspicion. The Report and Recommendation and Order are supplied.

- 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.

Civil Matters: As a magistrate judge, I issue orders on non-dispositive matters and orders on dispositive matters in consent cases, and I issue reports and recommendations on all dispositive matters referred to me by the district judges. My non-dispositive orders include discovery matters, motions to amend the pleadings, motions to modify the scheduling order and other miscellaneous civil motions. I issue hundreds of such orders in any given year. Very few of the pretrial civil orders are published, although I have filed all orders with the court's Case Management Electronic Filing System (CM/ECF) since the court has maintained that system.

Criminal matters: As a magistrate judge, I issue orders on non-dispositive criminal matters such as appointment of counsel, detention and scheduling, which are all referred to the magistrate judge in this district. Very few, if any, of these orders are published.

In consulting all known sources, including Westlaw, Lexis and CM/ECF, I have found approximately 900 opinions which I understand to mean a "reasoned decision." Because CM/ECF was not in effect until 2004 in our court, the actual number is likely higher. Only 3 opinions have been published, which is less than 1%. The unpublished opinions are stored in CM/ECF and are designated "written opinions," which makes them available without cost on PACER. It appears that Westlaw and Lexis download and post the majority of these opinions on their services.

- 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.

United States v. Sereme, No. 2:11-cr-97-29-SPC (M.D. Fla. Mar. 27, 2012), adopted by District Judge John E. Steele, 2012 WL 1757271 (M.D. Fla. May 16, 2012). Report and Recommendation supplied in response to 13(d).

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

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

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

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

I follow the recusal statutes and Code of Conduct for United States Judges. Whenever called for by the Code of Conduct for United States Judges, the recusal statutes, or my general interest in maintaining impartiality and the appearance of impartiality of the Court, I disclose the potential conflict and/or recuse myself.

Our court does not employ an "automatic" recusal system; therefore, I evaluate each case that is referred and assigned to me as the magistrate judge. Further, I review cases as they proceed, continuing to examine whether a conflict has arisen.

In the following cases, I initiated recusal *sua sponte* due to personal, family, or staff relationships:

Stevens v. Fort Myers Police Dep't, No. 2:12-cv-187

Sapssov v. Health Mgmt. Assoc., Inc., No. 2:12-cv-46

Norfolk Cnty. Ret. Sys. v. Health Mgmt. Assoc., No. 2:12-cv-163

Croteau v. Assoc. Trust v. Tr. of the Chief Adm'r of the Municipal Court Twentieth Judicial Circuit in and for Lee County, No. 2:11-cv-296

Stonington Ins. Co. v. Villas Preschool and Child Care Ctr., Inc., No. 2:09-cv-798

Decosmo v. Health Mgmt. Assoc., Inc., No. 2:07-cv-741

Freeman v. Health Mgmt. Assoc., Inc., No. 2:07-cv-673

O'Connor v. Health Mgmt. Assoc., Inc., No. 2:07-cv-683

Ingram v. Health Mgmt. Assoc., Inc., No. 2:07-cv-529

Cole v. Health Mgmt. Assoc., Inc., No. 2:07-cv-484

Kirshy v. Barnhart, No. 2:06-cv-152

United States v. Lane, No. 2:05-cr-92

Sports Supply Group, Inc. v. Sergio, No. 2:03-cv-565

O'Connell v. Gerald, No. 2:03-cv-355

Prevatt v. Crosby, No. 2:03-cv-262

Durain v. Sec'y, Fla. Dep't of Corr., No. 2:03cv24.

Burkham v. Sch. Bd. of Lee Cnty., No. 2:02-cv-356

The Sater Group, Inc. v. WCI Cmtys., Inc., No. 2:02-cv-252

Farrell v. Woodham, No. 2:01-cv-417

In the following cases, I recused myself because I was a named defendant in the action:

Prescott v. Chappell, No. 2:10-cv-390

Bevan v. Chappell, No. 2:09-cv-337

In the following case, I recused myself after a conflict that was not apparent from the pleadings was brought to my attention by one of the parties:

Johnson v. Clark, No. 2:03-cv-490

I did not recuse myself in these cases because the motion was procedurally deficient:

Kress v. Twentieth Judicial Circuit, No. 2:08-cv-54

Kidwell v. Charlotte Cnty. Sch. Bd., No. 2:07-cv-13

I did not recuse myself in these cases because the motion was substantively deficient as it alleged prior adverse rulings:

Shaw v. United States, No. 2:11-cv-481

Prescott v. Alejo, No. 2:09-cv-791

Clark v. Coffee, No. 2:09-cv-257

Busse v. Lee Cnty., No. 2:07-cv-228

Bevan v. Lee Cnty. Sheriff's Dep't, No. 2:03-cv-500

I did not recuse myself in these cases. The motion for each case was substantively deficient because my impartiality could not reasonably be questioned:

Bevan v. D'Alessandro, No. 2:04-cv-457

Bevan v. Durling, No. 2:03-cv-527

From 2000 to 2003 as a County Court Judge, I had to recuse myself on a very small number of cases. The state filing system was not automated at that time and a diligent search of my records does not reveal the citations of those cases. I followed the applicable Florida statute when determining whether recusal was appropriate.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public offices other than judicial offices. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed 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.

Other than my own judicial campaign in 2002, I have not held office in any political party or election committee and I have not held a position or played a role in a political campaign.

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

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

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

I have not served as a clerk to a judge.

- 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.

1987 – 2000

Office of the State Attorney, Twentieth Judicial Circuit
Lee County Justice Center
2000 Main Street, 6th Floor
Fort Myers, Florida 33901
Assistant State Attorney

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

I have never served as a mediator or arbitrator in an alternative dispute resolution proceeding.

b. Describe:

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

In July 1987, I began my public service as an Assistant State Attorney in the Fort Myers Misdemeanor Division trying cases involving DUI, petit theft, battery, and domestic violence. In 1988, I was promoted to a felony attorney position and began prosecuting cases involving crimes against children, drugs, property crimes, and crimes against persons. I later became a felony track leader responsible for a caseload as well as for mentoring and supervising less experienced felony attorneys. I also conducted Grand Jury proceedings and was asked to prosecute cases outside of the Twentieth Judicial Circuit by the Governor of the State of Florida (Governor's Assignments). I was also responsible for the paperwork regarding the Interstate and Intrastate Extraditions of fugitives.

In October 1991, I was promoted to Office Head of the Hendry and Glades County Office. During the course of the year-long assignment, I elected to handle a felony docket, spent time in court daily, and tried seven major felony cases, three of which were first degree murder cases. My duties as an Office Head also included supervising the attorneys, secretaries, and investigators.

From 1993 to 1998, I served as a Supervisor of the Fort Myers Circuit Court Trial Division. My other duties included serving as Chair of the Hiring Committee, which was responsible for the hiring of new attorneys and secretaries. Because of my love for teaching trial strategy and preparation, I was instrumental in creating and implementing a training course for new Assistant State Attorneys.

In 1998, because of my experience investigating and trying homicide cases, I was selected as a member of the Cold Case Squad. As a member of this squad, I evaluated unsolved homicide cases and served as the legal advisor to local law enforcement and the Florida Department of Law Enforcement.

In 1999, I was selected by State Attorney Joseph P. D'Alessandro to become a member of the Executive Staff comprised of the State Attorney, two Deputy State Attorneys, the Executive Director, and several other senior staff members. The Executive Staff was responsible for determining policy, promotional, and budgetary issues within the four branch offices comprising the circuit.

From 1998 to 2000, I served as the Office Head of the Charlotte County Office. During that time, I handled a docket of felony cases consisting of major high profile homicide cases. While serving as a liaison between law enforcement and the State Attorney's Office, I assisted law enforcement by consulting at the crime scene, writing search warrants, and preparing cases for trial. In addition, I supervised a staff of over 30 attorneys, secretaries, and investigators.

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

My client was the State of Florida during my career with the State Attorney's Office. I typically worked closely with victims of crime and their families. During that time, I specialized in serious felony crimes including homicide, sexual battery, and crimes against children. I was also involved in supervising attorneys, secretaries, and investigators while acting as the Office Head of several of the offices in the Twentieth Judicial Circuit. I was also responsible as a member of the Executive Staff for developing office policy and procedures.

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

As an Assistant State Attorney, I frequently appeared in Florida state courts for hearings, trials, and other miscellaneous matters.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 0%
- 2. state courts of record: 100%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 1%
- 2. criminal proceedings: 99%

- 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 an Assistant State Attorney I tried 89 cases. My time was spent in state court litigating criminal misdemeanor and felony cases, serving as sole counsel in the majority of cases. I was lead counsel in the majority of first degree murder cases

that I tried. In a small number of first degree murder cases, I was assisted by less experienced felony attorneys who handled minor witnesses.

- i. What percentage of these trials were:
 - 1. jury: 83%
 - 2. non-jury: 17%

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

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

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

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

- 1. *State v. Prevatt*, Fla. Twentieth Judicial Circuit, No. 96-CF-2975, *aff'd*, 758 So. 2d 679 (Fla. 2d Dist. App. 2000); Hon. Isaac Anderson, Jr.; 1996 – 2000.

I was the lead prosecutor in this case that involved charges of first degree murder and aggravated child abuse. I obtained a conviction of the defendant, who was the natural father of the one-year-old victim. An initial hurdle was overcoming objections to *William's Rule* evidence. This case presented many challenges, including selecting jurors who could overcome their hesitance in believing that a father could hurt his own child; particularly because the victim was a "target child" with two older siblings whom the defendant had not abused. This case involved extensive medical evidence and testimony, requiring me to master the material in order to effectively examine the witnesses while simultaneously conveying this information in laymen's terms to the jury. The appellate court affirmed the defendant's conviction and life sentence.

Opposing Counsel: Marquin S. Rinard
P.O. Box 151088

Cape Coral, Florida 33915
(239) 793-5297

2. *State v. Lawson*, Fla. Twentieth Judicial Circuit, No. 94-CF-1568, *aff'd*, 695 So. 2d 705 (Fla. 2d Dist. App. 1997); Hon. William J. Nelson; 1994 – 1997.

I was the lead prosecutor in this case that involved the charge of attempted second degree murder with a firearm. The victim, who was the defendant's ex-wife, was shot in front of the couple's young children while she attempted to call 911. This case presented a unique challenge because the victim sustained life-threatening injuries that resulted in a coma. The trial hinged on her ability to recall and convey to the jury what had occurred, but her testimony was severely hampered by her physical and mental impairments. My questions during the victim's direct examination had to be succinct and simple. The defendant was convicted and the appellate court affirmed the conviction and sentence.

Opposing Counsel: Frank Alderman, Jr.
Deceased

3. *State v. Gibson*, Fla. Twentieth Judicial Circuit, No. 91-CF-472, *aff'd*, 661 So. 2d 288 (Fla. 1995); Hon. Jay B. Rosman; 1991 – 1995.

This death penalty case involved the charges of first degree felony murder, first degree premeditated murder, and first degree burglary. The defendant, a prison releasee who had previously been convicted of committing a homicide with a machete, raped and beat a young woman to death with a barbell. I was involved in this case from the day the authorities found the victim's body, and assisted in every stage of the case including trial. This case posed many challenges. At the outset, jury selection posed difficulties because the crime was committed in a small town where most of the potential jurors knew the parties involved. The trial lasted several weeks. I was tasked with presenting complicated, circumstantial, and forensic evidence in an understandable and interesting manner to the jury. Because the defendant's wife was a material witness, her testimony triggered the spousal privilege. Further, the defendant had an extremely low IQ and suffered from several diagnosed neuroses, necessitating extensive research and preparation for cross-examination of the defendant's expert witnesses. The defendant was convicted and the appellate court affirmed the conviction and sentence.

Opposing Counsel: Marquin S. Rinard
P.O. Box 151088
Cape Coral, Florida 33915
(239) 793-5297

4. *State v. Owens*, Fla. Twentieth Judicial Circuit, No. 90-CF-1196, *aff'd in part, rev'd in part*, 626 So. 2d 240 (Fla. 2d Dist. App. 1993); Hon. James Thompson; 1990 – 1993.

This case involved the charges of first degree burglary, sexual battery, aggravated battery on a person over the age of 65, robbery with a deadly weapon, and aggravated assault. I prosecuted the defendant, who had entered an elderly woman's home while she was sleeping, and proceeded to rape and severely beat her, leaving her for dead. As lead prosecutor, the case presented me with challenges because the victim was unable to identify her attacker and the defendant asserted an alibi defense. Circumstantial evidence found at the scene had to be pieced together, and experts in fingerprint identification, serology, and DNA testing had to be called as witnesses to prove identification. The jury convicted the defendant. During the sentencing hearing, I introduced certified copies of the defendant's convictions, evidence of fingerprint comparisons and matches, and specific findings regarding the defendant's prior criminal history to ensure he would qualify as a habitual violent felony offender.

Opposing Counsel: Brian Boyle
 2047 McGregor Boulevard
 Fort Myers, Florida 33901
 (239) 334-6602

5. *State v. Ahlefeld*, Fla. Twentieth Circuit Court, No. 89-CF-002273, *aff'd*, 589 So. 2d 298 (Fla. 2d Dist. App. 1991); Hon. James R. Thompson; 1989 – 1991.

This case involved six counts of capital sexual battery stemming from the defendant's sexual abuse of two boys under his care. The duration of the abuse spanned several years, including incidents when the defendant forced the boys to perform sexual acts on each other. The case was complicated and involved the temporary closure of the courtroom due to the sensitive nature of the crimes and the ages of the children, appointment of a guardian ad litem, admission of hearsay testimony from children under the age of 11, extensive expert testimony to explain the absence of medical evidence, and the extent and symptoms of posttraumatic stress syndrome. As the lead prosecutor, I was challenged during my direct examination of the children because the questions could not be suggestive. The jury convicted the defendant and the appellate court affirmed the conviction and sentence.

Opposing Counsel: Marzell Mitchell, Jr.
 No longer in practice

6. *State v. Baldwin*, Fla. Twentieth Judicial Circuit Court, No. 96-316, *aff'd*, 925 So. 2d 318 (Fla. 2d Dist. App. 2006); Hon. Cynthia Ellis; 1996 – 1998.

I assisted in the prosecution of this case that involved the charges of burglary with assault or battery upon a person, sexual battery with threat or force, and assault or battery on a person 65 years or older. The defendant had been previously convicted of sexual assault, sexual contact with a 9-year-old girl, and vehicular homicide. The defendant broke into the 92-year-old female victim's house where he proceeded to rape and beat her until he broke her ribs. Due to the age and frailty of the victim, it

was necessary to perpetuate her testimony via videotape. The conviction also hinged on DNA evidence. The jury convicted the defendant on all charges and, due to his habitual felony status, he was sentenced to life in prison. The appellate court affirmed his conviction and life sentence.

Opposing Counsel: Paul Sullivan
Arnold D. Levine & Associates
505 East Jackson Street
Tampa, Florida 33602
(813) 229-6585

7. *State v. Langill*, Fla. Twentieth Judicial Circuit Court, No. 94-CF-944, *aff'd*, 720 So. 2d 525 (Fla. 2d Dist. App. 1998); Hon. William J. Nelson; 1994 – 1996.

This case involved charges of first degree murder and aggravated stalking for which I served as lead prosecutor. The defendant was accused of stalking his girlfriend and murdering her in the parking lot of a restaurant. Because there were no eyewitnesses to the murder and the defendant maintained he acted in self-defense, the case rested solely on circumstantial and forensic evidence. The jury found the defendant guilty and the court imposed a life sentence. The appellate court affirmed the conviction and sentence.

Opposing Counsel: Marquin S. Rinard
P.O. Box 151088
Cape Coral, Florida 33915
(239) 793-5297

8. *State v. Jones*, Fla. Twentieth Judicial Circuit Court, No. 95-CF-889; Hon. William J. Nelson; 1995 – 1997.

I served as lead prosecutor in this case against the defendant who was charged with first degree premeditated murder, armed burglary, violation of an injunction, aggravated assault with a deadly weapon, aggravated fleeing or eluding arrest, and attempted murder of law enforcement officers. The charges stemmed from the defendant breaking and entering his estranged wife's house, killing her, shooting at neighbors, leading responding officers on a high-speed chase, and shooting at the officers before surrendering. These events resulted in multiple crime scenes with hundreds of pieces of evidence. Additionally, the victim was pregnant at the time of the homicide and was the niece of a police sergeant within the department that responded to the scene. The defendant was convicted as charged on all counts except the aggravated assault with a deadly weapon, and was sentenced to life.

Opposing Counsel: John D. Mills
5237 Summerlin Commons Boulevard, Suite 314
Fort Myers, Florida 33907
(239) 337-3535

9. *State v. Meynard*, Fla. Twentieth Judicial Circuit Court, No. 97-CF-115, *aff'd*, 764 So. 2d 590 (Fla. 2d Dist. App. 2000); Hon. R. Wallace Pack; 1997 – 1999.

This case stemmed from the defendant's choking, stabbing, and bludgeoning murder of a practicing dentist who lived across the street from the defendant's family. The victim's body was found by her elderly mother. This particularly heinous case presented difficulties because the defendant was 16-years-old at the time he committed the crime, and at trial the defendant's 14-year-old brother refused to testify against his brother despite previously giving a statement to authorities implicating his brother. The evidence presented during trial consisted of DNA, and bloody fingerprints and footprints. The jury found defendant guilty of first degree premeditated murder and first degree felony murder. Due to the age of the defendant, the court imposed a life sentence that was affirmed by the appellate court.

Opposing Counsel: Mark Cooper
 Public Defender's Office
 P.O. Drawer 1980
 Fort Myers, Florida 33902
 (239) 533-2911

10. *State v. Marquis*, Fla. Twentieth Judicial Circuit Court, No. 98-CF-460; Hon. Cynthia Ellis; 1998 – 1999.

This case involved a mother's abuse and neglect of her 3-month-old baby boy. The defendant previously had another child removed from her custody due to neglect. The baby was found blue-faced, underweight, filthy, and wet. I became involved in the case and took over the prosecution of the defendant when an amended information was filed. I prepared the case for trial, but after I finished my opening statement, the defendant waived her right to a jury trial and entered a plea of guilty as charged.

Opposing Counsel: Joseph Lombardo, Jr.
 Law Office of Joseph Lombardo, Jr., P.A.
 203 Wood Street
 Punta Gorda, Florida 33950
 (941) 621-2840

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.)

Prior to becoming a judge, I spent my legal career as a prosecutor for the State Attorney's Office, and served as an office head and member of the executive staff responsible for determining policy, promotional, and budgetary issues in the four branch offices comprising the Twentieth Judicial Circuit. During that time, I also participated in the Lee, Charlotte, and Hendry County Bar Associations. In addition, I taught at the Southwest Florida Criminal Justice Academy and for the Florida Prosecuting Attorney's Association.

As a Lee County Court Judge, I was involved in the Lee County Bar Association and served as a judge for moot court competitions and Lee County Teen Court. During this time, I hosted numerous groups of school-aged children educating them on the civil and criminal justice system.

As a United States Magistrate Judge, I have been involved in numerous court governance committees. At the district level, I have served on the following committees: Automation, Bench Bar, Education Sub-Committee of the Historical Committee, Congressional Relations, Security, Case Management and Judicial Relations, Judicial Resources, CM/ECF Policies and Procedures, and Jury Management. I have also served as a board member for the Calusa American Inn of Court, a professional organization for attorneys and judges promoting professionalism, civility, and excellence in the practice of law.

On the national level, I serve on the Judges IT Training Advisory Committee and have been selected by the Administrative Office of the United States Courts and the Federal Judicial Center to teach at the New Magistrate Judges IT Training and Chambers IT Training sessions.

I have not performed any legal or lobbying activities for any client or organization.

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.

I have not taught any courses.

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

I have no financial or business interests from which I might expect to be compensated in the future. I did participate in the Florida Retirement System and maintain a vested benefit therein payable monthly upon attaining normal retirement age. I also anticipate

receiving income through the State of Florida's Deferred Compensation Plan established under Internal Revenue Code 457. As a federal employee, I anticipate receiving income through the federal Thrift Savings Plan.

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

I intend to participate in the presentation of continuing legal education and community outreach efforts. I have no plans, commitment, or agreements to pursue outside employment.

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

See attached Financial Disclosure Statement.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will continue to adhere to the Code of Conduct for United States Judges and other applicable authority regarding the conflicts of interest and recuse myself accordingly. I am not aware of any conflicts of interest presently.

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

To prevent conflicts of interest from arising, I do not have investments other than personal real estate and the Thrift Savings Plan. If confirmed, I intend to continue to be guided by the Code of Conduct for United States Judges and other applicable authority in resolving any conflicts of interest that might arise.

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

As a public servant, I have been limited to community service activities that did not ethically interfere with my job function. The Code of Conduct for United States Judges and Florida's Code of Judicial Conduct both prohibit practicing law, thereby precluding a judge from participating in *pro bono* legal representation. Likewise as an Assistant State Attorney, I was also precluded from participating in the legal representation of others. However, despite these limitations, I found it important to explore other avenues to improve the law, the legal system, and the administration of justice.

I am most proud of my community service work in exposing students to the legal system. Unfortunately, many children have a negative impression of the court system because of their exposure to television, speaking with friends who have been involved in the system, or witnessing firsthand a court proceeding involving a family member. To alleviate these misconceptions, I found as a young prosecutor that I could enter the classroom setting and speak about my profession and the law and engage students, leaving them with a positive impression of the system.

Since becoming a judge, I have expanded those speaking opportunities to conducting mock trials and mock courtroom proceedings for school children of all ages. Many of the mock trials I have written myself. I also involve court staff, law enforcement officers, and other members of the legal community in presenting the scenarios to the students so the students can explore the varied opportunities for work in the justice system.

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 January 3, 2012, I submitted an application to the Florida Federal Judicial Nominating Commission in connection with the vacancy posted on November 29, 2011. On February 17, 2012, I interviewed with the Middle District Conference of the Judicial Nominating Commission in Orlando, Florida, and was notified by the Judicial Nominating Commission that my name, along with two others, was being submitted to Senator Bill Nelson and Senator Marco Rubio. On March 28,

2012, I interviewed with Senators Nelson and Rubio in Senator Nelson's office in Washington, DC. Both Senators advised me they were submitting my name along with two others, to the White House for consideration in connection with the vacancy.

Since April 26, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 29, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On June 25, 2012, 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.

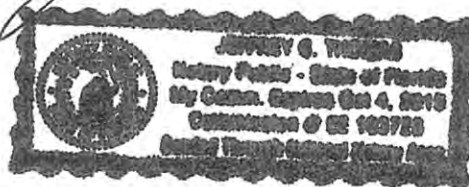
AFFIDAVIT

I, Sheri Polster Chappell, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

June 25, 2012
(DATE)

Sheri Polster Chappell
(NAME)

Jeffrey D. Thomas
(NOTARY)





**The Honorable Sheri Polster Chappell
United States Magistrate Judge
U.S. Courthouse and Federal Building
2110 First Street
Fort Myers, Florida 33901**

Telephone: (239) 461-2060

Facsimile: (239) 461-2139

January 3, 2013

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on June 26, 2012 to be United States District Judge for the Middle District of Florida. Incorporating the additional information below, I certify that the information contained in the documents is, to the best of my knowledge, true and accurate.

Question 12.d.

- November 7, 2012: Cub Scout Pack 6, *Welcome to the Federal Courts*, Fort Myers, Florida. I described the duties of a Federal Magistrate Judge and gave an overview of the Federal Court System. I have no notes, transcripts or recordings. Cub Scout Pack 6 has no physical address.
- October 24, 2012: Lee County Emerging Leaders presentation, *Welcome to the Federal Courts*, Fort Myers, Florida. I described the duties of a Federal Magistrate Judge and gave an overview of the Federal Court System. I have no notes, transcripts or recordings. Lee County Emerging Leaders has no physical address.
- August 22-24, 2012: New Magistrate Judge IT Orientation, Federal Judicial Center and the Administrative Office of the U.S. Courts, San Antonio, Texas. I used the same handouts as those supplied for the March 21-23, 2012 event.
- July 18-20, 2012: Chambers IT Train the Trainer, Federal Judicial Center and the Administrative Office of the U.S. Courts, Las Vegas, Nevada. I used the same slides as those supplied for the August 8-12, 2011 event.
- June 7, 2012: Edison State College presentation. *Welcome to the Federal Courts*, Fort Myers, Florida. I described the duties of a Federal Magistrate Judge and gave an overview of the Federal Court System. I have no notes, transcripts, or recordings. The address for Edison State College is 8099 College Parkway, Fort Myers, Florida 33919.

Question 13.b. Citations of opinions.

Updated list attached.

Question 13.f. Decisions reversed or affirmed with criticism.

- *Blair v. Comm'r of Soc. Sec.*, No. 6:11-cv-401-Orl-37SPC (M.D. Fla. May 22, 2012); *rejected in part*, 2012 WL 3589806 (M.D. Fla. Aug. 20, 2012). In a Report and Recommendation on a Complaint seeking review of the denial of a claim for disability insurance benefits, I recommended that the decision of the Commissioner be affirmed. The District Court disagreed in part with the recommendation but adopted the remaining portion. The Report and Recommendation is supplied.
- *Fiddler's Creek Cmty. Dev. Dist. 2 v. U.S. Bank Nat'l Ass'n*, No. 2:12-cv-5-FtM-UA-SPC, 2012 WL 2358298 (M.D. Fla. Feb. 29, 2012); *declined to adopt*, 2012 WL 2358295 (M.D. Fla. June 20, 2012). In a Report and Recommendation on a motion for leave to file an amended complaint, I recommended that the request to add additional defendants be denied as the circumstances suggested that the purpose of the amendment was to defeat diversity jurisdiction and the motion was filed after the parties were scheduled to have a hearing on a preliminary injunction motion. The District Court declined to adopt the Report and Recommendation.
- *Ave Maria Univ. v. Sebelius*, No. 2:12-cv-88-FtM-99SPC, 2012 WL 3128015 (M.D. Fla. July 31, 2012); *objections sustained*, No. 2:12-cv-88-FtM-99SPC (M.D. Fla. Nov. 28, 2012). In an Order on defendant's motion to stay discovery pending resolution of a motion to dismiss, I denied a stay of discovery so that the case would continue to progress. After a preliminary review of the Motion to Dismiss, the District Court sustained the Defendant's objections finding that discovery should be stayed until the court rules on the motion to dismiss because there is a significant possibility that the court will grant defendants' motion to dismiss for lack of subject-matter jurisdiction. The District Court Order is supplied.
- *Heitmann v. Francoletti*, No. 2:12-cv-78-FtM-29SPC (M.D. Fla. June 15, 2012 & July 26, 2012); *vacated*, No. 2:12-cv-78-FtM-29SPC (M.D. Fla. Oct. 17, 2012). This is a case brought pursuant to the Truth in Lending Act wherein defendant filed a counterclaim pursuant to a Florida statute for possession of his property following the breach of a lease agreement. In an Order granting defendant's motion to determine rent, I determined that a lease agreement existed between the parties, plaintiff had failed to pay rent, and therefore under Florida law the tenant was required to pay the accrued rent into the registry of the court. I issued a subsequent order to show cause after plaintiff failed to deposit the rent into the registry. The District Court vacated these Orders after ruling that

the Court lacked subject-matter jurisdiction over the counterclaim. The Orders are supplied.

Question 14. Recusal

- In the following case, I initiated recusal *sua sponte* due to personal, family, or staff relationships.
 - *Downer v. Health Mgmt. Assoc., Inc.*, No. 2:12-cv-580

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,

A handwritten signature in black ink, reading "Sheri Polster Chappell". The signature is fluid and cursive, with the first name "Sheri" being more prominent and the last name "Chappell" written in a more compact, cursive style.

Sheri Polster Chappell
U. S. Magistrate Judge

Cc: The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Written Opinions Report

U.S. District Court -- Middle District of Florida
Filed Report Period: 4/27/2012 - 12/26/2012

| Case Number & Name: | Date Filed: | Doc. # | Description: | Notes: |
|--|-------------|---------------------|--|--|
| 2:2000-cr-00028-JES United States of America v. Johnson et al | 11/13/2012 | 121 | ORDER denying as moot 119 the Motion to Re-Set Preliminary Examination as to Justin Alan Johnson (1); granting 120 First Amended Motion to Re-Set Preliminary Examination as to Justin Alan Johnson (1). Signed by Magistrate Judge Sheri Polster Chappell on 11/13/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> ARCHIVED, CLOSED, CUSTODY, DNF <i>Judge:</i> Sheri Polster Chappell |
| 2:2004-cr-00084-VMC-SPC USA v. Esparza | 05/10/2012 | 91 | ORDER Appointing CJA Counsel, Thomas Demine,III, Esq., as to Raymond Anthony Esparza.Signed by Magistrate Judge Sheri Polster Chappell on 5/10/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>Judge:</i> Sheri Polster Chappell |
| 2:09-cv-00118-CEH-SPC Encore Enterprises, Inc. v. Roberts Hotels Fort Myers, LLC | 10/05/2012 | 129 | ORDER denying 128 Plaintiff's Motion for Leave to File Under Seal Motion for Writ of Garnishment. The Clerk of Court is directed to docket the Motion for Leave to File Under Seal Motion for Writ of Garnishment and Motions for Writ of Garnishment ex parte and not under seal. Signed by Magistrate Judge Sheri Polster Chappell on 10/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Other Contract <i>Judge:</i> Sheri Polster Chappell |
| | 10/05/2012 | 132 | ORDER granting 130 Plaintiffs Ex-Parte Motion for Writ of Garnishment against Garnishee Bank of America ; granting 131 Plaintiff's Ex-Parte Motion for Writ of Garnishment against Garnishee U.S. Trust. Signed by Magistrate Judge Sheri Polster Chappell on 10/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Other Contract <i>Judge:</i> Sheri Polster Chappell |
| | 11/07/2012 | 138 | ORDER granting 137 Garnishee Bank of America's Motion for Attorneys' Fees.The Clerk of Court is directed to disburse the \$100 writ of garnishment fee from the registry of the Court payable to Haley & Jhones, P.A., 1500 San Remo Avenue, Suite 222, Coral | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Other |

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| | | | Gables, Florida 33146.Signed by Magistrate Judge Sheri Polster Chappell on 11/7/2012. (LMF) | Contract <i>Judge:</i> Sheri Polster Chappell |
| | 11/20/2012 | 140 | ORDER denying 139 Answer to Writ of Garnishment Served November 8, 2012 and Demand for Attorneys' Fees. Signed by Magistrate Judge Sheri Polster Chappell on 11/20/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Other Contract <i>Judge:</i> Sheri Polster Chappell |
| 2:09-cv-00682-UA-SPC Altimas et al v. Whitney et al | 09/11/2012 | 261 | ORDER granting 257 Defendant, National Credit Union Administration Boards Motion to Compel. The Plaintiff, Orris Rodahl has up to and including October 1, 2012, to file answers to the interrogatories and produce the requested production in compliance with the Federal and Local Rules of Civil Procedure.Defendant, National Credit Union Administration Board's Motion for Attorneys Fees and Costs for bringing the Motion is DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 9/11/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, TRILSET <i>NOS:</i> Racketeer/Corrupt Organization <i>Cause:</i> 18:1962 Racketeering (RICO) Act <i>Judge:</i> Sheri Polster Chappell |
| | 09/17/2012 | 263 | ORDER granting 259 The Defendant, National Credit Union Administration Board, in Its Capacity as Liquidating Agent for Huron River Area Credit Union's Motion to Compel Discovery Directed to Plaintiffs. The Plaintiffs have up and including September 28, 2012, to provide full and complete answers to the NCUAs Interrogatories and produce all of the requested documents. The Plaintiffs have up to and including November 17, 2012, to schedule and complete their depositions via telephone. Should a Plaintiff fail to cooperate in completing their deposition on or before November 13, 2012, the Court will allow the NCUA leave to move the Court to compel the deposition in Fort Myers, Florida. The Plaintiffs, Fue and Chonnie Vang have | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, TRILSET <i>NOS:</i> Racketeer/Corrupt Organization <i>Cause:</i> 18:1962 Racketeering (RICO) Act <i>Judge:</i> Sheri Polster Chappell |

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| | | | up to and including September 28, 2012, to answer the interrogatories and produce the requested documents requested in the NCUA discovery. The Plaintiffs, Fue and Chonnie Vang have up to and including November 17, 2012, to schedule and complete their depositions via telephone. Should they fail to cooperate in completing their deposition on or before November 17, 2012, the Court will allow the NCUA leave to move the Court to compel the Vangs deposition in Fort Myers, Florida. The NCUA's Motion for Attorneys Fees and Costs for bringing the Motion is DENIED.. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | |
| 2:09-cv-00843-JES-SPC Fiore v. Goodyear Tire & Rubber Company | 05/09/2012 | 209 | REPORT AND RECOMMENDATION re 208 Joint MOTION to Approve Settlement filed by Wayne Fiore. It is respectfully recommended the Plaintiff Wayne Fiore on his own behalf and others similarly situated and the Defendant, Goodyear Tire & Rubber Company's Joint Motion to Approve Settlement 208 should be GRANTED and the settlement agreement should be APPROVED by the District Court. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| 2:2010-cr-00107-JES-DNF USA v. Thomas | 07/23/2012 | 64 | ORDER as to Leroy Thomas re 63 Notice (other) filed by USA. The Notice of Withdrawal 63 is GRANTED. Assistant United States Attorney Andrew Marcus shall be removed as Counsel for the Government in this matter and shall bear no further responsibility in this matter. The Clerk is directed to remove Mr. Marcus from further CM/ECF notifications regarding this case. Signed by Magistrate Judge Sheri Polster Chappell on 7/23/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, CUSTODY, INTAPP <i>Judge:</i> Sheri Polster Chappell |
| | 07/24/2012 | 69 | ORDER granting 59 the Second Renewed Motion to Vacate Detention Order. The Defendant will be released | <i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, |

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| | | | on bond. Signed by Magistrate Judge Sheri Polster Chappell on 7/24/2012. (LMF) | CUSTODY, INTAPP <i>Judge:</i> Sheri Polster Chappell |
| | 08/21/2012 | 71 | ORDER granting 70 Defendant's Unopposed Motion for Permission to Leave His Residence to the extent that the Defendant is permitted to leave his residence upon clearance with the Pretrial Services officer for the purpose of re-registered for b enefits at the Veterans Administration and Social Security Administration. The Defendant must notify the Pretrial Officer of his itinerary prior to leaving the residence. Further, if any doctors appointments are forthcoming, the Pretrial Officer must authorize them in advance. Signed by Magistrate Judge Sheri Polster Chappell on 8/21/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, CUSTODY, INTAPP <i>Judge:</i> Sheri Polster Chappell |
| | 11/20/2012 | 74 | ORDER as to Leroy Thomas granting 72 Unopposed MOTION for miscellaneous relief, specifically for Permission to Leave Residence filed by Leroy Thomas. The Defendants bond is modified to allow him to seek regular employment between the hours of 10:00 AM through 2:00 PM. During such time, the Defendant shall be accompanied by a family member approved by Pretrial Services. The names of family members not previously approved by Pretrial Services shall be given to Tad Parks, Pretrial Services Off icer, in order to accomplish the appropriate background check.The Defendant shall provide Pretrial services with documentation as to the applications for jobs that he has submitted during the times when he is away from his residence. Signed by Magistrate Judge Sheri Polster Chappell on 11/20/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, CUSTODY, INTAPP <i>Judge:</i> Sheri Polster Chappell |
| 2:2010-cr-00136-JES-SPC USA v. Stella et al | 06/15/2012 | 332 | ORDER granting 331 the Motion to Exonerate Bond. The monies currently being held by the Clerk of Court in the United States District Court in San | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC <i>Judge:</i> Sheri |

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| | | | Francisco for the Middle District of Florida may be released to the surety as the case in the Middle District of Florida has been resolved and no further matters are outstanding before this Court. Signed by Magistrate Judge Sheri Polster Chappell on 6/15/2012. (LMH) | Polster Chappell |
| 2:2010-cr-00157-JES-SPC USA v. Kurz | 09/17/2012 | 51 | ORDER granting 49 the Unopposed Motion for Waiver of Personal Appearance at Arraignment of Superseding Indictment. The Court will enter a not guilty plea on the Defendant's behalf. The Case remains on its current trial calendar. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00153-UA-SPC Kearney Partners Fund, LLC v. United States of America | 11/26/2012 | 139 | ORDER ruling deferred 112 Ruling on the Plaintiffs, Kearney Partners Fund, LLC. and Lincoln Partners Fund, LLC.'s Protective Motion to Compel Production of Documents on Privilege Logs. SEE ORDER FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 11/26/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> LEAD, MAGAPP, MAIL, TRLSET <i>NOS:</i> Taxes <i>Cause:</i> 26:6502 IRS:Enforcement of tax liens <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00155-UA-SPC Fellner v. Cameron et al | 07/25/2012 | 279 | REPORT AND RECOMMENDATION re 276 Amended MOTION to amend/correct 272 Order on motion to dismissOrder on motion to amend/correct <i>3rd Amended Complaint</i> Amended MOTION to amend/correct 272 Order on motion to dismissOrder on motion to amend/ correct <i>3rd Amended Complaint</i> Amended MOTION to amend/correct 272 Order on motion to dismissOrder on motion to amend/correct <i>3rd Amended Complaint</i> filed by Daniel Fellner. It is respectfully recommended that Plaintiff, Daniel Fellners Motion to Amend 276 be granted in part and denied in part and Plaintiff be granted leave to file his Fourth Amended Complaint with the exception that Counts I & II be brought against Defendant Kerry Cameron only. | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Fraud or Truth-In-Lending <i>Cause:</i> 28:1332 Diversity-Fraud <i>Judge:</i> Sheri Polster Chappell |

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| | | | The Court recommends that the Fourth Amended Complaint be revised prior to filing in accordance with the above. Signed by Magistrate Judge Sheri Polster Chappell on 7/25/2012. (LMF) | |
| 2:10-cv-00201-SPC Fattorusso et al v. The M/V Wanderer II et al | 05/21/2012 | 117 | ORDER denying 112 the Defendant Blayne Hass' Motion for Summary Judgment and Dismissal of the Case, granting 114 the Plaintiffs, Leslie Fattorusso and Gerald N. Harringtons Motion for Summary Judgment. The Clerk of the Court is directed to enter judgment consistent with this Order against the Defendant Blayne Hass in favor of the Plaintiffs. The Court will reserve jurisdiction over damage claims. The Plaintiffs have up to and including June 11, 2012, to provide the Court with any damage calculations. Failure to submit the damages within the Courts deadline will result in the Court closing the case and entering final judgment without further consideration of the alleged damages. Signed by Magistrate Judge Sheri Polster Chappell on 5/21/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL, MAIL <i>NOS:</i> Other <i>Statutory Actions Cause:</i> 28:1333 <i>Admiralty Judge:</i> Sheri Polster Chappell |
| | 08/01/2012 | 121 | ORDER granting 120 The Plaintiffs, Leslie Fattorusso and Gerald Harringtons, Motion for Entry of an Award of Damages. The Defendant Blayne Hass shall pay Plaintiffs \$37,578.98 for damages and pre-judgment interest. The Clerk of the Court is directed to enter an Amended Final Judgment to reflect the amount of damages awarded to the Plaintiff. The Clerk of Court shall mail a copy of this Order and all subsequent entries docketed in matter to Blayne Hass at his home address: 4261 Orange Grove Blvd., North Fort Myers, FL 33903. Signed by Magistrate Judge Sheri Polster Chappell on 8/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL, MAIL <i>NOS:</i> Other <i>Statutory Actions Cause:</i> 28:1333 <i>Admiralty Judge:</i> Sheri Polster Chappell |
| | 09/24/2012 | 125 | ORDER granting in part and denying in part 124 The Plaintiffs' Motion for Attorney's Fees and Costs. Plaintiffs' Motion for Attorney's Fee is DENIED. Plaintiff's Motion for Costs pursuant to | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL, MAIL <i>NOS:</i> Other |

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| | | | §1920 is GRANTED. Plaintiffs are entitled to \$1091.58 in costs. Signed by Magistrate Judge Sheri Polster Chappell on 9/24/2012. (LMF) | Statutory Actions <i>Cause:</i> 28:1333 Admiralty <i>Judge:</i> Sheri Polster Chappell |
| | 12/03/2012 | 127 | ORDER granting 126 the Plaintiffs, Leslie A Fattorusso and Gerald N. Harrington's Motion to Compel Post Judgment Discovery. The Defendant Blayne Hass has up to and including December 23, 2012, to fully answer the interrogatories and produce the requested production. Signed by Magistrate Judge Sheri Polster Chappell on 12/3/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL, MAIL <i>NOS:</i> Other Statutory Actions <i>Cause:</i> 28:1333 Admiralty <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00298-UA-SPC Nadreau et al v. Lush Cosmetics NY, LLC | 05/10/2012 | 91 | ORDER granting in part and denying in part 89 Defendants Lush Cosmetics, LLC and Lush Cosmetics NY, LLC's Motion to Compel Answers to Defendants' Third Interrogatories Directed to Plaintiffs, Certification of Counsel Conference and Motion for Attorneys' Fees. Defendants motion to compel all 36 opt-in Plaintiffs to respond to Defendants' Third Interrogatories Directed to Plaintiffs is GRANTED. Defendants' request for attorneys' fees is DENIED. Plaintiffs' Combined Motion to Deem Objection to Defendants' Third Interrogatories Timely 90 is GRANTED. Signed by Magistrate Judge Sheri Polster Chappell on 5/10/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |
| | 08/13/2012 | 99 | REPORT AND RECOMMENDATION re 74 MOTION to certify class filed by Catalina Hernandez, Roseann Dennison, Kimberly Pearce, Robert Wade Whitmer, Shaun Gillies, Jennifer Shakan, Daniel Cortez, Seth Nadreau, Dylan Meek. It is respectfully recommended Plaintiffs' Motion to Certify Rule 23 Sub-Class as to Count II of Amended Complaint should be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 8/13/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00467- | 06/11/2012 | 75 | ORDER granting 74 Plaintiff, | <i>Office:</i> Ft. Myers |

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| JES-SPC American Airlines, Inc. v. In Charge Marketing, Inc. et al | | | American Airlines, Inc.s, Motion to Compel Peter Nagy Jr., to Comply with Subpoena Duces Tecum. Peter Nagy shall produce all documents under his possession, custody, or control responsive to the subpoena duces tecum (and agreed to produce) on or before July 2, 2012. Failure to do so could result in sanctions. The Clerk of Court is directed to mail a copy of this Order and all subsequent entries docketed in this matter to Peter Nagy at his business address: Peter Nagy, Jr., In Charge Marketing, Inc., 1915 E. Concord St., Suite 800B, Orlando, FL 32803 and his home address: 627 102nd Avenue, North Naples, FL 34108.. Signed by Magistrate Judge Sheri Polster Chappell on 6/11/2012. (LMH) | <i>Case Flags:</i> MAIL, STAYED <i>NOS:</i> Trademark <i>Cause:</i> 15:1125 Trademark Infringement (Lanham Act) <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00485-UA-SPC Washington v. Budz et al | 11/27/2012 | 59 | OPINION AND ORDER re: granting 42 MOTION to compel to the extent Defendants shall provide Plaintiff with the discovery information described herein within ten (10) days of the date of this Order. Signed by Magistrate Judge Sheri Polster Chappell on 11/27/2012. (SLU) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, RYCE <i>NOS:</i> Prisoner Civil Rights (Prison Condition) <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00528-SPC Grawbadger v. Emanoilidis | 08/21/2012 | 90 | OPINION AND ORDER re: denying without prejudice 81 MOTION to strike <i>Plaintiff's Expert, Michael Berg</i> . Signed by Magistrate Judge Sheri Polster Chappell on 8/20/2012. (SLU) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL, RYCE, SL DOC <i>NOS:</i> Prisoner Civil Rights (Prison Condition) <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| | 09/04/2012 | 98 | OPINION AND ORDER re: denying in its entirety 82 MOTION for summary judgment <i>with Memorandum of Law</i> . Signed by Magistrate Judge Sheri Polster Chappell on 9/4/2012. (SLU) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL, RYCE, SL DOC |

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| | | | | <i>NOS:</i> Prisoner Civil Rights (Prison Condition) <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00680-UA-SPC Gadsby et al v. American Golf Corporation of California et al | 06/21/2012 | 77 | ORDER denying as moot 73 The Defendants, American Golf Corporation of California and Golf Enterprises, Inc.'s Motion for Reconsideration or for Clarification of the Courts Order Granting the Plaintiffs Amended Motion to Modify Scheduling Order to Extend Trial-Related Deadlines; granting in part and denying in part 75 The Defendants, American Golf Corporation of California and Golf Enterprises, Inc.'s Motion for Reconsideration or for Clarification of the Court's Order Granting the Plaintiffs' Amended Motion to Modify Scheduling Order to Extend Trial-Related Deadline. The Defendants Motion for Reconsideration is DENIED. The Defendants Motion for Clarification GRANTED. The Courts Order granting an extension for the discovery deadline did not grant the Plaintiffs the right to take a second deposition of Cheryl James. The Discovery Deadline was reopened for all discovery up to and including August 12, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 6/21/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> COMPLY, MAIL, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Notice of Removal <i>Judge:</i> Sheri Polster Chappell |
| | 06/21/2012 | 78 | ORDER denying 67 Plaintiffs' Motion to Compel Production of Documents. Signed by Magistrate Judge Sheri Polster Chappell on 6/21/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> COMPLY, MAIL, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Notice of Removal <i>Judge:</i> Sheri Polster Chappell |
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| 2:10-cv-00749-UA-SPC Nationwide Mutual Insurance Company v. Fort Myers Total Rehab Center, Inc. et al | 09/06/2012 | 51 | ORDER re 49 MOTION for sanctions <i>Against Peter Reiter, D.C. and Incorporated Memorandum of Law</i> filed by Nationwide Mutual Insurance Company. Defendant Peter Reiter is directed to file a response to Nationwide's Motion for Sanctions Against Peter Reiter, D.C. 49 with the Court. Defendant shall have up to and including September 19, 2012 to do so. Failure to respond could result in the Court granting Plaintiffs Motion without the benefit of a response, with an award of sanctions up to and including contempt and arrest. Signed by Magistrate Judge Sheri Polster Chappell on 9/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Breach of Contract <i>Judge:</i> Sheri Polster Chappell |
| | 09/25/2012 | 53 | ORDER ruling deferred 49 on Plaintiff Nationwides Motion for Sanctions Against Peter Reiter, D.C. A hearing on Plaintiff's Motion for Sanctions Against Peter Reiter, D.C. 49 will be held before the undersigned on Wednesday, October 17, 2012 at 2:30 p.m. at the United States Courthouse and Federal Building, 2110 First Street, Courtroom 5D, Fort Myers, Florida 33901. Signed by Magistrate Judge Sheri Polster Chappell on 9/25/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Breach of Contract <i>Judge:</i> Sheri Polster Chappell |
| | 10/18/2012 | 56 | ORDER denying as moot 49 Nationwide's Motion for Sanctions Against Peter Reiter, D.C. ; denying as moot 52 Defendant Reiter's Letter Motion to the Court for Extension of Time. Signed by Magistrate Judge Sheri Polster Chappell on 10/18/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Breach of Contract <i>Judge:</i> Sheri Polster Chappell |
| 2:10-cv-00753-GAP-SPC Pepperwood of Naples Condominium Association, Inc. v. Nationwide Mutual Fire Insurance | 06/14/2012 | 71 | ORDER granting 66 Plaintiff Pepperwood of Naples Condominium Association, Inc.s Motion for Leave to File Under Seal. Plaintiff Pepperwood of Naples Condominium Association, Inc.s request to file the Second Supplemental Expert Report of Charles M. Miller and Supplement Report of Plaintiffs Trial Expert, Peter M. | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, SL DOC <i>NOS:</i> Insurance <i>Cause:</i> 28:1441 Notice of Removal-Insurance Contract <i>Judge:</i> Sheri Polster Chappell |

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| Company | | | <p>Occhialini under seal in support of its Motion for Leave to File Amended Complaint is GRANTED. The supplemental reports must be filed in sealed envelopes or other appropriate sealed enclosures on which shall be endorsed the title to the action, the words Confidential pursuant to the Courts Mutual Protective Order Regarding Confidentiality (Doc. #49). Signed by Magistrate Judge Sheri Polster Chappell on 6/14/2012. (LMH)</p> | |
| 2:2011-cr-00080-JES-SPC USA v. Sararo | 07/19/2012 | 40 | <p>ORDER denying 39 Witness, Frances Agosto's Motion to Modify or Cancel Order to Transport. Signed by Magistrate Judge Sheri Polster Chappell on 7/19/2012. (LMF)</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, SL DOC <i>Judge:</i> Sheri Polster Chappell</p> |
| 2:2011-cr-00083-JES-SPC USA v. Hesser | 05/07/2012 | 47 | <p>ORDER granting 45 Motion to appear pro hac vice as to Peter Hesser (1). Signed by Magistrate Judge Sheri Polster Chappell on 5/7/2012. (LMH)</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, TRLSET <i>Judge:</i> Sheri Polster Chappell</p> |
| | 05/21/2012 | 48 | <p>ORDER denying without prejudice 46 The Motion to Determine Counsel 46 is DENIED without prejudcie. Counsel of record is Lowell Becraft, Esq., having been allowed to appear pro hac vice. Attorney Becraft SHALL secure local Counsel in this matte r no later than close of business on May 23, 2012. Failure to do so may result in the denial of pro hac vice status. The Clerk is directed to terminate Attorney Tommy Cryer from future notification in the CM/ECF filing system as he no longer represents the Defendant. Signed by Magistrate Judge Sheri Polster Chappell on 5/21/2012. (LMH) Modified on 6/6/2012 to correct the hyperlink(kma).</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> BOND, TRLSET <i>Judge:</i> Sheri Polster Chappell</p> |
| 2:2011-cr-00097-JES-SPC USA v. Sereme et al | 08/28/2012 | 276 | <p>ORDER granting 246 The Motion for Leave to Seek Partial Payment of Court Appointed Counsel. Counsel shall submit the requisite information regarding his hours worked to the Court on the CJA 20 form in accordance with the guidelines and instructions. Signed by Magistrate Judge Sheri Polster</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> CUSTODY, SL DOC, TRLSET <i>Judge:</i> Sheri Polster Chappell</p> |

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| | | | Chappell on 8/26/2012. (LMF) | |
| 2:2011-cr-00108-JES-SPC USA v. Harrell et al | 08/06/2012 | 113 | ORDER as to Michael James Harrell, Matthew Rollins, Maurice Andre Colbert, Victor Dongrel Wilson re 111 First MOTION to adopt <i>Defendant Colbert's Motion to Suppress Wiretap Evidence</i> filed by Michael James Harrell. All defense counsel filing motions to adopt the Motion to Suppress Wiretap Evidence 98 filed by Maurice Andre Colbert, shall be present during the hearing scheduled for August 8, 2012 at 9:00 am before the undersigned. Signed by Magistrate Judge Sheri Polster Chappell on 8/6/2012. (LMF) | <i>Office: Ft. Myers</i> <i>Case Flags:</i> CUSTODY, TRLSET <i>Judge: Sheri</i> Polster Chappell |
| | 08/14/2012 | 122 | REPORT AND RECOMMENDATION as to Michael James Harrell, Matthew Rollins, Maurice Andre Colbert, Victor Dongrel Wilson. IT IS RESPECTFULLY RECOMMENDED: (1) Maurice Colbert's Motion to Suppress Wiretap Evidence (Doc. #98) be DENIED.(2) Maurice Colbert's Motion to Suppress Wiretap Evidence (Doc. #98) as adopted by Michael James Harrell be DENIED. (3) Maurice Colbert's Motion to Suppress Wiretap Evidence (Doc. #98) as adopted by Matthew Rollins be DENIED.(4) Maurice Colbert's Motion to Suppress Wiretap Evidence (Doc. #98) as adopted by Victor Dongrel Wilson be DENIED. Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen (14) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal. Signed by Magistrate Judge Sheri Polster Chappell on 8/14/2012. (LAF) | <i>Office: Ft. Myers</i> <i>Case Flags:</i> CUSTODY, TRLSET <i>Judge: Sheri</i> Polster Chappell |
| | 11/19/2012 | 168 | ORDER denying 161 the First Motion for Bond. The case remains set for trial on January 8, 2013 before the Hon. John E. Steele. Signed by Magistrate Judge Sheri Polster Chappell on 11/19/2012. (LMF) | <i>Office: Ft. Myers</i> <i>Case Flags:</i> CUSTODY, TRLSET <i>Judge: Sheri</i> Polster Chappell |
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| 2:2011-cr-00108-JES-SPC USA v. Harrell et al | 07/12/2012 | 103 | ORDER as to Maurice Andre Colbert. All future filings in this matter shall comply with the Courts CM/ECF Administrative Procedures. Signed by Magistrate Judge Sheri Polster Chappell on 7/12/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CUSTODY, SL DOC, TRLSET <i>Judge:</i> Sheri Polster Chappell |
| 2:2011-cr-00108-JES-SPC USA v. Harrell et al | 07/13/2012 | 106 | REPORT AND RECOMMENDATION as to Victor Dongrel Wilson. It is respectfully recommended the Motion to Suppress by Defendant Victor Dongrel Wilson be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 7/13/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CUSTODY <i>Judge:</i> Sheri Polster Chappell |
| 2:2011-cr-00114-JES-SPC USA v. Roggow | 06/07/2012 | 49 | ORDER as to Debra Roggow re 43 Written designation and consent to act filed by Debra Roggow. The Written Designation and Consent to Act by Member of the Middle District of Florida for Jennifer Bolen, Esquires Application to Appear Pro Hac Vice [4 3] is GRANTED. Jennifer Bolen shall be allowed to appear pro hac vice as co-counsel on behalf of the Defendant. Lee Hollendar, Esq., of the law offices of Hollander and Hanuka, 2681 Airport Road, S., Suite C-101, Naples, Florida 34112, shall be designated local Counsel of record. Signed by Magistrate Judge Sheri Polster Chappell on 6/7/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>Judge:</i> Sheri Polster Chappell |
| | 06/11/2012 | 61 | ORDER denying 48 MOTION to compel <i>Disclosure of Exculpatory Interview Reports</i> filed by Debra Roggow. The Defendant, Debra Roggow's Motion to Compel Disclosure of All DEA Interview Reports 48 is DENIED as the Government has already produced all documents in discovery. Signed by Magistrate Judge Sheri Polster Chappell on 6/11/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>Judge:</i> Sheri Polster Chappell |
| 2:2011-cr-00120-JES-SPC USA v. Sibley et al | 05/18/2012 | 169 | ORDER as to Harvey Bass. The case shall remain on the May trial term. See order for details. Signed by Magistrate Judge Sheri Polster Chappell on 5/18/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CUSTODY <i>Judge:</i> Sheri Polster Chappell |
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| 2:11-cv-00049-UA-SPC Reaves v. Wayne Automatic Fire Sprinklers, Inc. | 07/05/2012 | 81 | ORDER. The Clerk of Court is directed to remove attorney William F. Russell as counsel of record for Plaintiff in this case and remove him from any further notices, electronically or otherwise, issued in this case. SEE ORDER FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 7/5/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:2003 Job Discrimination <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00084-UA-SPC Taylor v. Experian et al | 10/11/2012 | 93 | ORDER denying without prejudice 91 the Plaintiff, Brendon Taylor's Motion for an Order Requiring Defendant, Marauder Corporation to Complete and Return Fact Information Sheet. Signed by Magistrate Judge Sheri Polster Chappell on 10/11/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> ADMCLOSED, MAIL, TRLSET <i>NOS:</i> Consumer Credit <i>Cause:</i> 15:1681 Fair Credit Reporting Act <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00121-JES-SPC T & T Unlimited, LLC et al v. City of LaBelle, Florida | 12/21/2012 | 52 | ORDER re 51 MOTION for protective order filed by City of LaBelle, Florida. The Plaintiffs T & T Unlimited, LLC. and Leah Nees, shall file an expedited response to the instant Motion on or before January 2, 2013. Failure to file an expedited response will result in the Court ruling on the Motion without the benefit of a Plaintiff's response. Signed by Magistrate Judge Sheri Polster Chappell on 12/21/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00150-SPC Vivian v. Beahm et al | 07/03/2012 | 61 | ORDER granting 60 Plaintiff, Daniel D. Vivian's Motion to Strike Defendants' Reply to Plaintiff's Response to Defendants' Motion for Final Summary Judgment. The Clerk of the Court is hereby directed to STRIKE Defendants Reply to Plaintiff's Response to Defendants' Motion for Final Summary Judgment 58 . Signed by Magistrate Judge Sheri Polster Chappell on 7/3/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Torts to Land <i>Cause:</i> 28:1332 Diversity-Torts to Land <i>Judge:</i> Sheri Polster Chappell |
| | 07/05/2012 | 66 | ORDER denying 47 Defendants, Theodore and Helen Beahm's Motion to Quash Subpoena and Motion for Protective Order as to John Rumplach's Cause and Origin Report and investigative materials used in | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Torts to Land <i>Cause:</i> 28:1332 |

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| | | | preparation thereof, and GRANTED with respect to the remainder of the Claim file. The Subpoenas Duces Tecum are hereby QUASHED with the above listed exception. Signed by Magistrate Judge Sheri Polster Chappell on 7/5/2012. (LMH) | Diversity-Torts to Land <i>Judge:</i> Sheri Polster Chappell |
| | 07/09/2012 | 67 | ORDER granting the Defendants, Theodore and Helen Beahm's Motion to Withdraw Reply to Plaintiff's Response to Defendants Motion to Quash 63 ; denying as moot the Plaintiff, Daniel D. Vivians Motion to Strike Defendant's Reply to Plaintiffs Response to Defendants Motion to Quash Subpoena 62 ; denying Defendants, Theodore and Helen Beahm's, Motion to File a Reply to Plaintiffs Response to Defendants Motion for Summary Judgment 64 ; denying Defendants, Theodore and Helen Beahm's, Motion for Leave to File Reply to Plaintiff's Response to Defendants Motion to Quash and Motion for Protective Order 65 .. Signed by Magistrate Judge Sheri Polster Chappell on 7/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Torts to Land <i>Cause:</i> 28:1332 Diversity-Torts to Land <i>Judge:</i> Sheri Polster Chappell |
| | 07/09/2012 | 68 | ORDER denying 48 Defendant, Theodore Beahm's Motion for Final Summary Judgment. Signed by Magistrate Judge Sheri Polster Chappell on 7/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Torts to Land <i>Cause:</i> 28:1332 Diversity-Torts to Land <i>Judge:</i> Sheri Polster Chappell |
| | 08/10/2012 | 81 | ORDER dismissing case re 80 Notice of Settlement. This cause is DISMISSED subject to the right of any party, within sixty (60) days from the date of this Order, to submit a stipulated form of final judgment or to reopen the action upon a showing of good cause. See, Local Rule 3.08(b). All pending motions (if any) are hereby denied as moot. Signed by Magistrate Judge Sheri Polster Chappell on 8/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Torts to Land <i>Cause:</i> 28:1332 Diversity-Torts to Land <i>Judge:</i> Sheri Polster Chappell |
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| | 08/10/2012 | 82 | ORDER re 78 MOTION to allow electronic equipment, specifically laptop, cables, cell phone, extension cord, holiday lights, filed by Helen Beahm, Theodore Beahm, 76 First MOTION in limine filed by Helen Beahm, Theodore Beahm. The Defendants, Theodore and Helen Beahm's Motion In Limine 76 is DENIED as moot. The Plaintiff Daniel D. Vivian and Defendants Theodore and Helen Beahms Agreed Motion to Allow Electronic Equipment 78 is DENIED as moot. Signed by Magistrate Judge Sheri Polster Chappell on 8/10/2012. (LMF) | Office: Ft. Myers Case Flags: CLOSED, MAGTRL NOS: Torts to Land Cause: 28:1332 Diversity-Torts to Land Judge: Sheri Polster Chappell |
| 2:11-cv-00165-JES-SPC Jeanis v. Waste Pro USA, Inc. et al | 11/16/2012 | 27 | ORDER granting 24 Defendant's Motion for Sanctions and Motion to Compel Plaintiff's Deposition. Defendant shall have up to and including November 30, 2012 to submit documentation reflecting the fees and costs associated with its attempt to take Plaintiff's deposition and prepare this motion. Plaintiff shall appear for his deposition at a date and time convenient for Defense counsel to occur on or before November 30, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 11/16/2012. (LMF) | Office: Ft. Myers Case Flags: TRLSET NOS: Labor: Fair Standards Cause: 29:201 Denial of Overtime Compensation Judge: Sheri Polster Chappell |
| | 11/20/2012 | 29 | ORDER re 28 Notice of Settlement filed by Waste Pro USA, Inc. (1)The Plaintiff Eribert Jeanis is hereby directed to file a Motion with the Court requesting the Courts approval of the FLSA settlement agreement in compliance with Lynns Food Stores, Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). (2)The Motion shall include a copy of the settlement agreement signed by all parties, a brief description of the terms of the settlement, the number of hours and lost wages originally claimed by the Plaintiff and whether or not the Plaintiffs claims were settled by compromise, as well as the Plaintiffs Counsels attorneys fees and costs and whether or not said fees and costs were | Office: Ft. Myers Case Flags: TRLSET NOS: Labor: Fair Standards Cause: 29:201 Denial of Overtime Compensation Judge: Sheri Polster Chappell |

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| | | | negotiated separately from the FLSA claim.(3)The Plaintiff shall provide the Court with said information in a motion on or before December 20, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 11/20/2012. (LMF) | |
| 2:11-cv-00175-JES-SPC Morine v. City of Marco Island et al | 05/09/2012 | 31 | ORDER granting 30 Defendants' Unopposed Motion to Redact Exhibit in Support of Motion for Summary Judgment. Counsel for Defendant is directed to re-file the exhibits to Defendants' Motion for Summary Judgment in CM/ECF as separate attachments in compliance with the Administrative Procedures for Electronic Filing of this Court. When counsel does so, a redacted version of Exhibit L may be included. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Civil Rights: Jobs <i>Cause:</i> 42:1983 Civil Rights (Employment Discrimination) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00231-JES-SPC Peoples Gas System v. Posen Construction, Inc. | 11/05/2012 | 50 | ORDER granting 49 the Plaintiff, Peoples Gas System and the Defendant, Posen Construction, Inc.'s Motion to Enlarge Scheduling Order Deadlines. SEE ORDER FOR DEADLINES. Signed by Magistrate Judge Sheri Polster Chappell on 11/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRILSET <i>NOS:</i> Personal Property: Other <i>Cause:</i> 28:1332 Diversity-Property Damage <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00242-JES-SPC Hill v. Lee County Sheriff's Office et al | 07/03/2012 | 76 | ORDER. The Plaintiff Eddie S. Hill must file a Notice of Change of Address with the Court on or before July 13, 2012. Failure to comply with Court's Order may result in the Plaintiff's case being dismissed pursuant to Local Rule 3.01(a). Signed by Magistrate Judge Sheri Polster Chappell on 7/3/2012. (LMH) | <i>Office:</i> Ft. Myers <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| | 07/05/2012 | 78 | ORDER denying 74 Plaintiff, Eddie S. Hill's Motion Directing the United States Attorney's Office to Fulfill their Obligation to Zealously and Effectively Prosecute for the Crimes of Conspiracy [and] Perjury 74 is DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 7/5/2012. (LMH) | <i>Office:</i> Ft. Myers <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
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| | 09/17/2012 | 85 | ORDER granting in part and denying in part 84 Defendants' Unopposed Motion to Postpone Mediation and to Attend Telephonically. Defendants, EverBank and Frank Heinz's, request to postpone mediation until the Court rules on their pending Motions to Dismiss is GRANTED. The Parties are to set a mediation date within twenty (20) days of the Court ruling on the Motions to Dismiss and advise the Court. Defendant, EverBank's, request to appear at mediation telephonically is DENIED without prejudice as premature. Defendant may move again if and when mediation is set. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00303-UA-SPC Bradley v. Heritage Automotive Corporation | 06/11/2012 | 71 | ORDER granting 69 Joint Motion to Stay Deadlines Pending a Ruling on Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint. Signed by Magistrate Judge Sheri Polster Chappell on 6/11/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| | 10/15/2012 | 80 | ORDER granting 79 The Parties' Joint Motion for Enlargement of Time To Continue Dispositive Motion Deadline. The deadline for dispositive motions is enlarged up to and including December 24, 2012.Signed by Magistrate Judge Sheri Polster Chappell on 10/15/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00313-SPC Childers v. Commissioner of Social Security | 05/16/2012 | 23 | ORDER re 1 Complaint filed by Haydee Delacaridad Childers. The Decision of the Commissioner is AFFIRMED. The Clerk of Court is directed to enter judgment accordingly and CLOSE the file. Signed by Magistrate Judge Sheri Polster Chappell on 5/16/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> APPEAL, CLOSED, MAGTRL, MAIL <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:405 Review of HHS |

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| | | | | Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00337-UA-SPC Estelle v. Commissioner of Social Security | 07/31/2012 | 26 | REPORT AND RECOMMENDATION re 1 Complaint filed by Everett Estelle. It is respectfully recommended the Decision of the Commissioner denying the Plaintiff Everett Estelles application for disability benefits be AFFIRMED. Signed by Magistrate Judge Sheri Polster Chappell on 7/31/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Social Security: DIWC/DIWW <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00349-UA-SPC United States of America v. \$871,234.00 | 07/03/2012 | 28 | ORDER granting 27 Plaintiff's Motion for Clerk's Entry of Default. The Clerk of the Court is hereby directed to enter a Clerks Default against the Defendant Funds in the amount of \$871,234.00. Signed by Magistrate Judge Sheri Polster Chappell on 7/3/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Forfeit/Penalty: Other <i>Cause:</i> 18:983 Civil Forfeiture Proceedings <i>Judge:</i> Sheri Polster Chappell |
| | 07/09/2012 | 30 | ORDER re 14 Clerk's entry of default filed by \$871,234.00. The Clerk of the Court is hereby directed to SET ASIDE the Clerks Default 14 entered on December 16, 2011. This Order in no way affects the Clerks Default 29 entered on July 9, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 7/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Forfeit/Penalty: Other <i>Cause:</i> 18:983 Civil Forfeiture Proceedings <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00357-UA-SPC Bailey v. Gulf Coast Healthcare Systems, Inc. et al | 07/10/2012 | 24 | REPORT AND RECOMMENDATION re 23 Joint MOTION to Approve Settlement filed by Rudolph Jones, Gregory Bailey, Gulf Coast Healthcare Systems, Inc. It is respectfully recommended the Joint Motion for Approval of Proposed Settlement Agreement 23 be GR ANTED and the settlement agreement should be APPROVED by the District Court. It is further respectfully recommended the case be DISMISSED | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Denial of Overtime Compensation <i>Judge:</i> Sheri Polster Chappell |

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| | | | with prejudice pursuant to the agreement of the Parties and the Clerk should be directed to close the file. Signed by Magistrate Judge Sheri Polster Chappell on 7/10/2012. (LMH) | |
| 2:11-cv-00358-UA-SPC Patrick Collins, Inc. v. John Does 1-57 | 06/20/2012 | 57 | ORDER granting 55 Plaintiff's Motion to Reschedule Hearing on Motion for Default Judgment against John Doe 34 n/k/a David Colby, John Doe 38 n/k/a Marco Figueroa. The hearing previously set for June 28, 2012 at 9:00 a.m. is CANCELLED. The Clerk of Court is directed to remove the hearing from the Courts calendar and note the cancellation on the docket. The hearing on Plaintiffs Motion for Default Judgment 46 is rescheduled for July 9, 2012 at 1:30 p.m. before the undersigned in Court room 5D at the United States Courthouse and Federal Building, 2110 First Street, Fort Myers, Florida 33901. Plaintiff shall have up to and including July 2, 2012 to submit affidavits, declarations, or other evidence to the Court in support of its damages and attorneys fees and costs claims.. Signed by Magistrate Judge Sheri Polster Chappell on 6/20/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00370-UA-SPC Ator v. Typhoon Media Corporation et al | 11/19/2012 | 30 | ORDER granting 28 the Defendant, Typhoon Media's Motion to Substitute Counsel. Attorneys Charles W. Gerdes, Esq. and Michael J. Keane, Esq. of the law firm Keane Reese, Vesely & Gerdes, P.A. 770 Second Avenue South, St. Petersburg, Florida 33 701 are hereby substituted as Counsel of Record for the Defendants Typhoon Media and Simon Bailey. All future motions, filings, correspondence, pleadings, or other notifications in the case are to be sent to Charles W. Gerdes, Esq. and Michael J. Keane, Esq. of the law firm Keane Reese, Vesely & Gerdes, P.A. Atty. William G. Salim, Esq. of the law firm Moskowitz, Mandell, Salim & Simonwitz, P.A., is hereby relieved of all further responsibilities in this case. | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |

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| | | | The Clerk of the Court is hereby directed to terminate William G. Salim, Esq. of the law firm Moskowitz, Mandell, Salim & Simonwitz, P.A., from all future electronic notifications in this case. Signed by Magistrate Judge Sheri Polster Chappell on 11/19/2012. (LMF) | |
| 2:11-cv-00374-UA-SPC McMahon v. Rambosk et al | 05/15/2012 | 36 | ORDER denying 33 the Plaintiff Daniel W. McMahon's Motion to Reconsider Denial of IFP Status. Signed by Magistrate Judge Sheri Polster Chappell on 5/14/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Civil Rights: Americans with Disabilities - Other <i>Cause:</i> Americans with Disabilities Act <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00377-UA-SPC Southern Gardens Citrus Processing Corporation v. Barnes Richardson & Colburn et al | 09/04/2012 | 74 | ORDER denying 63 Plaintiffs' Motion to Compel Defendants' Production of Documents Responsive to Plaintiffs First Request for Production. Signed by Magistrate Judge Sheri Polster Chappell on 9/4/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> LEAD, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332fd Diversity-Breach of Fiduciary Duty <i>Judge:</i> Sheri Polster Chappell |
| | 11/20/2012 | 83 | ORDER granting in part and denying in part 76 Defendant's Motion to Compel Discovery from Plaintiffs. The Motion is GRANTED to the extent that Plaintiffs are directed to respond to Interrogatories No. 1 and 2 as outlined and set forth above on or before December 21, 2012. All other Interrogatories and Request for Production of Documents contained in Defendant's Motion are DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 11/20/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> LEAD, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332fd Diversity-Breach of Fiduciary Duty <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00385-JES-SPC Henn v. Commissioner Social Security | 06/14/2012 | 29 | REPORT AND RECOMMENDATION re 1 Complaint filed by Marie Henn. It is respectfully recommended the decision of the Commissioner be REMANDED on the issue of whether Plaintiff was engaged | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Social Security: DIWC/DIWW |

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| | | | in substantial gainful activity for the time period after August 2008. Signed by Magistrate Judge Sheri Polster Chappell on 6/14/2012. (LMH) | <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00440-UA-SPC United States of America v. Paul | 06/15/2012 | 51 | ORDER denying as moot 46 the Respondent, Casey L. Paul's Motion to Quash the IRS Subpoena. Signed by Magistrate Judge Sheri Polster Chappell on 6/15/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Taxes <i>Cause:</i> 26:7402 IRS: Petition to Enforce IRS Summons <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00459-UA-SPC Berlinger et al v. Wells Fargo, N.A. as Successor to Wachovia Bank, N.A. | 05/09/2012 | 69 | ORDER denying without prejudice 62 Joint Motion to Dismiss Counts I and II of Defendant Wells Fargo Bank N.A.'s Third Party Complaint and Bruce D. Berlinger's Motion to Disqualify Amy S. Rubin, Esq. and the Law Firm of Fox Rothschild. Plaintiffs and Counter-Defendant Bruce D. Berlinger may re-file the pleading as two separate motions. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> STAYED, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332fd Diversity-Breach of Fiduciary Duty <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 72 | ORDER granting 66 Bruce D. Berlinger's Motion to Stay Proceedings. This matter is stayed pending resolution of the issue of disqualification of Amy S. Rubin, Esq. and the Law Firm of Fox Rothschild. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> STAYED, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332fd Diversity-Breach of Fiduciary Duty <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 73 | ORDER denying as moot 63 Wells Fargo Bank, N.A.'s Motion for Enlargement of Time to File Revised Case Management Report Pursuant to Court's Order of April 19, 2012 as this matter has been stayed. (See Doc. #72). The Parties shall file a joint revised case management report within 20 days of the Courts ruling on the Motion to Disqualify. Signed by Magistrate Judge | <i>Office:</i> Ft. Myers <i>Case Flags:</i> STAYED, TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332fd Diversity-Breach of Fiduciary Duty <i>Judge:</i> Sheri |

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| | | | Sheri Polster Chappell on 5/9/2012. (LMH) | Polster Chappell |
| 2:11-cv-00470-UA-SPC Sanders v. Brown et al | 08/08/2012 | 36 | ORDER denying 35 The Plaintiff Cornell Sanders's Letter Motion for Reconsideration. The Complaint remains dismissed in accord with Judge Lazzaras Order and case remains closed. Signed by Magistrate Judge Sheri Polster Chappell on 8/8/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, INCARCERATED, MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 28:1441 Notice of Removal-Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00471-JES-SPC Cossio v. United States of America | 09/07/2012 | 30 | ORDER for Production of Transcript. Signed by Magistrate Judge Sheri Polster Chappell on 9/7/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> 2255 <i>NOS:</i> Prisoner: Vacate Sentence <i>Cause:</i> 28:2255 Motion to Vacate Sentence <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00510-SPC Lederer v. Commissioner of Social Security | 10/02/2012 | 25 | ORDER re 1 Complaint filed by Bruce Lederer. It is ordered the case be REMANDED to the Commissioner to consider whether Plaintiff's limitations in his ability to handle and finger affect his RFC. The Clerk of the Court is hereby directed to issue a judgment consistent with this ruling and to thereafter CLOSE the file. Signed by Magistrate Judge Sheri Polster Chappell on 10/2/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00512-UA-SPC Hodge v. Charlotte County Marine Service, Inc. et al | 06/07/2012 | 25 | ORDER re 23 Mediation report. The Plaintiff, Michael Hodge and the Defendant Charlotte County Marine Service, Inc. are hereby directed to submit a Joint Motion to Approve the Settlement with the settlement documents included in the Motion for the Courts Review. SEE ORDER FOR INSTRUCTIONS. Signed by Magistrate Judge Sheri Polster Chappell on 6/7/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00528- | 05/15/2012 | 39 | ORDER granting 37 Defendants' | <i>Office:</i> Ft. Myers |

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| JES-SPC Collins v. Worley Catastrophe Response, LLC | | | Motion for Reconsideration of Order on Plaintiff's Motion to Compel Plaintiff's motion to compel response to First Request for Production Number 16 is DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/15/2012. (LMH) | <i>Case Flags:</i> TRLSET, VJUDGE <i>NOS:</i> Civil Rights: Jobs <i>Cause:</i> 42:2000e Job Discrimination (Employment) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00545-JES-SPC Nu Image, Inc. v. Does | 04/30/2012 | 203 | ORDER re 196 Letter to the Court filed by Donnell Brooks. Defendant Donnell Brooks' Letter to the Court 196 is STRICKEN. The Clerk of Court is directed to mail a copy of this Order to Donnell Brooks, 300 Nesbit Entry Drive, Roswell, GA 30076. Signed by Magistrate Judge Sheri Polster Chappell on 4/30/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/07/2012 | 216 | ORDER striking re 214 John Doe's Letter to the Court. The Clerk of Court is directed to mail a copy of this Order to Thomas Pendergast, 1789 Nemoke Trail, Apt. 6, Haslett, MI 48840. Signed by Magistrate Judge Sheri Polster Chappell on 5/7/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 218 | ORDER denying 160 John Doe #995's Motion to Quash Subpoena. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 219 | ORDER striking 178 John Doe #1,077's Letter submitted to the Court. The Clerk of Court is directed to send a copy of this Order to John Doe #1,077, Box #148, 70 South Winooski Avenue, Burlington, VT 05401-3830. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 220 | REPORT AND RECOMMENDATION re 175 MOTION to dismiss Complaint MOTION to quash Subpoena MOTION | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 |

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| | | | to sever <i>Defendant</i> MOTION for protective order filed by John Doe 1124. It is respectfully recommended John Doe #1,124's Motion to Quash, Sever, and Dismiss 175 be GRANTED in part and DENIED in part. Defendant's Motion to Quash should be GRANTED as this Court lacks jurisdiction over John Doe #1,124. Defendant's Motion to Dismiss should be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 222 | REPORT AND RECOMMENDATION re 181 MOTION to dismiss movant MOTION to quash subpoena MOTION to sever filed by John Doe. It is respectfully recommended John Doe #743's Motion to Quash, Sever, and Dismiss 181 be GRANTED in part and DENIED in part. Defendant's Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #743. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/09/2012 | 223 | REPORT AND RECOMMENDATION re 189 MOTION to amend/correct 177 MOTION to dismiss MOTION to sever <i>Defendants</i> MOTION to quash Subpoena MOTION to amend/correct 177 MOTION to dismiss MOTION to sever <i>Defendants</i> MOTION to quash Subpoena MOTION to dismiss MOTION to sever MOTION to quash Subpoena filed by John Doe - 1080. It is respectfully recommended John Doe #1,080s Motion to Quash or, in the Alternative, Motion to Dismiss and/or Sever 189 be GRANTED in part and DENIED in part. Defendants Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #1,080. Defendants Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |

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| | | | 5/9/2012. (LMH) | |
| | 05/09/2012 | 224 | REPORT AND RECOMMENDATION re 190 MOTION to dismiss movant MOTION to quash subpoena MOTION to sever filed by John Doe. John Doe #710's Motion to Quash, Sever, and Dismiss (Doc. #190) be GRANTED in part and DENIED in part. Defendants Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #710. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) Modified on 5/10/2012 to correct association (RKR). | Office: Ft. Myers Case Flags: MAIL NOS: Copyright Cause: 17:101 Copyright Infringement Judge: Sheri Polster Chappell |
| | 05/09/2012 | 225 | REPORT AND RECOMMENDATION re 191 MOTION to dismiss movant MOTION to quash subpoena MOTION to sever filed by John Doe. John Doe #1,075's Motion to Quash, Sever, and Dismiss 191 be GRANTED in part and DENIED in part. Defendant's Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #1,075. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | Office: Ft. Myers Case Flags: MAIL NOS: Copyright Cause: 17:101 Copyright Infringement Judge: Sheri Polster Chappell |
| | 05/09/2012 | 226 | REPORT AND RECOMMENDATION re 192 MOTION to dismiss movant MOTION to quash subpoena MOTION to sever filed by John Doe. It is respectfully recommended John Doe #1,041's Motion to Quash, Sever, and Dismiss 192 be GRANTED in part and DENIED in part. Defendants Motion to Quash should be GRANTED as this Court lacks jurisdiction over John Doe #1,041. Defendants Motion to Dismiss should be DENIED as premature. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | Office: Ft. Myers Case Flags: MAIL NOS: Copyright Cause: 17:101 Copyright Infringement Judge: Sheri Polster Chappell |
| | 05/09/2012 | 227 | REPORT AND RECOMMENDATION re 194 MOTION to dismiss MOTION to sever | Office: Ft. Myers Case Flags: MAIL NOS: Copyright |

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| | | | <p><i>Defendants</i> MOTION to quash Subpoena filed by John Doe - 1145. It is respectfully recommended John Doe #1,145's Motion to Quash or, in the Alternative, Motion to Dismiss and/or Sever 194 be GRANTED in part and DENIED in part. Defendant's Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #1,145. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH)</p> | <p><i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell</p> |
| | 05/09/2012 | 228 | <p>REPORT AND RECOMMENDATION re 195 MOTION to dismiss MOTION to sever <i>Defendants</i> MOTION to quash Subpoena filed by John Doe - 1054. It is respectfully recommended John Doe #1,054s Omnibus Motion to Dismiss, Sever, and/or Quash the Subpoena 194 be GRANTED in part and DENIED in part. Defendants Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #1,054. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH)</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell</p> |
| | 05/09/2012 | 229 | <p>REPORT AND RECOMMENDATION re 202 MOTION to dismiss movant MOTION to quash subpoena MOTION to sever <i>movant</i> filed by John Doe. It is respectfully recommended John Doe #1,147's Motion to Quash, Sever, and Dismiss 202 be GRANTED in part and DENIED in part. Defendant's Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #1,147. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH)</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell</p> |
| | 05/10/2012 | 230 | <p>REPORT AND RECOMMENDATION re 190 MOTION to dismiss movant MOTION to quash subpoena MOTION to sever</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101</p> |

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| | | | filed by John Doe. It is respectfully recommended John Doe #710's Motion to Quash, Sever, and Dismiss 181 be GRANTED in part and DENIED in part. Defendant's Motion to Quash be GRANTED as this Court lacks jurisdiction over John Doe #710. Defendant's Motion to Dismiss be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 5/10/2012. (LMH) | Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 05/16/2012 | 233 | ORDER striking 231 Jill H. Adels Letter to the Court. The Clerk of Court is directed to send a copy of this Order to Jill H. Adels, 8 Marbee Road, Rockport, MA 01966. Signed by Magistrate Judge Sheri Polster Chappell on 5/16/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 07/18/2012 | 275 | ORDER denying without prejudice 274 Plaintiff's Motion for Extension of Time to Name and Serve Defendants for Plaintiff to either file a notice of voluntary dismissal or an amended complaint. Signed by Magistrate Judge Sheri Polster Chappell on 7/18/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 07/23/2012 | 281 | ORDER granting 277 Plaintiff's Motion for Extension of Time to Name and Serve Defendants. Plaintiff shall have 120 days up to and including November 20, 2012 to name and serve the Defendants. Signed by Magistrate Judge Sheri Polster Chappell on 7/23/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 08/02/2012 | 288 | ORDER striking 279 John Doe #965's Motion to Quash Subpoena. Signed by Magistrate Judge Sheri Polster Chappell on 8/2/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 08/07/2012 | 289 | ORDER granting 278 John Doe #1283s Motion to Quash Subpoena. The Clerk of Court is directed to mail a copy of this Order to John Doe #1283, 10396 | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 |

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| | | | Rainier Ave. S, Seattle, WA 98178. Signed by Magistrate Judge Sheri Polster Chappell on 8/7/2012. (LMF) | Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 08/10/2012 | 290 | REPORT AND RECOMMENDATION re 284 John Doe #1236's Amended Motion to Quash Subpoenas. It is respectfully recommended John Doe #1236s Amended Motion to Quash Subpoenas 284 should be GRANTED. John Doe #1236s request for dismissal of the suit b e DENIED as premature. The Clerk of Court is directed to provide a copy of this Report and Recommendation to John Doe #1236, c/o Pamela Nisperos, 240 DiSalvo Avenue, Apt. 10, San Jose, CA 95128. Signed by Magistrate Judge Sheri Polster Chappell on 8/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00566-JES-SPC Laing et al v. Cordi et al | 10/10/2012 | 31 | ORDER granting in part and denying in part 27 Plaintiffs' Motion for Entry of Default by Clerk Against Defendants, Pack & Ride, Inc. and Frank Cordi, III. The Motion is GRANTED with respect to individual Defendant Frank Cordi, III. Plaintiffs Motion is DENIED without prejudice with respect to Pack & Ride, Inc. The Clerk is directed to enter clerk's default against the individual Frank Cordi, III ONLY. Signed by Magistrate Judge Sheri Polster Chappell on 10/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Commerce ICC Rates, Etc. <i>Cause:</i> 49:14706 Liability of Carriers Under Receipts and Bills of Lading <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00569-UA-SPC Barnhart et al v. American Home Mortgage Servicing, Inc. et al | 11/29/2012 | 46 | ORDER re 45 Notice (Other) filed by Holy Stuart-Barnhart, Brian Barnhart. Based on the Notice of Ineligibility to Practice Law 45 , the Clerk is directed to terminate Robert T. Maher as counsel of record for Plaintiffs. The Clerk is directed to indicate on the docket sheet that the Plaintiffs are proceeding pro se and all future pleadings and correspondence in this case shall be mailed to the following address: Brian Barnhart, 1219 Rose Garden Road, Cape Coral, Florida 33914; Holly Stuart-B arnhart, 1219 Rose Garden Road, Cape Coral, Florida | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, TRLSET <i>NOS:</i> Real Property: Other <i>Cause:</i> 28:1332 Diversity-Contract Dispute <i>Judge:</i> Sheri Polster Chappell |

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| | | | 33914. The Clerk is further directed to mail Docs. #42 and 45 to Plaintiffs, as well as this Order and all future filings. The deadline to file motions to amend pleadings or add parties is extended to January 2, 2013. All other deadlines in the Case Management and Scheduling Order 42 remain unchanged. Signed by Magistrate Judge Sheri Polster Chappell on 11/29/2012. (LMF) | |
| 2:11-cv-00574-UA-SPC Kaplan et al v. Amtrust Bank et al | 05/22/2012 | 34 | ORDER granting 32 The Defendant, Federal Deposit Insurance Corporations Motion to Stay up to and including August 22, 2012. The Defendant may file a renewed Motion to Stay with the Court at the end of this Stay unless the District Court rules on the Motion to Dismiss. Should the District Court deny the Motion to Dismiss, the Parties shall file a new Case Management and Scheduling Report with suggested dates and deadlines within fourteen (14) days of the District Court's Order. Signed by Magistrate Judge Sheri Polster Chappell on 5/22/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL NOS: Fraud or Truth-In-Lending <i>Cause:</i> 15:1691 Equal Credit Opportunity Act <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00581-UA-SPC Erickson's Drying Systems, Inc. v. QBE Insurance Corporation | 10/30/2012 | 33 | REPORT AND RECOMMENDATION re 29 MOTION to intervene filed by Riviera Ft. Myers Condominium Association, Inc.. It is respectfully recommended Riviera Ft. Myers Condominium Association, Inc.'s Motion to Intervene should be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 10/30/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> STAYED <i>NOS:</i> Insurance <i>Cause:</i> 28:1332 Diversity-Insurance Contract <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00607-JES-SPC Wilson v. J.P. Morgan Chase Bank et al | 05/11/2012 | 6 | REPORT AND RECOMMENDATION re 1 Complaint filed by Robert Wm. Wilson. It is respectfully recommended that this action be dismissed for failure to prosecute. Signed by Magistrate Judge Sheri Polster Chappell on 5/11/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL NOS: Fraud or Truth-In-Lending <i>Cause:</i> 31:3731 Fraud <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00615-SPC Morgan v. Commissioner of | 05/08/2012 | 24 | ORDER granting 23 Plaintiff's Unopposed Application for Attorney Fees Under the Equal Access to Justice Act. Plaintiff is awarded attorney's fees | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Social |

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| Social Security | | | in the amount of \$1,535.36. The Clerk of Court is directed to enter an Amended Judgment awarding the Plaintiff \$1,535.36 in attorney's fees. Signed by Magistrate Judge Sheri Polster Chappell on 5/8/2012. (LMH) | Security: RSI Tax Suits <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00617-SPC Hernandez v. Commissioner of Social Security | 07/24/2012 | 22 | ORDER re 1 Complaint filed by Gloria G. Hernandez denying Plaintiff, Gloria G. Hernandez' Complaint seeking review of the final decision of the Commissioner denying Plaintiffs claim for disability insurance 1 . The Clerk of the Court is hereby directed to issue a JUDGMENT consistent with this ruling and to thereafter close the file. Signed by Magistrate Judge Sheri Polster Chappell on 7/24/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Social Security: DIWC/DIWW <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00650-UA-SPC Joshua L. Figur v. Fulmer Helmets, Inc. | 09/06/2012 | 18 | ORDER granting 17 Joshua L. Figur is hereby substituted as the real party in interest as the Plaintiff in this case. The Clerk of the Court is directed to change the style of the case on the Court's docket to reflect that the substituted Plaintiff, Joshua L. Figur is now the Plaintiff in this case. The Plaintiff's parents are hereby relieved of all further responsibility in this case as the next friend representing the interest of the minor child. Joshua Figur added. L. F., J. F. and J. L. F. terminated. Signed by Magistrate Judge Sheri Polster Chappell on 9/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Personal Inj. Prod. Liability <i>Cause:</i> 28:1332 Diversity-Notice of Removal <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00652-JES-SPC 2P Commercial Agency S.R.O. v. SRT USA, Inc. et al | 05/11/2012 | 39 | ORDER granting in part and denying in part 31 the Plaintiff, 2P Commercial Agency S.R.O's Motion to Compel Rule 26(a)(1) Initial Disclosures. The Plaintiff, 2P Commercial Agency S.R.O's Motion to Compel Rule 26(a)(1) Initial Disclosures is GRANTED. The Defendant has up to and including May 29, 2012, to either produce the initial disclosures or provide specifics as to where the materials may be located. The Plaintiff, 2P Commercial Agency S.R.O's Motion for Sanctions is DENIED. Signed by Magistrate Judge | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1331 Fed. Question: Breach of Contract <i>Judge:</i> Sheri Polster Chappell |

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| | | | Sheri Polster Chappell on 5/11/2012. (LMH) | |
| | 08/08/2012 | 45 | ORDER denying 42 The Non-Party Sherman Tyson's Motion to Not Attend Deposition Duces Tecum. Signed by Magistrate Judge Sheri Polster Chappell on 8/8/2012. (LMF) | Office: Ft. Myers Case Flags: TRLSET NOS: Contract: Other Cause: 28:1331 Fed. Question: Breach of Contract Judge: Sheri Polster Chappell |
| | 08/08/2012 | 46 | ORDER re 43 MOTION for protective order filed by Len A. Familant. The Plaintiff 2P Commercial Agency,S.R.O. is hereby directed to file an expedited response to the Defendants Motion for a Protective Order 43 on or before 5:00pm. Friday, August 10, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 8/8/2012. (LMF) | Office: Ft. Myers Case Flags: TRLSET NOS: Contract: Other Cause: 28:1331 Fed. Question: Breach of Contract Judge: Sheri Polster Chappell |
| | 09/27/2012 | 59 | ORDER denying 53 Defendant, Len A. Familant's Motion to Stay and/or Extend Case Management Deadlines. Signed by Magistrate Judge Sheri Polster Chappell on 9/27/2012. (LMF) | Office: Ft. Myers Case Flags: TRLSET NOS: Contract: Other Cause: 28:1331 Fed. Question: Breach of Contract Judge: Sheri Polster Chappell |
| 2:11-cv-00672-JES-DNF Szymialis v. Cossu & Lukasiewicz, P.A. et al | 07/02/2012 | 35 | ORDER granting 34 Defendants' Unopposed Motion to Allow Defendant John L. Cossu Represent Defendant Cyunthia Lukasiewicz at Settlement Conference. The Defendant John L. Cossu must be present at the Settlement Conference with full and complete authority to negotiate and consummate a settlement on behalf of Defendant Cyunthia Lukasiewicz and on behalf of Cossu & Lukasiewicz, P.A. The Defendant Cyunthia Lukasiewicz must be available by telephone to answer any questions the Court or Plaintiff may have during the Settlement Conference. Signed by Magistrate Judge Sheri | Office: Ft. Myers Case Flags: CLOSED NOS: Labor: Fair Standards Cause: 29:206 Collect Unpaid Wages Judge: Sheri Polster Chappell |

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| | | | Polster Chappell on 7/2/2012. (LMH) | |
| | 07/09/2012 | 37 | ORDER granting 36 The Defendants, Cossu & Lukasiewicz, PA., John L. Cossu and Cynthia Lukasiewicz's Motion to Bring Two Cellular Phones to the United States Courthouse for Settlement Proceedings to the extent that the Defendants may bring one cell phone inside the federal courthouse for the settlement conference on Wednesday, July 11, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 7/9/2012. (LMH) | Office: Ft. Myers Case Flags: CLOSED NOS: Labor: Fair Standards Cause: 29:206 Collect Unpaid Wages Judge: Sheri Polster Chappell |
| 2:11-cv-00682-SPC Paskewicz v. Commissioner of Social Security | 05/09/2012 | 22 | ORDER granting 21 the Plaintiff, Peter R. Paskewicz's Unopposed Application for Attorney's Fees Under the Equal Access to Justice Act. The Plaintiffs Attorney Jonas H. Kushner is awarded \$1,321.12 in attorneys fees. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH) | Office: Ft. Myers Case Flags: CLOSED, MAGTRL NOS: Social Security: RSI Tax Suits Cause: 42:405 Review of HHS Decision (SSID) Judge: Sheri Polster Chappell |
| 2:11-cv-00694-JES-SPC Arthrex, Inc. v. Parcus Medical, LLC | 07/18/2012 | 51 | ORDER granting 50 Plaintiff, Arthrex Inc.s ("Arthrex"), Unopposed Motion for Extension of Time to File Response to Parcus' Motion to Dismiss Arthrex's Claims for Indirect Infringement. Arthrex shall have up to and including August 3, 2012, to respond to Parcus' Motion to Dismiss Arthrex's Claim for Indirect Infringement. Signed by Magistrate Judge Sheri Polster Chappell on 7/18/2012. (LMF) | Office: Ft. Myers Case Flags: SL DOC, TRLSET NOS: Patent Cause: 35:145 Patent Infringement Judge: Sheri Polster Chappell |
| | 08/31/2012 | 82 | ORDER granting 77 Defendant Parcus Medicals Motion to File Under Seal Unredacted Reply Brief 73 in Support of Motion to Compel Production of Arthrex C3 Contracts 53 , for Limited Purpose of In Camera Inspection and Judicial Determination of Whe ther Sealing is Appropriate. The Court RESERVES ruling on whether it is appropriate to file the documents under seal with the Court. Defendant is to submit to the Court the unredacted | Office: Ft. Myers Case Flags: SL DOC, TRLSET NOS: Patent Cause: 35:145 Patent Infringement Judge: Sheri Polster Chappell |

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| | | | Reply Brief 73 and its accompanying Exhibits no later than Friday, September 7, 2012, for in camera review. The unredacted Reply Brief may be submitted via the U.S. Mail, FedEx or UPS to Judge Sheri Polster Chappell, United States Courthouse and Federal Building, 2110 First Street, Fort Myers, FL 33901, Attn: Doug Kemp.. Signed by Magistrate Judge Sheri Polster Chappell on 8/31/2012. (LMF) | |
| | 08/31/2012 | 83 | ORDER granting in part and denying in part 54 Defendant's Motion to Compel Substantive Answer to Defendant's Interrogatory No. 11. Defendant's Motion to compel subparts (3) and (4) of Interrogatory No. 11 is DENIED. Defendant's Motion to Compel subparts (1), (2), (5), and (6) of Interrogatory No. 11 is GRANTED. Plaintiff shall provide the requested documents by September 20, 2012. If Plaintiff asserts that any documents are privileged, confidential, or work-product, a proper privilege log shall be produced by this date. Defendant's request for an oral argument on this Motion is DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 8/31/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 09/12/2012 | 89 | ORDER denying as moot 76 Defendant Parcus Medical's Motion to File Under Seal Unredacted First Amended Answer and Counterclaims for Limited Purpose of In Camera Inspection and Judicial Determination of Whether Sealing is Appropriate. Signed by Magistrate Judge Sheri Polster Chappell on 9/12/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 09/17/2012 | 92 | ORDER granting 88 Defendant, Parcus Medicals Renewed Motion to File Under Seal Unredacted Amended Answer and Counterclaims in Response to Arthrex's Amended Complaint, for Limited Purpose of In Camera Inspection and Judicial Determination of Whether Sealing is Appropriate. The Court RESERVES ruling on whether it | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |

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| | | | is appropriate to file the documents under seal with the Court. Defendant is to submit to the Court the unredacted Amended Answer and Counterclaims 87 no later than Tuesday, September 25, 2012, for in camera review. The unredacted Amended Answer and Counterclaims may be submitted via U.S. Mail, FedEx, or UPS to Judge Sheri Polster Chappell, United States Courthouse and Federal Building 2110 First Street, Fort Myers, FL 33901, Attn: Doug Kemp.. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | |
| | 09/21/2012 | 94 | ORDER re 84 Response in opposition to motion filed by Arthrex, Inc. The Defendant, Parcus Medicals Reply Brief in Support of Motion to Compel Production of Arthrex C3 Contracts. The Defendant may file its attachments to its Reply Brief 84 under seal with this Court. The Defendant has up to and including Monday September 24, 2012, to file its sealed documents with the Court.Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 10/05/2012 | 106 | ORDER granting 104 the Defendant's Assented-to Motion for Extension of Time to File Reply Briefs in Support of Motions for Summary Judgment. Defendant's reply brief must be filed with the Court on or before October 9, 2012. Plaintiff is also granted an extension of time, and must file its sur-reply brief on or before October 19, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 10/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 10/12/2012 | 113 | ORDER granting 108 Plaintiff's Unopposed Motion to Seal Portions of Sur-Reply. Plaintiff Arthrex, Inc. is permitted to file under seal an unredacted copy of Arthrex's Response to Parcus Medical, LLCs Supplemental Reply in Support of Parcuss Motion to Compel Production of C3 Documents 107 .Signed by Magistrate Judge Sheri Polster Chappell on 10/12/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
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| | 11/01/2012 | 119 | ORDER denying 103 Defendant's Motion for Sanction of Dismissal for Plaintiff's Violation of the Court's Order 83 by its Failure to Substantively Answer Defendant's Interrogatory No. 11. Signed by Magistrate Judge Sheri Polster Chappell on 11/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 11/01/2012 | 120 | ORDER granting 53 Defendant, Parcus Medical's Motion to Compel Production of Documents Concerning Arthrex's C3 Contracts and Other Documents Relevant to Commercial Success. Plaintiff, Arthrex shall have up to and including November 6, 2012 to provide documents pursuant to this Order. Signed by Magistrate Judge Sheri Polster Chappell on 11/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Patent <i>Cause:</i> 35:145 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:11-cv-00697-UA-SPC Stevens v. Barringer et al | 08/28/2012 | 48 | ORDER. The Clerk shall strike the Related Case Order and Track Two Notice (Doc. #6) and Interested Person Order for Civil Cases (Doc. #7) and enter a "Related Case Order and Track One Notice." Plaintiff shall comply with the Related Case Order and Track One Notice and Local Rule 1.04(d), within fourteen (14) days, and designate whether this case is similar or successive to any other case. Signed by Magistrate Judge Sheri Polster Chappell on 8/26/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| | 10/04/2012 | 53 | ORDER re 8 Order on motion for leave to proceed in forma pauperis/affidavit of indigency. Based upon Plaintiff's recent release, the Court will establish a reasonable payment schedule for the \$350.00 filing fee. The Court finds that Plaintiff will be required to pay \$5.00 per month into the Court's registry, due on the fifteenth (15th) day of every month, beginning with a payment due on October 15, 2012. Plaintiff must comply with the payment schedule until the filing fee of \$350.00 is paid in full. (1)Plaintiff is assessed the entire \$350.00 filing fee. Plaintiff must pay \$5.00 due the fifteenth (15th) of every | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |

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| | | | <p>month, beginning with a payment due on October 15, 2012, into the Court's registry. Plaintiff may pay the money into the Court's registry by cash or money order. The money order shall be made payable to "Clerk, U.S. District Court," and shall include the case number on the money order (2:11-cv-697). The money order may be mailed to the United States Courthouse and Federal Building, 2110 First Street, Fort Myers, Florida 33901, or Plaintiff may bring the money order in person to the Clerks Office at the aforementioned address. If Plaintiff pays by cash, she must do so in person at the Clerks Office. (2) The Clerk of Court is directed to docket a copy of all receipts for monies paid in the case file.(3) Plaintiff must comply with the payment schedule until the filing fee of \$350.00 is paid in full. (4) Failure to comply with the payment schedule may result in this action being dismissed for failure to prosecute without further notice. Signed by Magistrate Judge Sheri Polster Chappell on 10/4/2012. (LMF)</p> | |
| 2:11-cv-00706-UA-SPC Mazaras v. Hannelley Tire & Auto, Inc. | 05/09/2012 | 9 | <p>ORDER granting 8 Plaintiff's Motion for Extension of Time to Serve Complaint. Plaintiff shall have up to and including June 7, 2012, to serve the Complaint on Defendant. Failure to do so could result in this matter being dismissed without prejudice. Signed by Magistrate Judge Sheri Polster Chappell on 5/9/2012. (LMH)</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> ADMCLOSED <i>NOS:</i> Civil Rights: Jobs <i>Cause:</i> 29:621 Job Discrimination (Age) <i>Judge:</i> Sheri Polster Chappell</p> |
| 2:11-cv-00711-JES-SPC HICA Education Loan Corporation v. Perez | 06/14/2012 | 21 | <p>ORDER granting 19 HICA Education Loan Corporation's Motion to Stay Mediation Deadline Pending Ruling on Plaintiffs Motion for Summary Judgment. After the disposition of Plaintiff's Motion for Summary Judgment, the Parties shall file a motion for a revised Case Management Report with proposed dates within ten (10) days of the Court's ruling. Signed by Magistrate Judge Sheri Polster</p> | <p><i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1331 Fed. Question <i>Judge:</i> Sheri Polster Chappell</p> |

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| | | | Chappell on 6/14/2012. (LMH) | |
| 2:2012-cr-00020-JES-SPC USA v. Crawford | 06/05/2012 | 42 | REPORT AND RECOMMENDATION recommending that the motion to suppress evidence be denied as to Dontre Reon Crawford re 18 MOTION to suppress. Signed by Magistrate Judge Sheri Polster Chappell on 6/5/2012. (kma) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CUSTODY, SL DOC, TRLSET <i>Judge:</i> Sheri Polster Chappell |
| | 08/28/2012 | 71 | ORDER granting 62 Motion to appoint counsel as to Dontre Reon Crawford (1); granting 65 Motion as to Dontre Reon Crawford. Clerk is directed to file the appropriate CJA paperwork. The Case remains on its current trial term. Signed by Magistrate Judge Sheri Polster Chappell on 8/26/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CUSTODY, SL DOC, TRLSET <i>Judge:</i> Sheri Polster Chappell |
| 2:2012-cr-00058-JES-SPC USA v. Seymore | 08/06/2012 | 18 | ORDER granting 17 The Motion for Permission to Marry. The Defendant and his fiance are responsible for the paperwork and costs relating to the marriage and are subject to the regulations imposed by the Lee County Jail. Signed by Magistrate Judge Sheri Polster Chappell on 8/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> APPEAL, CUSTODY <i>Judge:</i> Sheri Polster Chappell |
| 2:2012-cr-00060-UA-SPC USA v. Benfield | 07/27/2012 | 13 | JUDGMENT as to Todd Alan Benfield (1), Count(s) 1, Probation: 36 months; Home Detention: 60 days; Intermittent Incarceration: 30 days; Community Service Fine: \$5000; Complete Hunter Education class; Fine: \$5000; Special Assessment: \$25.00. Signed by Magistrate Judge Sheri Polster Chappell on 7/27/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>Judge:</i> Sheri Polster Chappell |
| | 08/20/2012 | 15 | ORDER granting 11 the Motion for an Order of Forfeiture is GRANTED. Defendants right, title, and interest in the following property are hereby forfeited to the United States: (1) Mathews Solocam Switchback XT Bow with sights, shock compensator, and accessories; (2) Mechanical Bow Release; (3) Arrow with a 3-blade Muzzy broadhead, used to kill a Florida Panther; (4) Bow Case; (5) Ladder Tree Stand; and (6) Arrow with a 3-blade Muzzy broadhead. Signed by Magistrate Judge Sheri Polster | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>Judge:</i> Sheri Polster Chappell |

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| | | | Chappell on 8/20/2012. (LMF) | |
| | 11/02/2012 | 20 | ORDER granting 18 Motion for Final Judgment of Forfeiture as to Todd Alan Benfield (1). Signed by Magistrate Judge Sheri Polster Chappell on 11/2/2012. (LMF) | Office: Ft. Myers Case Flags: CLOSED Judge: Sheri Polster Chappell |
| 2:2012-cr-00091-JES-SPC USA v. Caco | 08/29/2012 | 22 | ORDER granting 20 The Defendant's Unopposed Motion to Waive Her Appearance at Arraignment. The Clerk is directed to enter a plea of Not Guilty to the charges contained within the Indictment. The Court will issue a Scheduling Order under separate cover. Signed by Magistrate Judge Sheri Polster Chappell on 8/29/2012. (LMF) | Office: Ft. Myers Case Flags: BOND, MAIL, TRLSET Judge: Sheri Polster Chappell |
| 2:2012-cr-00095-SPC USA v. Wagner | 10/19/2012 | 9 | JUDGMENT as to Dennis Joshua Wagner (1), Count(s) 1, 2 years Probation, \$2500 fine, \$25.00 Special Assessment, 50 Community Service. Signed by Magistrate Judge Sheri Polster Chappell on 10/19/2012. (LMF) | Office: Ft. Myers Case Flags: CLOSED Judge: Sheri Polster Chappell |
| 2:2012-cr-00111-UA-SPC USA v. Cristello et al | 11/16/2012 | 142 | ORDER as to Noe Amarillas. The Oral Motion to Withdraw offered by the Government is GRANTED. The Personal Recognizance Bond imposed by the District of Arizona is hereby reinstated. Therefore, any stay of the proceedings is no longer necessary and may be lifted. The Defendant remains subject to the terms and conditions of his release as previously announced. Signed by Magistrate Judge Sheri Polster Chappell on 11/16/2012. (LMF) | Office: Ft. Myers Case Flags: TRLSET Judge: Sheri Polster Chappell |
| 2:12-cv-00013-UA-SPC Hartman v. Commissioner of Social Security | 09/10/2012 | 18 | REPORT AND RECOMMENDATION re 1 Complaint filed by Victory L. Hartman. It is respectfully recommended the decision of the Commissioner be REVERSED and REMANDED to the Commissioner to allow Plaintiffs counsel to cross examine the vocational expert. Signed by Magistrate Judge Sheri Polster Chappell on 9/10/2012. (LMF) | Office: Ft. Myers Case Flags: CLOSED NOS: Social Security: RSI Tax Suits Cause: 42:405 Review of HHS Decision (SSID) Judge: Sheri Polster Chappell |
| 2:12-cv-00022-JES-SPC Kertz v. United | 11/27/2012 | 21 | JOINT STIPULATED CONFIDENTIALITY ORDER. Signed by Magistrate Judge Sheri Polster | Office: Ft. Myers Case Flags: TRLSET |

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| States of America | | | Chappell on 11/27/2012. (LMF) | NOS: P.I.: Other Cause: 28:2671 Federal Tort Claims Act Judge: Sheri Polster Chappell |
| | 11/27/2012 | 22 | JOINT STIPULATED CONFIDENTIALITY ORDER. Signed by Magistrate Judge Sheri Polster Chappell on 11/27/2012. (LMF) Modified on 11/27/2012. Duplicate entry - see Doc. 21 (drn). | Office: Ft. Myers Case Flags: TRLSET NOS: P.I.: Other Cause: 28:2671 Federal Tort Claims Act Judge: Sheri Polster Chappell |
| 2:12-cv-00029-UA-SPC Garcia Ballat v. FMA Hospitality LP 1 | 05/21/2012 | 29 | ORDER re 28 Notice of Settlement filed by FMA Hospitality LP 1. The Plaintiff is hereby directed to file a Motion with the Court requesting the Courts approval of the FLSA settlement agreement in compliance with Lynns Food Stores, Inc. v. U.S., 6 79 F. 2d 1350, 1354-55 (11th Cir. 1982). The Motion shall include a copy of the settlement agreement signed by all parties, a brief description of the terms of the settlement, the number of hours and lost wages originally claimed by the Plaintiff and whether or not the Plaintiffs claims were settled by compromise, as well as the Plaintiffs Counsels attorneys fees and costs and whether or not said fees and costs were negotiated separately from the FLSA claim. The Plaintiff shall provide the Court with said information on or before June 10, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 5/21/2012. (LMH) | Office: Ft. Myers Case Flags: CLOSED NOS: Labor: Fair Standards Cause: 29:201 Denial of Overtime Compensation Judge: Sheri Polster Chappell |
| 2:12-cv-00035-JES-SPC Frost v. Florida Service Painting, Inc. et al | 10/31/2012 | 15 | ORDER re 14 Amended document filed by John Frost. The Plaintiff John Frost is hereby directed to file a Motion with the Court requesting the Courts approval of the FLSA settlement agreement in compliance with Lynns Food Stores, Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). The Motion shall include a copy of the | Office: Ft. Myers Case Flags: ADMCLOSED NOS: Labor: Fair Standards Cause: 29:201 Denial of Overtime Compensation Judge: Sheri |

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| | | | settlement agreement signed by all parties, a brief description of the terms of the settlement, the number of hours and lost wages originally claimed by the Plaintiff and whether or not the Plaintiff's claims were settled by compromise, as well as the Plaintiff's Counsel's attorneys fees and costs and whether or not said fees and costs were negotiated separately from the FLSA claim. The Plaintiff shall provide the Court with said information in a motion on or before November 30, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 10/31/2012. (LMF) | Polster Chappell |
| | 11/01/2012 | 16 | ORDER re 14 Amended Document by John Frost. The Plaintiff John Frost is hereby directed to file a Motion with the Court requesting the Court's approval of the FLSA settlement agreement in compliance with Lynn's Food Stores, Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). The Motion shall include a copy of the settlement agreement signed by all parties, a brief description of the terms of the settlement, the number of hours and lost wages originally claimed by the Plaintiff and whether or not the Plaintiff's claims were settled by compromise, as well as the Plaintiff's Counsel's attorneys fees and costs and whether or not said fees and costs were negotiated separately from the FLSA claim. The Plaintiff shall provide the Court with said information in a motion on or before November 30, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 11/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> ADMCLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Denial of Overtime Compensation <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00043-JES-SPC Valeant International (Barbados) SRL et al v. Spear Pharmaceuticals, Inc. | 07/13/2012 | 33 | ORDER granting 32 Co-Plaintiff Valeant International (Barbados) SRL's Unopposed Motion to Change Name to Valeant International Bermuda. The Clerk of Court is directed to change Valeant's name from "Valeant International (Barbados) SRL" to "Valeant International Bermuda" in the Court's Case Management/Electronic Filing and PACER system. Signed by | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Patent <i>Cause:</i> 35:271 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |

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| | | | Magistrate Judge Sheri Polster Chappell on 7/13/2012. (LMH) | |
| 2:12-cv-00045-JES-SPC South Bay Plantation Condominium Association, Inc. v. Seneca Insurance Company, Inc. | 08/21/2012 | 30 | ORDER denying 29 (1)Plaintiffs Motion Instantter, Motion to Quash Subpoenas and for Protective Order. The undersigned will swear in attorney Joyce Hagen telephonically on Monday, August 27, 2012 at 9:30 a.m. The Court will initiate the call. Ms. Hagen is directed to contact Leslie Friedmann, Courtroom Deputy, at (239) 461-2068, and provide a direct telephone number at which Ms. Hagen can be reached at the scheduled date and time. Signed by Magistrate Judge Sheri Polster Chappell on 8/21/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Insurance <i>Cause:</i> 28:1446 Notice of Removal <i>Judge:</i> Sheri Polster Chappell |
| | 09/24/2012 | 36 | ORDER denying 34 Plaintiff's Motion to Quash and Motion for Protective Order. Signed by Magistrate Judge Sheri Polster Chappell on 9/24/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Insurance <i>Cause:</i> 28:1446 Notice of Removal <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00057-UA-SPC Worthen v. Buckshot Cable, Inc. et al | 07/10/2012 | 17 | ORDER granting in part and denying in part 12 Plaintiff's Motion to Strike Defendants' Letter to Court. The Motion to Strike is DENIED to the extent that the Court will accept the Answer 9 as filed on behalf of the individual Defendant ts, Phillip Morrison and Venus Morrison. The individual Defendants must participate in this action and must meet deadlines as set forth in this Courts Scheduling Order, including participating in settlement discussions with the Plaintiff. Failure t o do so could result in sanctions. The Motion to Strike is GRANTED to the extent that the Court will STRIKE the Answer 9 as filed on behalf of the corporate Defendant, Buckshot Cable, Inc. Defendant Buckshot shall have up to and including July 30 , 2012, for counsel to enter an appearance on the corporations behalf. Failure to do so could result in default | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |

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| | | | judgment being entered against the corporation. As the individual Defendants are proceeding pro se, Plaintiff must provide copies of all filings to them by mail at their last known address. As it does not appear that Plaintiffs Responses to Courts Interrogatories were provided to pro se Defendants, the Clerk of Court is directed to mail a copy of the Plaintiffs Responses to the Courts Interrogatories 15 to Defendants Philip Morrison and Venus Morrison at 28262 Alata Dena Dr., Punta Gorda, FL 33955. The Clerk of Court is directed to enter a new FLSA Scheduling Order with new dates which will govern this action. Signed by Magistrate Judge Sheri Polster Chappell on 7/10/2012. (LMH) | |
| | 09/05/2012 | 20 | ORDER. Plaintiff shall have up to and including September 12, 2012 to file a status report with the Court in accordance with the above. Signed by Magistrate Judge Sheri Polster Chappell on 9/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |
| | 09/17/2012 | 25 | ORDER granting in part and denying in part 24 Plaintiff's Motion for Clerk's Entry of Default Against Defendants. Plaintiffs request for entry of clerks default against Defendant Buckshot Cable, Inc. is GRANTED. The Clerk of Court is directed to enter a clerk's default against Defendant Buckshot Cable, Inc. ONLY. Plaintiff's request for entry of clerks default against Defendants Phillip Morrison and Venus Morrison is DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00061-JES-SPC Chivers v. Keen et al | 07/12/2012 | 14 | ORDER. Sheriff William Wise is automatically substituted for William Keen as the Sheriff of Desoto County, Florida in his official capacity. The Clerk of the Court is hereby directed to note the substitution in the style of the | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRILSET <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 |

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| | | | case. William L. Keen remains a Party Defendant in his individual capacity. Signed by Magistrate Judge Sheri Polster Chappell on 7/12/2012. (LMH) | Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| | 07/23/2012 | 20 | ORDER denying 19 The Plaintiff, Jeffrey John Chivers' Motion for Leave to perfect Service of Process by Substitute Service in Accordance with Florida Statute S 48.161. Signed by Magistrate Judge Sheri Polster Chappell on 7/23/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| | 08/06/2012 | 24 | ORDER granting 23 The Plaintiff, Jeffrey Chivers's Motion for Enlargement of Time to Effect Service of Process or, in the Alternative, Documentation of Plaintiff's Due Diligence in the Attempts of Service of Process to the extent that the Court will allow an additional thirty (30) days to effectuate service. The Plaintiff has up to and including September 6, 2012, to effectuate service upon the Defendants Park, Deleandro and Frizzell. Failure to effectuate service by September 6, 2012, may result in the Plaintiffs case against the Defendants Park, Deleandro and Frizzell being dismissed without further notice for failure to prosecute. No further extensions of time will be allowed without sufficient good cause. Signed by Magistrate Judge Sheri Polster Chappell on 8/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| | 09/13/2012 | 33 | ORDER granting 32 Plaintiff, Jeffrey John Chivers' Motion for Clerk's Entry of Default Against Defendant Francis Rene Frizzell. The Clerk of the Court is hereby directed to enter a Clerks Default against Defendant, Frances Rene Frizzell. Signed by Magistrate Judge Sheri Polster Chappell on 9/13/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00065-JES-SPC Meador v. Millenium Physician Group, | 10/11/2012 | 22 | ORDER directing the Plaintiff Rebecca Meador to file a Motion with the Court requesting the Court's approval of the FLSA settlement agreement in compliance with Lynns Food Stores, | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards |

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| L.L.C. et al | | | Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). the Motion shall include a copy of the settlement agreement signed by all parties, a brief description of the terms of the settlement, the number of hours and lost wages originally claimed by the Plaintiff and whether or not the Plaintiff's claims were settled by compromise, as well as the Plaintiff's Counsels attorney's fees and costs and whether or not said fees and costs were negotiated separately from the FLSA claim. The Plaintiff shall provide the Court with said information in a motion on or before October 23, 2012.Signed by Magistrate Judge Sheri Polster Chappell on 10/11/2012. (LMF) | <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| | 11/05/2012 | 26 | REPORT AND RECOMMENDATION re 25 Joint MOTION to Approve Settlement filed by Millenium Physician Group, L.L.C., Rebecca Meador, Peter Lautenbach, Riverside Family Practice, P.A.. It is respectfully recommended Plaintiff's Joint Motion for Appr oval of Proposed Settlement Agreement 25 should be GRANTED and the settlement agreement between Plaintiff and Defendants be APPROVED by the District Court. It is further respectfully recommended that the case be DISMISSED with prejudice pursuant to the agreement of the Parties.Signed by Magistrate Judge Sheri Polster Chappell on 11/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00078-JES-SPC Heitmann v. Francoletti | 06/15/2012 | 16 | ORDER denying 10 Plaintiff's Motion to Determine Rent and Memorandum of Law in Support Thereof; granting 11 Defendant's Motion to Determine Rent and Incorporated Memorandum of Law. 2.Plaintiff may pay the money into the Courts registry by cash or money order. The money order shall be made payable to "Clerk, U.S. District Court," and shall include the case number on the money order (2:12-cv-78). The money order may be mailed to the United States Courthouse and Federal B | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Torts to Land <i>Cause:</i> 12:1461 Homeowners Loan Act <i>Judge:</i> Sheri Polster Chappell |

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| | | | uilding, 2110 First Street, Fort Myers, Florida 33901, or Plaintiff may bring the money order in person to the Clerks Office at the aforementioned address. If Plaintiff pays by cash, she must do so in person at the Clerks Office. 3.The Clerk of Court is directed to docket a copy of the receipt in the case file.. Signed by Magistrate Judge Sheri Polster Chappell on 6/15/2012. (LMH) | |
| <u>2:12-cv-00088-UA-SPC</u> Ave Maria University v. Sebelius et al | 07/31/2012 | <u>36</u> | ORDER denying <u>31</u> Defendants' Motion to Stay Discovery Pending Resolution of Motion to Dismiss. Signed by Magistrate Judge Sheri Polster Chappell on 7/31/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:2000 Job Discrimination (Sex) <i>Judge:</i> Sheri Polster Chappell |
| <u>2:12-cv-00089-JES-SPC</u> Mojica v. Blackstone Real Estate Acquisitions IV LLC et al | 07/17/2012 | <u>15</u> | ORDER directing the Plaintiff to file a Motion with the Court requesting the Court's approval of the FLSA settlement agreement in compliance with Lynns Food Stores, Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). Signed by Magistrate Judge Sheri Polster Chappell on 7/17/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| | 09/04/2012 | <u>21</u> | REPORT AND RECOMMENDATION re <u>20</u> Joint MOTION to Approve Settlement Agreement filed by WHM LLC, Oscar Mojica, Blackstone Real Estate Acquisitions IV LLC. It is respectfully recommended the Joint Motion to Approve Confidential Settlement Agreement and Joint Motion to Dismiss With Prejudice <u>20</u> be GRANTED and the settlement agreement between Plaintiff and Defendant WHM, LLC be APPROVED by the District Court. It is further respectfully recommended that the case be DISMISSED with prejudice pursuant to the agreement of the Parties against Defendant WHM, LLC only. Signed by Magistrate Judge Sheri Polster Chappell on 9/4/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |

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| 2:12-cv-00092-JES-SPC Deleon v. National Painting & Waterproofing, Inc. et al | 05/31/2012 | 15 | ORDER granting 11 the Plaintiff, Orlando Deleon's Motion for Clerk's Default Against Defendant National Painting & Waterproofing. Signed by Magistrate Judge Sheri Polster Chappell on 5/31/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Denial of Overtime Compensation <i>Judge:</i> Sheri Polster Chappell |
| | 07/24/2012 | 23 | ORDER re 22 Order to show cause filed by James M. Spadorcia. The Clerk of Court is directed to enter a clerk's default against Defendant James. M. Spadorcia ONLY. As a Clerks Default 17 has previously been entered against Defendant National Painting & Waterproofing, Inc., the Plaintiff shall have up to and including August 7, 2012, to file a motion for default judgment as to both Defendants. Signed by Magistrate Judge Sheri Polster Chappell on 7/24/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Denial of Overtime Compensation <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00095-UA-SPC Access for the Disabled, Inc. et al v. Burlington Coat Factory Warehouse Corporation | 08/06/2012 | 24 | ORDER granting in part and denying in part 16 MOTION for miscellaneous relief, specifically Clarification or amendment of ADA Scheduling Order filed by Patricia Kennedy, Access for the Disabled, Inc. The Motion is GRANTED to the extent that the Scheduling Order is clarified as set forth above. The Motion is DENIED to the extent that the Court will not amend its Scheduling Order to allow for further inspection of the property at this time. The Parties are to proceed accordingly. Signed by Magistrate Judge Sheri Polster Chappell on 8/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Civil Rights: Americans with Disabilities - Other <i>Cause:</i> Americans with Disabilities Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00119-UA-SPC Belair et al v. Target Corporation | 07/09/2012 | 15 | ORDER granting 14 Plaintiffs' Motion to Compel Defendant's Answers to First Set of Interrogatories and Responses to First Request for Production. Defendant shall have up to and including July 23, 2012, to produce answers and responses to Plaintiffs' First Set of Interrogatories and Plaintiffs First Request for Production. Signed by Magistrate Judge Sheri Polster Chappell on 7/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRILSET <i>NOS:</i> P.I.: Other <i>Cause:</i> 28:1446 Notice of Removal- Personal Injury <i>Judge:</i> Sheri Polster Chappell |
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| | 08/07/2012 | 17 | ORDER granting in part and denying in part 16 Plaintiffs Motion to Compel Better Responses to Plaintiffs' First Request for Production. Defendants shall have up to and including August 20, 2012, to provide better responses to Plaintiffs First Request for Production in compliance with the Federal Rules and this Order. Plaintiffs request for attorneys fees and costs is DENIED at this time, but may be revisited if Defendant fails to comply with this Order. Signed by Magistrate Judge Sheri Polster Chappell on 8/7/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> P.I.: Other <i>Cause:</i> 28:1446 Notice of Removal- Personal Injury <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00123-UA-SPC Popov v. George & Sons Towing, Inc. et al | 08/06/2012 | 29 | ORDER denying without prejudice 28 the Plaintiff, Florin Popov's Motion to Compel Answers to Interrogatories Numbers 8, 12, 13, and 15 and First Request for Production Number 28. Signed by Magistrate Judge Sheri Polster Chappell on 8/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAGAPP, MAIL, TRLSET <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| | 12/05/2012 | 51 | ORDER granting in part and denying in part 41 The Plaintiff's Renewed Motion to Compel Answers to Interrogatory NOS. 8, 12, 13, and 15 of Plaintiff's First Set of Interrogatories and Request NO. 28 of the Plaintiff's First Request for Production. The Plaintiff's Renewed Motion to Compel Answers to Interrogatory NOS. 8, 12, 13 is GRANTED but MODIFIED so that the Interrogatories only apply to George and Sons Towing and are restricted to the years from 2009 up to the start of the instant litigation. The Plaintiff's Renewed Motion to Compel Answers to Interrogatory number 15 is DENIED. The Plaintiff's Renewed Motion to Compel Request for Production number 28 is GRANTED but MODIFIED so that the production of documents only applies to investigations by the DOL involving George and Sons Towing and is restricted to the years from 2009 up | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAGAPP, MAIL, TRLSET <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |

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| | | | to the start of the instant litigation. The Defendant has up to and including December 26, 2012, to Answer the Interrogatories and Produce, if any, the requested documents. Signed by Magistrate Judge Sheri Polster Chappell on 12/5/2012. (LMF) | |
| | 12/12/2012 | 55 | ORDER denying 45 the Defendants, George and Sons Towing, Inc. and George and Debra Martin's Motion to Compel Better Responses and Documents Responsive to Defendants' First Request for Production to Plaintiff Popov. Signed by Magistrate Judge Sheri Polster Chappell on 12/12/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAGAPP, MAIL, TRLSET <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:206 Collect Unpaid Wages <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00137-JES-SPC Schoenecker v. Island Bike Shop, Inc. et al | 07/19/2012 | 25 | ORDER re 24 Notice of Settlement filed by Paul Schoenecker. The Plaintiff is hereby directed to file a Motion with the Court requesting the Court's approval of the FLSA settlement agreement in compliance with Lynn's Food Stores, Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). Signed by Magistrate Judge Sheri Polster Chappell on 7/19/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Denial of Overtime Compensation <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00157-JES-SPC Gillard v. Vision Ace Hardware, LLC | 07/02/2012 | 16 | ORDER granting 15 The Parties' Joint Motion to Substitute Mediator. The Clerk of Court shall remove Juan Bello as the mediator of record and replace him with Eugene Smith. Signed by Magistrate Judge Sheri Polster Chappell on 6/29/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Civil Rights: Americans with Disabilities - Employment <i>Cause:</i> 28:1331 Fed. Question: Employment Discrimination <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00158-JES-SPC Mendez v. Land Investors, Corp. | 12/03/2012 | 19 | ORDER granting 17 Plaintiff's First Motion to Compel Discovery. Defendant shall have up to and including January 4, 2013, to produce the documents responsive to Requests No. 32 and 33 of Plaintiffs First Request for Production. Signed by | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Other Statutory Actions <i>Cause:</i> 15:1701 Interstate Land |

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| | | | Magistrate Judge Sheri Polster Chappell on 12/3/2012. (LMF) | Sales Full Disclosure Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00170-JES-SPC Martin v. BLG Cement, LLC et al | 07/23/2012 | 18 | REPORT AND RECOMMENDATION re 17 Joint MOTION to Approve Settlement MOTION to dismiss filed by Jessica Martin, BLG Cement, LLC, RQL Enterprises, Inc., Robert L. Ciarrocchi. It is respectfully recommended the Parties' Joint Motion for Approval of Settlement and Motion to Dismiss with Prejudice 17 should be GRANTED and the settlement agreement should be APPROVED by the District Court. It is further respectfully recommended the case be DISMISSED with Prejudice pursuant to the agreement of the Parties and the Clerk should be directed to close the file. Signed by Magistrate Judge Sheri Polster Chappell on 7/23/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00172-UA-SPC Bruni v. Aetna Life Insurance Company | 06/13/2012 | 18 | ERISA CASE ORDER. Signed by Magistrate Judge Sheri Polster Chappell on 6/13/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: E.R.I.S.A. <i>Cause:</i> 29:1132 E.R.I.S.A.- Employee Benefits <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00174-JES-SPC Barry et al v. Rambosk et al | 12/10/2012 | 31 | ORDER granting 30 the Plaintiffs, Tracy M. Barry, Sarah Barry, Denver Barry and Jamie Lee Oliver's Motion for Additional Time to Obtain an Attorney to Represent Plaintiffs. The Plaintiffs have up to and including December 31, 2012, to find new counsel to represent them in their case. Signed by Magistrate Judge Sheri Polster Chappell on 12/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, TRLSET <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Civil Rights Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00177-JES-SPC Malibu Media, LLC v. John Does 1-13 | 06/06/2012 | 22 | REPORT AND RECOMMENDATION re 7 MOTION to dismiss Complaint MOTION to quash Subpoena MOTION to sever MOTION for protective order filed by | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright |

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| | | | John Doe 03. IT IS RESPECTFULLY RECOMMENDED: John Doe #3's Motion to Dismiss/Sever and for a Protective Order and/or to Quash Subpoena (Doc. #7) be DENIED. Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen (14) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal. Signed by Magistrate Judge Sheri Polster Chappell on 6/6/2012. (LAF) Modified on 8/2/2012, Document vacated pursuant to 45 Order (SPB). | Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 07/05/2012 | 31 | REPORT AND RECOMMENDATION re 15 MOTION to dismiss Complaint MOTION for protective order MOTION to quash Subpoena and Memorandum in Support Thereof filed by John Doe 11. It is respectfully recommended Defendant John Doe 11 Special Appearance Motion to Quash Subpoena, or in the Alternative, Motion for Protective Order, Motion to Dismiss or Sever Defendants for Improper Joinder, Motion to Dismiss for Failing to State a Cause of Action 15 be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 7/5/2012. (LMH) Modified on 8/2/2012- Document vacated pursuant to 46 Order (SPB). | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 07/31/2012 | 44 | ORDER granting in part 42 Plaintiff's First Motion for Extension of Time Within Which It Has to Effectuate Service on Doe Defendants. Plaintiff shall have up to and including October 29, 2012 to name and serve the Doe Defendants. Signed by Magistrate Judge Sheri Polster Chappell on 7/31/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 08/01/2012 | 47 | REPORT AND RECOMMENDATION re 7 MOTION to dismiss Complaint MOTION to quash Subpoena MOTION to sever | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 |

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| | | | MOTION for protective order filed by John Doe 03. It is respectfully recommended Motion to Dismiss/Sever and for a Protective Order and/or to Quash Subpoena should be DENIED without prejudice. Signed by Magistrate Judge Sheri Polster Chappell on 8/1/2012. (LMF) | Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 08/01/2012 | 48 | REPORT AND RECOMMENDATION re 15 MOTION to dismiss Complaint MOTION for protective order MOTION to quash Subpoena and <i>Memorandum in Support Thereof</i> filed by John Doe 11. It is respectfully recommended Defendant John Doe 11 Special Appearance Motion to Quash Subpoena, or in the Alternative, Motion for Protective Order, Motion to Dismiss or Sever Defendants for Improper Joinder, Motion to Dismiss for Failing to State a Cause of Action should be DENIED without prejudice. Signed by Magistrate Judge Sheri Polster Chappell on 8/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00186-JES-SPC Hatton et al v. Chrysler Canada, Inc. | 12/06/2012 | 58 | ORDER granting 57 Chrysler Canada, Inc.'s Unopposed Motion to Stay Case Management Deadlines. All deadlines in the case management and scheduling order, as well as disclosures and discovery are STAYED pending a decision regarding the outstanding dispositive motions before this Court (Docs. #38 & 40). If the dispositive motions do not dispose of this case, the Parties are directed to file a revised case management report with the Court within 7 days of the Court's ruling on the dispositive motions. Signed by Magistrate Judge Sheri Polster Chappell on 12/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> SL DOC, TRLSET <i>NOS:</i> Personal Inj. Prod. Liability <i>Cause:</i> 28:1441 Notice of Removal- Personal Injury <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00208-UA-SPC Rocco v. Target Corporation | 11/21/2012 | 19 | ORDER granting 15 Defendant's Motion to Compel Plaintiff's Responses to Discovery. Plaintiff shall have up to and including December 7, 2012, to produce answers and responses to Defendants Slip/Fall Interrogatories, Collateral Source Interrogatories, and | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> P.I.: Other <i>Cause:</i> 28:1441 Notice of Removal <i>Judge:</i> Sheri |

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| | | | Request to Produce. Signed by Magistrate Judge Sheri Polster Chappell on 11/21/2012. (LMF) | Polster Chappell |
| 2:12-cv-00225-UA-SPC World Digital Rights, Inc. v. John Does 1-80 | 05/09/2012 | 6 | ORDER granting 4 Plaintiff's Motion for Leave to Serve Third Party Subpoenas Prior to a Rule 26(f) Conference. SEE ORDER FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 5/8/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 07/06/2012 | 19 | ORDER granting 18 The Defendant John Doe Number 12's Motion to Seal Exhibit B the extent that the information will be removed from the Court's docket sheet. The Clerk of the Court is hereby directed to remove Exhibit B attached to 18 and return it to the Defendant John Doe Number 12's attorney Debra D. Faulk, GrayRobinson, P.A. 201 N. Franklin St., Suite 2200, Tampa, Florida 33602. The Clerk is further directed to file Exhibit B attached to the instant Motion to Seal with the Court as Exhibit B to the Motion Quash 18 . Signed by Magistrate Judge Sheri Polster Chappell on 7/6/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 08/07/2012 | 24 | ORDER denying as moot 23 John Doe (I.P. Address 71.122.130.162)'s Motion to Quash Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action. Signed by Magistrate Judge Sheri Polster Chappell on 8/7/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00228-UA-SPC Tufano v. Bush et al | 09/04/2012 | 29 | ORDER denying as moot Defendant's request for a protective order regarding the content of Bush's text messages sent and received from his cellular telephone on March 22, 2012 is denied as moot. Signed by Magistrate Judge Sheri Polster Chappell on 9/4/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Motor Vehicle <i>Cause:</i> 28:1332 Diversity-Personal Injury <i>Judge:</i> Sheri Polster Chappell |

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| 2:12-cv-00239-JES-SPC National Alliance of Accessisbility Inc. et al v. CP Sanibel, LLC. | 07/09/2012 | 15 | ORDER granting 14 Stipulation filed by National Alliance of Accessibility Inc., Denise Payne. Plaintiff is directed to file an Amended Complaint in the CM/ECF system, for the sole purpose of naming the correct Defendant. The Clerk of Court is directed to change the style of this case in accordance with the Amended Complaint and substitute CP Sanibel, LLC for CP Sanibel Fee Owner, LLC. Signed by Magistrate Judge Sheri Polster Chappell on 7/9/2012. (LMH) | <i>Office:</i> Ft. Myers <i>NOS:</i> Civil Rights: Americans with Disabilities - Other <i>Cause:</i> Americans with Disabilities Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00240-JES-SPC Orlando v. Alico Ale House, LLC et al | 08/08/2012 | 23 | ORDER. The Plaintiff Vincent S. Orlando is hereby directed to file a Motion with the Court requesting the Court's approval of the FLSA settlement agreement in compliance with Lynn's Food Stores, Inc. v. U.S., 679 F. 2d 1350, 1354-55 (11th Cir. 1982). The Motion shall include a copy of the settlement agreement signed by all parties, a brief description of the terms of the settlement, the number of hours and lost wages originally claimed by the Plaintiff and whether or not the Plaintiff's claims were settled by compromise, as well as the Plaintiff's Counsel's attorney's fees and costs and whether or not said fees and costs were negotiated separately from the FLSA claim. The Plaintiff shall provide the Court with said information in a motion on or before August 21, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 8/8/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Denial of Overtime Compensation <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00256-UA-SPC DeBacco v. Park Bank et al | 08/06/2012 | 13 | REPORT AND RECOMMENDATION re 8 MOTION to dismiss Complaint , <i>for More Definite Statement or, Alternatively, to Transfer Venue</i> filed by Jeffrey T. DeBacco, Development Opportunitites, LLC. It is respectfully recommended Defendant, Jeffrey T. DeBacco and Development Opportunities, LLCs Motion to Dismiss and for More Definite Statement or, alternatively, Motion to Transfer Venue (Doc. #8) be GRANTED in part and DENIED in | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Racketeer/Corrupt Organization <i>Cause:</i> 28:1332 Diversity-Fraud <i>Judge:</i> Sheri Polster Chappell |

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| | | | part. Defendants Motion to Dismiss for Lack of Personal Jurisdiction be GRANTED as Plaintiff has failed to sufficiently allege specific jurisdiction under the Florida Long Arm Statute, and the Complaint be dismissed without prejudice, with leave to amend. Defendants Motion to Dismiss Plaintiffs RICO claim (Count I) for failure to state a claim upon which relief can be granted be GRANTED, with leave to amend. Defendants Motion for More Definite Statement as to Plaintiffs Count II (fraud) be GRANTED, with leave to amend. Defendants Motion to Dismiss for improper venue be DENIED and the request to transfer this action to the Eastern District of Wisconsin be DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 8/6/2012. (LMF) | |
| 2:12-cv-00267-UA-AEP Malibu Media, LLC v. John Doe 1-67 | 09/05/2012 | 22 | ORDER. If Mr. Epstein is an attorney of record for John Doe 23, then he shall enter an appearance and all future pleadings and correspondence will go through him, but until he does so, he may not participate in this case. Mr. Epstein is directed to provide a copy of this Order to John Doe 23. The Court will rule on John Doe 23s Motion in Due Course. Signed by Magistrate Judge Sheri Polster Chappell on 9/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 05:0551 Administrative Procedure Act <i>Judge:</i> Sheri Polster Chappell |
| | 09/17/2012 | 30 | ORDER granting 26 Plaintiff's First Motion for Extension of Time Within Which it has to Serve Defendants With a Summons and Complaint. The Plaintiff has up to and including October 29, 2012, to serve process on the remaining Doe Defendants. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Copyright <i>Cause:</i> 05:0551 Administrative Procedure Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00273-UA-SPC Bolton v. Lowe's Home Centers, Inc. | 10/30/2012 | 21 | AGREED ORDER OF PROTECTION. Signed by Magistrate Judge Sheri Polster Chappell on 10/30/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, TRLSET <i>NOS:</i> P.I.: Other <i>Cause:</i> 28:1332 |

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| | | | | Diversity-Personal Injury <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00277-JES-SPC Federal Deposit Insurance Corporation, as Receiver for BankUnited, FSB. v. Millman et al | 09/24/2012 | 12 | ORDER granting in part and denying in part 11 Plaintiff's Motion for Entry of Clerk's Default Against Defendants Jeffrey Miller and First Charlotte Appraisals, Inc. Plaintiffs request for clerks default against Defendant First Charlotte Appraisals, Inc. is DENIED without prejudice. Plaintiffs request for clerks default against Defendant Jeffrey Miller is GRANTED. The Clerk is directed to enter Clerks Default against Defendant Jeffrey Miller ONLY. Signed by Magistrate Judge Sheri Polster Chappell on 9/24/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Contract: Other <i>Cause:</i> 05:0701 Maritime Subsidy Board <i>Judge:</i> Sheri Polster Chappell |
| | 11/09/2012 | 20 | ORDER granting 17 Plaintiff's Second Motion for Entry of Clerk's Default Against Defendant, First Charlotte Appraisals, Inc.. The Clerk is directed to enter Clerk's Default against Defendant First Charlotte Appraisals, Inc. ONLY. Signed by Magistrate Judge Sheri Polster Chappell on 11/9/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Contract: Other <i>Cause:</i> 05:0701 Maritime Subsidy Board <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00282-UA-SPC Bray v. Paetec Communications, Inc. et al | 09/24/2012 | 9 | ORDER granting 8 Plaintiff Steven Bray's Motion for Extension of Time to Serve the Complaint. The Plaintiff is granted an extension of thirty (30) days to serve the Complaint upon the Defendant. Service must be completed on or before October 25, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 9/24/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Civil Rights: Jobs <i>Cause:</i> 29:621 Job Discrimination (Age) <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00285-JES-SPC Jones v. Leocadio et al | 06/12/2012 | 8 | ORDER directing clerk to send Plaintiff additional forms to effect service. Signed by Magistrate Judge Sheri Polster Chappell on 6/12/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| | 07/02/2012 | 9 | ORDER to effect service. SEE ORDER | <i>Office:</i> Ft. Myers |

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| | | | FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 7/2/2012. (LMH) | <i>Case Flags:</i> MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| | 08/29/2012 | 27 | ORDER directing Clerk to forward additional forms to Plaintiff. SEE ORDER FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 8/29/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Civil Rights: Other <i>Cause:</i> 42:1983 Prisoner Civil Rights <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00291-JES-SPC Franklin v. Johnson & Johnson, et al | 06/07/2012 | 5 | ORDER STRIKING 4 Notice (Other) filed by Johnson & Johnson, Inc. The Defendant Johnson & Johnson, Inc.'s Notice [#4] is hereby STRICKEN from the record. The Clerk of the Court is directed to remove the Notice 4 from the docket sheet. Signed by Magistrate Judge Sheri Polster Chappell on 6/7/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL, MDLOUT <i>NOS:</i> Personal Inj. Prod. Liability <i>Cause:</i> 21:0301 Federal Food, Drug & Cosmetic Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00300-JES-SPC Names v. Kirkwood Electric, Inc. | 07/13/2012 | 11 | ORDER denying as moot 9 Plaintiff's Motion for Clerk's Default Against Defendant Kirkwood Electric, Inc., A Florida Corporation; granting 10 Plaintiff's Motion for Clerk's Default Against Defendant Kirkwood Electric, Inc., A Florida Corporation. The Clerk is directed to enter a clerks default against Defendant. Signed by Magistrate Judge Sheri Polster Chappell on 7/13/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: Fair Standards <i>Cause:</i> 29:201 Fair Labor Standards Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00307-JES-SPC Daughtry v. Williams et al | 07/12/2012 | 12 | ORDER granting 11 Plaintiff, Robert A. Daughtry's, Motion for Entry of Clerks Default against Randy Williams. The Clerk of Court is directed to enter a clerks default against Defendant Williams ONLY. Signed by Magistrate Judge Sheri Polster Chappell on 7/12/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Real Property: Other <i>Cause:</i> 28:2409(a) Quiet Title Action <i>Judge:</i> Sheri Polster Chappell |

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| 2:12-cv-00310-UA-SPC Lamina Packaging Innovations, LLC v. Sara Happ, Inc. | 07/05/2012 | 13 | ORDER granting 10 Stipulation for an Extension of Time to Respond to Plaintiff's Complaint. Sara Happ, Inc. shall have up to and including August 2, 2012, to respond to Plaintiffs Complaint. Signed by Magistrate Judge Sheri Polster Chappell on 7/5/2012. (LMH) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Patent <i>Cause:</i> 35:271 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| | 09/07/2012 | 18 | ORDER granting 17 The Plaintiff, Lamina Packaging Innovations, LLC. and the Defendant, Sara Happ, Inc.'s Joint Motion for Extension of Time Re All Deadlines. SEE ORDER FOR AMENDED DEADLINES. Signed by Magistrate Judge Sheri Polster Chappell on 9/7/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Patent <i>Cause:</i> 35:271 Patent Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00323-UA-SPC The Guardian Life Insurance Company of America v. Willis | 07/25/2012 | 7 | ORDER granting 6 Plaintiff The Guardian Life Insurance Company of America's Motion for Clerk's Entry of Default Against Defendant George Willis. The Clerk is directed to enter Clerks default against Defendant, George Willis. The Clerk is directed to send a copy of this Order to Defendant George Willis, 21378 Percy Avenue, Port Charlotte, FL 33952. Signed by Magistrate Judge Sheri Polster Chappell on 7/25/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED <i>NOS:</i> Labor: E.R.I.S.A. <i>Cause:</i> 29:1001 E.R.I.S.A.: Employee Retirement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00336-UA-SPC PNC Bank, National Association v. CAO Enterprises, LLC et al | 12/06/2012 | 41 | ORDER re 39 Order to show cause. The Court will take no further action on its Order to Show Cause. Signed by Magistrate Judge Sheri Polster Chappell on 12/6/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Real Property: Foreclosure <i>Cause:</i> 28:1345 Foreclosure <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00339-JES-SPC Frantzen et al v. Weil Lifestyle, LLC | 08/28/2012 | 22 | ORDER granting 21 Joint Motion for Leave to Meet Telephonically for the Purpose of Preparing Case Management Report. Signed by Magistrate Judge Sheri Polster Chappell on 8/26/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Breach of Contract <i>Judge:</i> Sheri Polster Chappell |

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| 2:12-cv-00355-UA-SPC Holsapple v. Strong Industries, Inc. | 09/10/2012 | 25 | ORDER denying 19 Motion to stay discovery. Signed by Magistrate Judge Sheri Polster Chappell on 9/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Personal Inj. Prod. Liability <i>Cause:</i> 28:1332 Diversity-Personal Injury <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00360-JES-SPC Manheim Automotive Financial Services, Inc. v. Information Matrix Technologies, Inc. et al | 09/10/2012 | 12 | ORDER granting in part and denying in part 11 The Plaintiff, Manheim Automotive Financial Services, Inc.'s Request for Clerk's Entry of Default Against Defendants. The Motion to Enter Clerk's Default against the Defendants Information Matrix Technologies, Inc. and Buffy R. Hagood is GRANTED. The Clerk of the Court is hereby directed to enter a Clerks Default against the Defendants, Information Matrix Technologies, Inc., and Buffy R. Hagood. The Motion to Enter a Clerks Default against the Defendant Roger Hagood is DENIED. Signed by Magistrate Judge Sheri Polster Chappell on 9/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Negotiable Instrument <i>Cause:</i> 28:1332 Diversity-Breach of Contract <i>Judge:</i> Sheri Polster Chappell |
| | 11/29/2012 | 20 | ORDER granting 18 the Plaintiff, Manheim Automotive Financial Services, Inc.'s Motion for Entry of a Clerk's Default Against Roger Hagood. The Clerk of the Court is hereby directed to enter a Clerks Default against the Defendant Roger Hagood. Signed by Magistrate Judge Sheri Polster Chappell on 11/29/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Negotiable Instrument <i>Cause:</i> 28:1332 Diversity-Breach of Contract <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00361-UA-SPC Brantley v. Myrick | 12/03/2012 | 16 | ORDER denying 15 the Plaintiff, Brian Brantley's Motion for Default Judgment. Signed by Magistrate Judge Sheri Polster Chappell on 12/3/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL <i>NOS:</i> Freedom of Information Act <i>Cause:</i> 05:0552 Freedom of Information Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00363-JES-SPC Richardson v. | 09/27/2012 | 16 | ORDER granting 15 Plaintiff, Regina Richardson's, Unopposed Motion to Enlarge Time to Respond to Motion to | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET |

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| ABM Janitorial Services | | | Dismiss. Plaintiff, Regina Richardson, shall have up to and including October 9, 2012, to respond to Defendant's Motion to Dismiss. Signed by Magistrate Judge Sheri Polster Chappell on 9/27/2012. (LMF) | <i>NOS: Civil Rights: Jobs Cause: 42:2000e Job Discrimination (Employment) Judge: Sheri Polster Chappell</i> |
| 2:12-cv-00389-UA-SPC Velunza et al v. Safe Zone, LLC et al | 11/09/2012 | 13 | ORDER granting 12 Plaintiffs' Counsel's Unopposed Motion to Withdraw and Unopposed Motion for Enlargement of Time of This Honorable Court's Scheduling Order. Attorney Jason S. Remer of the law firm Remer & Georges-Pierre, PLLC, is relieved of all further responsibility in this matter. The Clerk of Court is directed to terminate Mr. Remer as counsel of record for Plaintiffs and from any further notices of electronic filing regarding this case. The Clerk is directed to note on the docket that Plaintiffs Pedro Velunza nad Luiz F. Rodriguez are proceeding pro se. All future filings and correspondence in this matter shall be mailed to Plaintiffs at the following addresses: Pedro Velunza, 1502 NE Vanloon Lane, Cape Coral, Flo rida 33909; and Luiz F. Rodriguez, 1352 Hancock Bridge Parkway, Cape Coral, Florida 33990. The Clerk is directed to issue a new FLSA Scheduling Order in this matter and provide a copy of same to Plaintiffs at the aforementioned addresses. Signed by Magistrate Judge Sheri Polster Chappell on 11/9/2012. (LMF) | <i>Office: Ft. Myers Case Flags: MAIL NOS: Labor: Fair Standards Cause: 29:201 Denial of Overtime Compensation Judge: Sheri Polster Chappell</i> |
| 2:12-cv-00392-UA-SPC Guerrero v. Homegoods, Inc. | 08/20/2012 | 13 | ORDER granting 12 Plaintiff Alicia Ortiz Guerrero;s Agreed Motion to Hold Case Management Conference Telephonically. Signed by Magistrate Judge Sheri Polster Chappell on 8/20/2012. (LMF) | <i>Office: Ft. Myers Case Flags: CLOSED NOS: Civil Rights: Americans with Disabilities - Employment Cause: 28:1441 Notice of Removal - Employment Discrim Judge: Sheri Polster Chappell</i> |

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| 2:12-cv-00402-UA-SPC Patrick Collins, Inc. v. Does 1-31 | 08/28/2012 | 8 | ORDER granting 7 Plaintiff's Motion for Leave to Serve Third Party Subpoenas Prior to a Rule 26(f) Conference. SEE ORDER FOR DETAILS AND INSTRUCTIONS. Signed by Magistrate Judge Sheri Polster Chappell on 8/28/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00410-JES-SPC Tower Insurance Company of New York v. Blocker et al | 09/17/2012 | 16 | ORDER granting 14 Plaintiff, Tower Insurance Company of New York's Motion for Clerk's Entry of Default Against Defendant Magdony Irene Guzman, as Personal Representative of the Estate of Carlos Alexander Brito Guzman. The Clerk of the Court is hereby directed to enter a Clerks Default against Defendant, Magdony Irene Guzman. Signed by Magistrate Judge Sheri Polster Chappell on 9/17/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Insurance <i>Cause:</i> 28:1332 Diversity-Insurance Contract <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00413-UA-SPC Jenkins v. Charlotte County Board of County Commissioners et al | 09/12/2012 | 16 | ORDER re 10 Motion for extension of time to file answer or otherwise pleadAnswer to amended complaint filed by Robert Skidmore. If Attorneys Fairman and Retrault or any other attorney wishes to become the attorney of record for the Defendant Charl otte County Commissioner Robert Skidmore, then they must enter an appearance on his behalf and all future pleadings and correspondence will go through said attorney. Otherwise the Defendant Commissioner Skidmore must file his own documents pro se without the use of the Courts electronic filing system. SEE ORDER FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 9/11/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Civil Rights: Jobs <i>Cause:</i> 42:2000 Job Discrimination (Sex) <i>Judge:</i> Sheri Polster Chappell |
| | 10/10/2012 | 22 | ORDER denying 20 the Plaintiff Shonna Jenkins' Motion for Entry of a Default. Signed by Magistrate Judge Sheri Polster Chappell on 10/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> TRLSET <i>NOS:</i> Civil Rights: Jobs <i>Cause:</i> 42:2000 Job Discrimination (Sex) <i>Judge:</i> Sheri Polster Chappell |
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| 2:12-cv-00427-JES-SPC Yuhasz v. Commissioner of Social Security | 08/28/2012 | 8 | ORDER re 4 Response filed by Cherise Yuhasz. Plaintiff's Motion to Proceed In Forma Pauperis. The Clerk of Court shall mail summonses and Marshall 285 forms to the Plaintiff. Plaintiff shall complete and mail the forms to the Clerk of Court within fifteen 15 days of the date of this Order. The Clerk shall then provide the completed forms to the United States Marshal. Upon receipt of the completed forms, the United States Marshal is directed to serve them upon the Defendant(s) without cost to the Plaintiff. Signed by Magistrate Judge Sheri Polster Chappell on 8/26/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:206 Social Security Benefits <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00435-UA-SPC Hare et al v. Wells Fargo Bank, N.A. | 08/20/2012 | 18 | REPORT AND RECOMMENDATION re 16 MOTION to dismiss Complaint <i>and Motion to Vacate Order Granting Emergency Temporary Restraining Order, and Motion for Sanctions and Incorporated Memorandum of Law</i> filed by Wells Fargo Bank, N.A. It is respectfully recommended the Defendant's Motion to Dismiss, Motion to Vacate Order Granting Temporary Restraining Order, and Motion for Sanctions 16 be GRANTED in part and DENIED in part. Defendant's request to dismiss the action be GRANTED as this Court lacks jurisdiction; Defendants request to vacate the Temporary Restraining Order be DENIED AS MOOT as the TRO is set to expire on August 20, 2012, at 5:00 p.m.; Defendant's request for sanctions be DENIED without prejudice. Plaintiffs' Motion for Preliminary Injunction [2]) be DENIED. Plaintiffs Motion to Enforce the Settlement Agreement [5]) be terminated and the Clerk be directed to thereafter close the file. Signed by Magistrate Judge Sheri Polster Chappell on 8/20/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, COMPLY <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1332 Diversity-Contract Dispute <i>Judge:</i> Sheri Polster Chappell |
| | 08/20/2012 | 20 | ORDER for the Production of Court Ordered Transcript. Signed by Magistrate Judge Sheri Polster | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, |

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| | | | Chappell on 8/20/2012. (LMF) | COMPLY NOS: Contract: Other Cause: 28:1332 Diversity-Contract Dispute Judge: Sheri Polster Chappell |
| 2:12-cv-00443-JES-SPC Amerisure Mutual Insurance Company et al v. Crum & Forster Specialty Insurance Company et al | 11/28/2012 | 37 | ORDER granting in part and denying in part 36 the Defendant Evanston Insurance Company's Motion to Deem Section II.C. of Evanston's Response to Amerisure's Motion for Partial Summary Judgment on the Pleadings a Reply to Evanston's Motion for Judgment on the Pleadings or in the Alternative, Motion for Leave to File a Brief Reply to the Evanston's Motion for Judgment on the Pleadings. The Defendant Evanston Insurance Company's Motion to Deem Section II.C. of Evanston's Response to Amerisure's Motion for Partial Summary Judgment on the Pleadings a Reply to Evanston's Motion for Judgment on the Pleadings is DENIED. The Defendant Evanston Insurance Company's Alternative Motion to for leave to file a Reply to the Plaintiff Amerisure's Response to Evanston's Motion for Judgment on the Pleadings is GRANTED. The Reply Brief is limited to five (5) pages in length and limited in scope to the issues regarding the Plaintiff Amerisures position that bidding documents are not incorporated into the construction contracts. The Reply Brief is due on or before December 10, 2012. Signed by Magistrate Judge Sheri Polster Chappell on 11/28/2012. (LMF) | Office: Ft. Myers Case Flags: TRLSET NOS: Insurance Cause: 28:1441 Notice of Removal- Insurance Contract Judge: Sheri Polster Chappell |
| 2:12-cv-00448-JES-SPC Stevens v. Abt. SRBI, Inc. et al | 11/15/2012 | 12 | REPORT AND RECOMMENDATION re 2 MOTION for leave to proceed in forma pauperis/affidavit of indigency filed by Joseph Michael Stevens. It is respectfully recommended that Plaintiff's Affidavit of Indigency 2 be DENIED and the cause be dismissed. | Office: Ft. Myers Case Flags: CLOSED, INCARCERATED, MAIL NOS: Civil Rights: Jobs Cause: 28:1331 |

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| | | | Signed by Magistrate Judge Sheri Polster Chappell on 11/15/2012. (LMF) | Fed. Question: Employment Discrimination <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00494-JES-SPC Jackson v. First Horizon Home Loan Corporation et al | 09/10/2012 | 7 | ORDER granting 3 Defendants' Motion for Extension of Time to Respond to Amended Complaint ; denying 4 Plaintiff's Motion to Deny Defendants' Motion for Extension of Time to Respond to Amended Complaint. Defendants shall have up to and including October 1, 2012, to file their response to Plaintiff's Amended Complaint. Signed by Magistrate Judge Sheri Polster Chappell on 9/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Real Property: Other <i>Cause:</i> 28:1332 Diversity-Other Contract <i>Judge:</i> Sheri Polster Chappell |
| | 09/10/2012 | 8 | ORDER denying 5 Plaintiff's Motion to Compel Defendants for Production of All True Documents, Answers to QWR and Admissions as Requested Per Exhibits. Signed by Magistrate Judge Sheri Polster Chappell on 9/10/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> CLOSED, MAIL <i>NOS:</i> Real Property: Other <i>Cause:</i> 28:1332 Diversity-Other Contract <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00521-JES-SPC Patrick Collins, Inc. v. Does 1-43 | 10/01/2012 | 6 | ORDER granting 5 The Plaintiff, Patrick Collins, Inc.'s Motion for Leave to Serve Third Party Subpoenas Prior to Rule 26(f) Conference. SEE ORDER FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 10/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00533-JES-SPC Collier County Sheriff's Office v. New World Systems Corporation | 11/01/2012 | 20 | ORDER granting 17 the Parties' Joint Motion To Suspend The Setting Of Case Management Dates. The Court shall STAY litigation up to and including December 31, 2012. During this time, the Parties are encouraged to complete the DRP clause contained in their contract. At the end of this time-period, the Parties should file a written status with this Court detailing their progress and whether or not the DRP has been completed. Signed by Magistrate Judge Sheri Polster Chappell on 11/1/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> STAYED <i>NOS:</i> Contract: Other <i>Cause:</i> 28:1441 Notice of Removal- Breach of Contract <i>Judge:</i> Sheri Polster Chappell |

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| 2:12-cv-00542-UA-SPC Rolex Watch U.S.A., Inc. v. Lynch et al | 12/05/2012 | 10 | ORDER granting 9 the Plaintiff, Rolex Watch, U.S.A.'s Motion for Entry of a Clerk's Default. The Clerk of the Court is hereby directed to enter a Clerk's Default against the Defendant James Michael Lynch in accord with Fed. R. Civ. P. 55(a). Signed by Magistrate Judge Sheri Polster Chappell on 12/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Trademark <i>Cause:</i> 15:1114 Trademark Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00558-UA-SPC Malibu Media, LLC v. John Does 1-29 | 10/30/2012 | 4 | ORDER granting 3 Plaintiff's Motion for Leave to Serve Third Party Subpoenas Prior to a Rule 26(f) Conference. SEE ORDER FOR DETAILS AND INSTRUCTIONS. Signed by Magistrate Judge Sheri Polster Chappell on 10/29/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Copyright <i>Cause:</i> 17:101 Copyright Infringement <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00560-JES-SPC Rider v. Midland Credit Management, Inc. et al | 11/16/2012 | 15 | ORDER. The Clerk of the Court is hereby directed to change the Plaintiff's name on the style of this case from Ms. Rider to Terry L. Rider. All future filings made by the Plaintiff in this litigation must be made in her proper name - Terry L. Rider. Failure to comply with the Courts directive may result in any further motions being denied for failure to comply with this Court's order. Signed by Magistrate Judge Sheri Polster Chappell on 11/16/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Consumer Credit <i>Cause:</i> 15:1692 Fair Debt Collection Act <i>Judge:</i> Sheri Polster Chappell |
| | 11/19/2012 | 16 | ORDER granting 14 the Plaintiff Ms. Rider's Motion for Entry of a Clerk's Default. The Clerk of the Court is directed to enter a Clerk's Default against the Defendant Federal Bond & Collection Services, Inc. Signed by Magistrate Judge Sheri Polster Chappell on 11/19/2012. (LMF) | <i>Office:</i> Ft. Myers <i>NOS:</i> Consumer Credit <i>Cause:</i> 15:1692 Fair Debt Collection Act <i>Judge:</i> Sheri Polster Chappell |
| 2:12-cv-00595-UA-SPC Taylor Bean & Whitaker Mortgage Corp. v. Federal Deposit Insurance Corporation et al | 11/05/2012 | 14 | ORDER. Plaintiff is directed to file the operative complaint in this matter as a separate entry in the CM/ECF system. Any motions that were pending in the State Court at the time this case was removed shall be filed as separate docket entries in the CM/ECF system by the moving party. Signed by Magistrate Judge Sheri Polster Chappell on 11/5/2012. (LMF) | <i>Office:</i> Ft. Myers <i>Case Flags:</i> MAIL, SL DOC <i>NOS:</i> Fraud or Truth-In-Lending <i>Cause:</i> 12:1819 Default of Promissory Note <i>Judge:</i> Sheri Polster Chappell |
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| | 11/05/2012 | 21 | ORDER. Plaintiff is directed to file the operative complaint in this matter as a separate entry in the CM/ECF system. Any motions that were pending in the State Court at the time this case was removed shall be filed as separate docket entries in the CM/ECF system by the moving party. Signed by Magistrate Judge Sheri Polster Chappell on 11/5/2012. (LMF) | Office: Ft. Myers Case Flags: MAIL, SL DOC NOS: Fraud or Truth-In-Lending Cause: 12:1819 Default of Promissory Note Judge: Sheri Polster Chappell |
| | 11/28/2012 | 41 | ORDER. So that the pro se Defendants may participate in and be aware of the proceedings as they occur in this case, the Parties are directed to confer regarding the correct address(es) for each pro se Defendant, including both individuals and businesses. Once the addresses are compiled, Plaintiff Taylor Bean is directed to file a Notice with the Court which includes the addresses. The addresses in the Notice shall be the addresses included on all future certificates of service, unless and until an address changes. Once the Notice is filed the Clerk of Court is directed to update the pro se Defendants addresses in CM/ECF as needed. Signed by Magistrate Judge Sheri Polster Chappell on 11/28/2012. (LMF) | Office: Ft. Myers Case Flags: MAIL, SL DOC NOS: Fraud or Truth-In-Lending Cause: 12:1819 Default of Promissory Note Judge: Sheri Polster Chappell |
| 2:2012-mj-01154-SPC USA v. Camacho et al | 11/01/2012 | 26 | ORDER granting 25 Motion to dismiss as to Hugo Camacho (1), Leonardo Camacho (2). The Clerk of Court is directed to close the case as to Defendants Hugo Leonel Camacho and Leonardo Rivera Camacho. The bond relating to Hugo Leonel Camacho is hereby exonerated and the Defendant is released from any terms and conditions imposed by the Court for release. The Clerk is directed to return the surrendered passport, if any, to the Defendant. Defendant Leonardo Rivera Camacho shall be released from the custody of the U.S. Marshals as it relates to these charges. Signed by Magistrate Judge Sheri Polster Chappell on 11/1/2012. (LMF) | Office: Ft. Myers Case Flags: BOND, CLOSED, CUSTODY, INTERPRETER Judge: Sheri Polster Chappell |
| 6:11-cv-00401- | 05/22/2012 | 21 | REPORT AND | Office: Orlando |

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| RBD-SPC Blair v. Commissioner of Social Security | | | RECOMMENDATION re 1 Complaint filed by Eric Jade Blair. it is respectfully recommended the decision of the Commissioner should be AFFIRMED. Signed by Magistrate Judge Sheri Polster Chappell on 5/22/2012. (LMH) | <i>Case Flags:</i> CLOSED <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 6:11-cv-00572-JA-SPC Flowers v. Commissioner of Social Security | 08/29/2012 | 23 | REPORT AND RECOMMENDATION re 1 Complaint filed by Linda S. Flowers. It is respectfully and recommended that this matter be REVERSED and REMANDED to the Commissioner for reconsideration of Plaintiff's RFC, specifically a determination whether the side effects of Plaintiffs medications affect Plaintiff's RFC. Signed by Magistrate Judge Sheri Polster Chappell on 8/28/2012. (LMF) | <i>Office:</i> Orlando <i>Case Flags:</i> CLOSED <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| | 09/27/2012 | 29 | REPORT AND RECOMMENDATION re 28 Unopposed MOTION for attorney fees filed by Linda S. Flowers. The Plaintiffs Uncontested Petition for Attorneys Fees 28 should be GRANTED. SEE REPORT AND RECOMMENDATION FOR DETAILS. Signed by Magistrate Judge Sheri Polster Chappell on 9/27/2012. (LMF) | <i>Office:</i> Orlando <i>Case Flags:</i> CLOSED <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 8:11-cv-01048-SPC Tirado v. Commissioner of Social Security | 07/13/2012 | 30 | ORDER granting 29 Plaintiff's Petition for Attorney Fees. Plaintiff is awarded attorney's fees in the amount of \$3,954.91. The Clerk of Court is directed to enter an Amended Judgment awarding the Plaintiff \$3,954.91 in attorney's fees. Signed by Magistrate Judge Sheri Polster Chappell on 7/13/2012. (LMH) | <i>Office:</i> Tampa <i>Case Flags:</i> CLOSED, MAGTRL <i>NOS:</i> Social Security: SSID Title XVI <i>Cause:</i> 42:405 Review of HHS Decision (SSID) <i>Judge:</i> Sheri Polster Chappell |
| 8:11-cv-01189-SPC Hamad v. | 08/28/2012 | 30 | ORDER denying 28 Motion for Leave to Appeal in forma pauperis. Signed by Magistrate Judge Sheri Polster | <i>Office:</i> Tampa <i>Case Flags:</i> CLOSED, |

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| Commissioner of Social Security | | | Chappell on 8/28/2012. (LMF) | MAGTRL NOS: Social Security: SSID Title XVI Cause: 42:405 Review of HHS Decision (SSID) Judge: Sheri Polster Chappell |
| 8:11-cv-01524-SPC Griffin v. Commissioner of Social Security | 08/02/2012 | 22 | ORDER re 1 Complaint filed by Michael Griffin. The decision of the Commissioner is AFFIRMED. The Clerk of Court is directed to enter judgment accordingly and CLOSE the file. Signed by Magistrate Judge Sheri Polster Chappell on 8/2/2012. (LMF) | Office: Tampa Case Flags: APPEAL, CLOSED, MAGTRL NOS: Social Security: SSID Title XVI Cause: 42:405 Review of HHS Decision (SSID) Judge: Sheri Polster Chappell |
| 8:11-cv-01734-SPC Thompson v. Commissioner of Social Security | 07/06/2012 | 23 | ORDER re 1 Complaint filed by Annie Lee Thompson. The Decision of the Commissioner is AFFIRMED. The Clerk of Court is directed to enter judgment accordingly and CLOSE the file. Signed by Magistrate Judge Sheri Polster Chappell on 7/6/2012. (LMH) | Office: Tampa Case Flags: CLOSED, MAGTRL NOS: Social Security: SSID Title XVI Cause: 42:405 Review of HHS Decision (SSID) Judge: Sheri Polster Chappell |

Total number of opinions reported: 243

Selection Criteria for Report

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|-----------------------|-------------------------|
| Case Number | All |
| Judge | Chappell, Sheri Polster |
| Office | All |
| Case Type | All |
| Case Flags | All |
| Nature of Suit | All |
| Cause | All |

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| Filed Date | 4/27/2012 - 12/26/2012 |
| Sort by | Case Number |

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

ERIC JADE BLAIR,

Plaintiff,

-vs-

Case No: 6:11-cv-401-Orl-31SPC

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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REPORT AND RECOMMENDATION¹

TO THE UNITED STATES DISTRICT COURT

This matter comes before the Court on Plaintiff, Eric Jade Blair's Complaint seeking review of the final decision of the Commissioner of Social Security (Commissioner) denying Plaintiff's claim for disability insurance (Doc. # 1) filed on March 16, 2011. The Plaintiff filed his Brief in Support of the Complaint (Doc. # 17) on July 24, 2011. The Commissioner filed a Memorandum in Support of the Commissioner's Decision (Doc. # 18) on October 11, 2011. Thus, the Motion is now ripe for review.

The Undersigned has reviewed the record, including a transcript of the proceedings before the Administrative Law Judge (ALJ), the exhibits filed and administrative record, and the pleadings and memoranda submitted by the parties in this case.

¹This Report and Recommendation addresses only the issues brought up for review by the District Court pursuant to 42 U.S.C. 405 (g).

FACTS

Procedural History

The Plaintiff protectively filed an application for Child's Insurance Benefits based on disability on January 29, 2008, and for Supplemental Security Income on December 1, 2008. (Tr. 12). The Social Security Administration (SSA) denied initially on October 3, 2008, and on reconsideration on February 12, 2009. (Tr. 12). On March 27, 2009, Plaintiff filed a written request for hearing. (Tr. 6-7). On May 7, 2010, the ALJ held a hearing in Daytona Beach, Florida, and on June 22, 2010, the ALJ found that Plaintiff was not disabled. (Tr. 9-26). On January 26, 2011, the Appeals Council denied Plaintiff's request for review. (Tr. 1-5). Plaintiff challenges the ALJ's finding that he could perform light work and was therefore not disabled, and appeals the decision denying benefits under 42 U.S.C. § 1383(c)(3).

Plaintiff's History

On the date of the ALJ's decision, Plaintiff was 22 years old. (Tr. 20). Plaintiff has a Special Diploma from high school and no past relevant work. (Tr. 180, 20). He alleges an onset of disability from April 30, 1990, his date of birth. (Tr. 85). Plaintiff alleges disability due to borderline intellectual functioning and a learning disorder.

Medical and Psychological History

An electric drill was dropped on Plaintiff's head when he was one year old. (Tr. 424). Plaintiff had to take special education classes throughout high school (Tr. 173, 185, 210, 223, 226), and attend speech therapy services. (Tr. 228). Because he performed below grade level in reading and math, he had to take classes in order to receive a Special Diploma that does not require Florida Comprehensive Assessment Testing (FCAT). (Tr. 180, 218, 233).

Accordingly, in 2004, Plaintiff took a series of tests and failed the spelling test, scored at the 3rd grade level of reading and the 7th grade level in oral vocabulary. (Tr. 257). In 2007, Plaintiff scored at the 2nd grade reading level in Scholastic Reading Inventory testing (Tr. 218). In 2008, Plaintiff scored at the 3rd grade reading in Scholastic Reading Inventory testing. (Tr. 204, 290). Subsequently, a letter from the Volusia County School District stated that Plaintiff is a “student with a disability” according to the Individuals with Disabilities Education Act. (Tr. 188).

On March 12, 2008, one of Plaintiff’s teachers opined that he has slight problems in several areas. (Tr. 159-162). Debbie Blair, Plaintiff’s mother, reported that people who do not know Plaintiff can hardly ever understand his speech (Tr. 191); that he cannot explain why he did something, repeat stories he has heard, or ask for things he needs (Tr. 192); he cannot read or understand sentences in comics or books, cannot multiply or divide large numbers, make correct change, or carry out simple instructions (Tr. 193); he gets angry and frustrated when asked to repeat himself, his mother often cannot understand him (Tr. 194); he cannot cook meals for himself, take medication on his own, use public transportation alone, accept criticism (Tr. 195); and that he did well in special education classes but made D’s when put in regular classes. (Tr. 196). Plaintiff’s mother also reported that children make fun of his speech, that he is nervous and shy, and that he becomes angry and frustrated because he has to repeat himself a lot. (Tr. 192, 194). Plaintiff’s mother reported that he has a thick piece of skin under his tongue which restricts his speech, and that he is “literally tongue tied.” (Tr. 197).

On May 18, 1993, Ms. Gassett, M.A., CCC-SLP, performed a speech and language evaluation on Plaintiff. (Tr. 315). Ms. Gassett noted that Plaintiff underwent eight weeks of

speech therapy, uses one syllable words or gestures to get what he needs, much of what he said sounded like jargon, and that he was not toilet trained and was fearful of enclosed places. (Tr. 315). Ms. Gassett further reported that Plaintiff scored more than two standard deviations below average in the length of his sentences, and was unable to imitate the sounds required for the articulation testing. (Tr. 316). Ms. Gassett concluded, “[t]est results indicate that [Plaintiff’s] receptive, expressive, and phonological language skills are significantly below average for his age. Pragmatic skills are adequate for his present language development. Intelligibility is judged to be poor.” (Tr. 316). Ms. Gassett also felt that Plaintiff has a short attention span. (Tr. 316).

On October 26, 1992, an evaluation noted that Plaintiff made up his own words, used “strings of jargon,” he was unable to focus for vocabulary picture testing, and had a moderate expressive language delay. (Tr. 317). On September 27, 1993, a psychological report noted that “much of what he said sounded like jargon” and that he had difficulty attending to tasks for more than three or four minutes. (Tr. 311). Plaintiff scored more than two standard deviations below average in articulation. (Tr. 311). During testing, it was very difficult to understand what he said, even when the object or picture of the test was known. He tended to leave off the ends of words. (Tr. 312). The examiner had to use a great deal of energy to keep him on task. (Tr. 312). He scored low in short-term memory (Tr. 312), and on vocabulary testing. (Tr. 313). Plaintiff’s mother admitted that she had a difficult time understanding him, and that he must repeat what he says or lead her to what he wants. (Tr. 313).

On January 13, 1997, Mr. Tim S. Breter, Ed. S., NCSP, CBA, performed a psychological evaluation of Plaintiff. (Tr. 303-310). In the WISC-III IQ testing, Plaintiff scored in the low average, borderline, and intellectually deficient ranges as reported by Mr. Breter. (Tr. 304-305).

His verbal IQ was 74, performance IQ was 71, and full scale IQ was 70. (Tr. 305). Mr. Breter reported that Plaintiff “demonstrated poor planning/organizational ability (i.e. he required three pages to complete the designs).” (Tr. 306). Plaintiff also scored below his age in reading, math and written language in the Woodcock-Johnson Test of Achievement-Revised. (Tr. 307). He made mistakes in letter identification, number identification/counting, comparisons and shapes/shape concepts. (Tr. 308). He scored moderately low overall in the Vineland Adaptive Behavior Scales test of communication, daily living, and socialization. (Tr. 309).

On January 14, 1997, Joann L. Doyle performed a language re-evaluation report. (Tr. 301). The language tests revealed that Plaintiff was 1½ standard deviations below the mean for his age and that he has a “significant weakness” in phonological awareness. (Tr. 301-302).

On February 5, 1997, Ronald G. Gibson, a social worker, wrote a confidential social history of Plaintiff. (Tr. 298). Mr. Gibson noted that Plaintiff took speech therapy for eight weeks when he was two years old. (Tr. 299). When he was born, he had a series of ear infections, asthma, and his talking was delayed. (Tr. 299).

Plaintiff’s mother reported that Plaintiff “won’t bathe himself, talks to himself, BM in the back yard, urinate [sic] in the front yard, eats in his room, goes out and puts up other peoples’ garbage in the yard, [and] talks to his sister on the phone about wanting to run away.” (Tr. 329, 340). Plaintiff’s mother also reported that he talks to himself at night (Tr. 334), has difficulty in concentration, completing tasks, following instructions, understanding, talking, hearing, and getting along with others. (Tr. 339). She also reported that he gets upset easily (Tr. 340), she must force him to take a bath (Tr. 336, 356), and he does not change his clothes, brush his teeth or wipe his butt. (Tr. 356).

On July 8, 2008, J. Jeff Oatley performed a psychological evaluation and found that Plaintiff had a limited fund of knowledge, did not know there were 52 weeks or 12 months in a year, did not interpret the saying “don’t make a mountain out of a molehill,” and had coherent speech. (Tr. 401). Dr. Oatley found that Plaintiff could count by threes until 11 and then switched to counting by 2’s, and that he knew the day but not the date, month or year. (Tr. 401). Dr. Oatley performed WAIS-III testing and found Plaintiff to have a verbal IQ of 68, performance IQ of 67, full scale IQ of 63, and working memory of 63. (Tr. 402). Dr. Oatley diagnosed phonological disorder, DSM-IV 315.39, and mild mental retardation, DSMIV 317, “as indicated by an individually administered intelligence test and adaptive behavior.” (Tr. 402).

On July 9, 2008, a non-examining State Consultant found that Plaintiff has moderate limitations in the ability to maintain attention and concentration for extended periods; understand, remember or carry out detailed instructions; or complete a normal workday or workweek. (Tr. 404-405). Another non-examining State Consultant felt that Plaintiff has moderate limitations in activities of daily living and maintaining concentration, persistence or pace. (Tr. 418).

On January 27, 2009, Malcom J. Graham, III, Ph.D., performed a psychological evaluation. (Tr. 424). Dr. Graham asked a series of simple questions and noted that Plaintiff could not count by three’s without errors, could remember breakfast, and does not have a driver’s license. (Tr. 425). Dr. Graham diagnosed rule out learning disability, probable borderline intellectual functioning, vocational problems, and a global assessment of functioning of 65 to 75. (Tr. 426). Dr. Graham noted that Plaintiff “poops in the backyard, pees in the front yard.” (Tr. 426).

On February 11, 2009, a non-examining State Consultant felt that Plaintiff has moderate limitations in the ability to sustain an ordinary routine without special supervision; the ability to understand, remember or carry out detailed instructions; the ability to complete a normal workday/workweek; the ability to travel to unfamiliar places or use public transportation; and the ability to set realistic goals or make plans independently of others. (Tr. 428-429).

Administrative Law Judge's Decision

The Administrative Law Judge Donald B. Fishman issued his "Notice of Decision – Unfavorable" on June 22, 2010. (Tr. 9-22). The Judge's specific findings were as follows:

1. Born on April 30, 1990, the claimant had not attained age 22 as of April 30, 1990, the alleged onset date (20 C.F.R. 404.102, 416.120(c)(4) and 404.350(a)(5)).
2. The claimant has not engaged in substantial gainful activity since April 30, 1990, the alleged onset date (20 C.F.R. 404.1571 *et seq.*, and 416.971 *et seq.*).
3. The claimant has the following severe impairments: borderline intellectual functioning and learning disorder. (20 C.F.R. 404.1520(c) and 416.920(c)).
4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 C.F.R. 404.1520(d), 404.1525 and 404.1526, 416.920(d), 416.925 and 416.926).
5. After careful consideration of the entire record, the ALJ found the claimant has the residual functional capacity to perform a full range of work at all exertional levels but with the following non-exertional limitations: he is limited to performing repetitive short cycle work with a Specific Vocational Preparation of 1 to 2 which require only limited interaction with the public; however, he is able to be around the public and others in the workplace.

6. The claimant has no past relevant work (20 C.F.R. 404.1565 and 416.965).

7. The Plaintiff was born on April 30, 1990, and was 0 years old, which is defined as a younger individual age 18-49, on the alleged disability onset date (20 C.F.R. 404.1563 and 416.963; 42 U.S.C. § 402(d)).

8. The claimant has a special education high school diploma and is able to communicate in English (20 C.F.R. 404.1564 and 416.964).

9. Transferability of job skills is not an issue because the claimant does not have past relevant work (20 C.F.R. 404.1568 and 416.968).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are jobs that exist in significant numbers in the national economy that the claimant can perform (20 C.F.R. 404.1569, 404.1569(a), 416.969, and 416.969(a)).

11. The claimant has not been under a disability, as defined in the Social Security Act, at any time from April 30, 1990, through the date of this decision (20 C.F.R. 404.350(a)(5), 404.1520(g) and 416.920(g)). (Tr. 12-22).

Plaintiff appealed the decision of the Administrative Law Judge to the Appeals Council, but the Appeals Council declined review by order dated January 26, 2011. (Tr. 1-5). This left the ALJ's decision as the final decision of the Commissioner. Plaintiff then filed his Complaint in this Court pursuant to 42 U.S.C. § 1383(c).

STANDARD OF REVIEW

The scope of this Court's review is limited to determining whether the ALJ applied the correct legal standards, and whether the findings are supported by substantial evidence. Hibbard v. Comm'r, 2007 WL 4365647 at *2 (M.D. Fla. Dec. 12, 2007) (citing Richardson v. Perales,

402 U.S. 389, 390, 91 S. Ct. 1420, 28 L. Ed. 2d 842 (1971); McRoberts v. Bowen, 841 F.2d 1077, 1080 (11th Cir. 1988)). In evaluating whether a claimant is disabled, the ALJ must follow the sequential inquiry described in the regulation.² (20 C.F.R. §§ 404.1520(a), 404.920(a)). The Commissioner's findings of fact are conclusive if supported by substantial evidence (42 U.S.C. § 405(g)). "Substantial evidence is more than a scintilla – *i.e.*, the evidence must do more than merely create a suspicion of the existence of a fact, and must include such relevant evidence as a reasonable person would accept as adequate to support the conclusion." Hibbard, 2007 WL 4365647 at *2 (citing Foote v. Chater, 67 F.3d 1553, 1560 (11th Cir. 1995) (citing Walden v. Schweiker, 672 F.2d 835, 838B39 (11th Cir. 1982))); Richardson, 402 U.S. at 401.

Where the Commissioner's decision is supported by substantial evidence, the District Court will affirm, even if the reviewer would have reached a contrary result as finder of fact, and even if the reviewer finds that the evidence preponderates against the Commissioner's decision. Phillips v. Barnhart, 357 F.3d 1232, 1240 n.8 (11th Cir. 2004). The District Court must view the evidence as a whole, taking into account evidence favorable as well as unfavorable to the decision. Foote, 67 F.3d at 1560; Lowery v. Sullivan, 979 F.2d 835, 837 (11th Cir. 1992)

² The inquiry requires the ALJ to engage in a five-step analysis, which will either preclude or mandate a finding of disability. The steps are as follows:

Step 1. Is the claimant engaged in substantial gainful activity? If the claimant is engaged in such activity, then he or she is not disabled. If not, then the ALJ must move on to the next question.

Step 2. Does the claimant suffer from a severe impairment? If not, then the claimant is not disabled. If there is a severe impairment, the ALJ moves on to step three.

Step 3. Does the claimant's impairment meet or equal one of the listed impairments set forth in 20 C.F.R. Part 404, Subpart P, Appendix 1. If so, then the claimant is disabled. If not, the next question must be resolved.

Step 4. Can the claimant perform his or her former work? If the claimant can perform his or her past relevant work, he or she is not disabled. If not, the ALJ must answer the last question.

Step 5. Can he or she engage in other work of the sort found in the national economy? If so, then the claimant is not disabled. If the claimant cannot engage in other work, then he or she is disabled. See 20 C.F.R. §§ 404.1520(a)-(f), 416.920(a)-(f); see also Phillips v. Barnhart, 357 F.3d 1232, 1237-40 (11th Cir. 2004); Foote v. Chater, 67 F.3d 1553, 1557 (11th Cir. 1995) (*per curiam*).

(holding the court must scrutinize the entire record to determine reasonableness of factual findings).

The Court “may not decide the facts anew, reweigh the evidence, or substitute [its] judgment for that of the [Commissioner].” Phillips, 357 F.3d at 1240 n.8; Dyer v. Barnhart, 395 F.3d 1206, 1210 (11th Cir. 2005). If the Commissioner’s decision is supported by substantial evidence, it should not be disturbed. Lewis v. Callahan, 125 F.3d 1436, 1439 (11th Cir. 1997).

Congress has empowered the District Court to reverse the decision of the Commissioner without remanding the case. 42 U.S.C. § 405(g) (sentence four). The District Court will reverse a Commissioner’s decision on plenary review if the decision applies incorrect law, or if the decision fails to provide the District Court with sufficient reasoning to determine that the Commissioner properly applied the law. Williams v. Comm’r, 407 F. Supp. 2d 1297, 1299-1300 (M.D. Fla. 2005) (citing Keeton v. Dep’t of Health and Human Servs., 21 F.3d 1064, 1066 (11th Cir. 1994)); Cornelius v. Sullivan, 936 F.2d 1143, 1145 (11th Cir. 1991).

DISCUSSION

The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. (42 U.S.C. §§ 416 (I), 423 (d)(1); 20 C.F.R. § 404.1505). The impairment must be severe, making the claimant unable to do his or her previous work, or any other substantial gainful activity which exists in the national economy. (42 U.S.C. § 423 (d)(2); 20 C.F.R. §§ 404.1505 - 404.1511). To determine whether the claimant is disabled, the ALJ is required to evaluate the claim according to the established five-step evaluation process.

The Plaintiff sets forth three main issues for which he argues remand is proper. First, Plaintiff asserts that the ALJ's finding that Plaintiff does not satisfy Listing 12.05 is not based on the correct legal standards or supported by substantial evidence. Second, Plaintiff asserts that the ALJ's finding of non-disability is not based on the correct legal standards and is not supported by substantial evidence. Third, Plaintiff asserts that the appropriate remedy is to remand this case for an award of benefits.

The Commissioner argues the ALJ's decision is supported by substantial evidence in the record and Plaintiff did not satisfy the criteria in the introductory paragraph of Listing 12.05. The Commissioner also states that the record as a whole shows the ALJ properly determined Plaintiff's RFC in accordance with the correct legal standards. Lastly, the Commissioner asserts that the proper remedy, if the Court should find the ALJ erred, is remand for further proceedings, and not reversal for an award of benefits. The Court will consider each of these issues in turn.

(1) Whether substantial evidence supports the ALJ's finding that Plaintiff did not meet Listing 12.05

A claimant who is not currently engaging in substantial gainful activity and who has a severe impairment which meets or equals a listing is entitled to disability benefits. Edwards v. Heckler, 736 F.2d 625, 628 (11th Cir. 1984). When a plaintiff claims to have a condition that meets or equals a Listing, the plaintiff bears the burden of proof that she suffers from a severe impairment or combination of impairments. Gibbs v. Barnhart, 156 F. App'x 243, 246 (11th Cir. 2005). The Regulations are clear that a determination on the issue of medical equivalence to a listed impairment must be based upon medical findings. 20 C.F.R. § 404.1526(a). To meet a Listing, a plaintiff must have a diagnosis included in the Listings and must provide medical reports documenting the conditions meet all the specific criteria of the Listing. Johnson v.

Barnhart, 148 F. App'x 838, 840 (11th Cir. 2005). To equal a Listing, the medical findings must be at least equal in severity and duration to the listed findings. Wilson v. Barnhart, 284 F.3d 1219, 1224 (11th Cir. 2002) (citing 20 C.F.R. § 404.1526(a)).

An impairment or combination of impairments is not severe if it does not significantly limit [the plaintiff's] physical or mental ability to do basic work activities, including: (1) walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (2) [c]apacities for seeing, hearing, and speaking; (3) [u]nderstanding, carrying out, and remembering simple instructions; (4) [u]se of judgment; (5) [r]esponding appropriately to supervision, co-workers and usual work situations; and (6) [d]ealing with changes in a routine work setting. Id. (citing 20 C.F.R. § 404.1521(a),(b)). Where a claimant has alleged several impairments, the Commissioner has a duty to consider the impairments in combination and to determine whether the combined impairments render the claimant disabled. Jones v Dept. of Health and Human Svcs., 941 F.2d 1529, 1533 (11th Cir. 1991). An ALJ properly considers the plaintiff's impairments in combination if he states that the plaintiff does not have an impairment, or combination of impairments of sufficient severity to prevent him for engaging in any substantial gainful activity. Gibbs, 156 F. App'x at 246 (citing Wheeler v Heckler, 784 F.2d 1073, 1076 (11th Cir. 1986)).

Listing 12.05 provides in relevant part:

Mental retardation: Mental retardation refers to significantly sub average general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period, i.e., the evidence demonstrates or supports onset of the impairment before age 22. The required level of severity for this disorder is met when the requirements in A, B, C, or D are satisfied.

...

A. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow directions, such that the use of standardized measures of intellectual functioning is precluded; OR

...

C. A valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function

20 C.F.R. pt. 404, subpt. P, app. 1, § 12.05. The introductory material to the mental disorders listings further provides that a claimant must satisfy both the diagnostic description in the introductory paragraph as well as one of the sets of criteria to meet Listing 12.05. 20 C.F.R. pt. 404, subpt. P, app. 1, § 12.00A.

Plaintiff argues that he satisfies Listing 12.05A and C, contrary to the findings of the ALJ. With regard to Paragraph A, he argues that he requires dependence on others for personal needs because he urinates in the front yard and defecates in the back yard (Tr. 329, 340, 426), was not toilet trained (Tr. 315), does not bathe himself (Tr. 329, 336, 356 340), does not change his clothes, brush his teeth or wipe his butt (Tr. 356). He also argues that he satisfies the second part of paragraph A requiring inability to follow instructions, such as being precluded from standardized testing because he scored low enough on the FCAT to be put in remedial classes for a Special Diploma that does not require FCAT testing (Tr. 180, 218, 233), and repeatedly scored low on reading and math testing (Tr. 204, 218, 257, 290, 307, 312-313). Plaintiff further argues that he satisfies Paragraph C because an IQ test in 1997 showed a full scale IQ of 70 (Tr. 304) and the ALJ gave these school records significant weight (Tr. 20), and because the ALJ found that Blair has borderline intellectual functioning and learning disorder as severe impairments. (Tr. 15).

The ALJ considered Plaintiff's mental impairments under the requirements of Listing 12.05. (Tr. 15-17). As reflected in the ALJ's discussion of the evidence, the evidence did not establish Plaintiff had adaptive functioning limitations that amounted to mental retardation, as the diagnostic description in the introductory paragraph requires. (Tr. 15-18). In discussing Plaintiff's adaptive functioning, the ALJ noted Plaintiff's academic performance and reported daily activities. (Tr. 16). The ALJ pointed out Plaintiff was able to complete an exam to graduate high school, had a grade point average that placed him in the middle of his class, and attended some regular education classes, though the ALJ noted Plaintiff also attended several special education classes. (Tr. 16, 33-34, 218, 224, 233, 241, 279). The ALJ pointed out that Plaintiff reported mowing the lawn and attending to other household chores such as washing dishes and taking out the trash. (Tr. 16, 402, 426). Plaintiff watched television, used the computer to play internet poker, and played video games. (Tr. 16, 37-39, 426).

With respect to the Listing 12.05A criteria, Plaintiff argues that his reading and math scores equate to an "inability to follow directions" that precludes the use of "standardized measures of intellectual functioning" which satisfies the second part of Paragraph A. Pl.'s Br. at 11. But as the ALJ discussed, Plaintiff was able to follow directions in a January 1997 psychological evaluation, which included the administration of the Wechsler Intelligence Scale and which showed intellectual functioning in the borderline range (Tr. 16, 392-94 397-98). Testing in September 1993 and July 2008 similarly show Plaintiff could sufficiently respond to directions for evaluators to administer "standardized measures of intellectual functioning" and assess Plaintiff's cognitive functioning, language skills, and IQ. (Tr. 312-13, 401-02). Additionally, with regard to the first part of Paragraph A, Plaintiff cites that he was dependent on

others for personal needs – a 1993 exam showing Plaintiff was not yet toilet trained at the age of three and reports from Plaintiff’s mother that he does not bathe and he urinates and defecates outdoors. This is unpersuasive in showing he meets the criteria of 12.05A. As the ALJ discussed, a more recent exam from 2008 showed reports from Plaintiff that he could cook breakfast for himself and was self-sufficient in bathing and dressing, and in a January 2009 evaluation Plaintiff denied urinating and defecating outdoors. (Tr. 16-17 402, 426). Evaluations from September 2006, May 2007, and May 2008 for Plaintiff’s Individualized Education Plan (IEP) noted Plaintiff had strong capabilities in independent functioning, had no behavioral or health issues and demonstrated age appropriate skills socially and emotionally. (Tr. 17, 180, 204, 233).

With respect to the criteria of Listing 12.05C, Plaintiff contends he meets this listing because he has a full scale IQ of 63 as diagnosed by Dr. Oatley (Tr. 402) and had a severe impairment of a learning disorder in addition to “limited intellectual functioning.” Pl.’s Br. at 13. However, Listing 12.05C requires Plaintiff establish that he had a severe impairment in addition to mental retardation. The ALJ instead found Plaintiff had severe impairments of borderline intellectual functioning and a learning disorder. (Tr. 15). The ALJ cited January 1997 IQ scores that placed Plaintiff in the borderline range of functioning, and a January 2009 evaluation and opinion from consultative psychologist Malcolm Graham, Ph.D., in which Dr. Graham assessed Plaintiff with probable borderline intellectual functioning. (Tr. 15-16, 393, 426). Thus, Plaintiff correctly noted he had a learning disorder in addition to “limited intellectual functioning,” but this is insufficient to satisfy the criteria of 12.05C, which requires a severe impairment in addition to mental retardation. Although in July 2008 consultative psychologist J. Jeff Oatley,

Ph.D. diagnosed Plaintiff with mild mental retardation, the ALJ did not accept the IQ scores on which this diagnosis was based. (Tr. 16). The ALJ found those IQ scores were inconsistent with evidence of Plaintiff's level of adaptive functioning and concluded that Plaintiff did not show "significant mental problems normally associated with mild mental retardation." (Tr. 16). The ALJ specifically discussed the IQ score found in Dr. Oatley's opinion (Tr. 16, 20). The ALJ also found Dr. Oatley's IQ testing to be inconsistent with the evidence of record as a whole, including other testing results and other evidence of Plaintiff's adaptive functioning. (Tr. 16-17, 20). As noted above and by the ALJ, although Plaintiff attended several special education classes, he also did fairly well in school and was able to graduate. (Tr. 16, 33-34, 218, 224, 233, 241, 279). The evidence of record also indicated Plaintiff could do several household chores, engaged in hobbies such as watching television and playing video games, and was independent in self-care. (Tr. 16-17, 37-39, 402, 426).

Plaintiff thus has not carried his burden of showing he meets listing 12.05 for mental retardation because he has not satisfied the diagnostic description of mental retardation. Plaintiff also has not shown he experienced significant sub average general intellectual functioning accompanied by deficits in adaptive functioning.

(2) Whether the ALJ's finding of non-disability is based on the proper legal standards and supported by substantial evidence

The ALJ found Blair not disabled because he could perform other work in the national economy. (Tr. 21-22). The ALJ based this finding on his residual functional capacity assessment and on vocational expert (VE) testimony. (Tr. 21-22). Plaintiff asserts that the ALJ did not include all of Blair's impairments and limitations in his RFC finding or his hypothetical question to the VE; specifically, Plaintiff's moderate limitations in concentration, persistence,

and pace.

With regard to the RFC, the fourth step in the evaluation process requires the ALJ to determine the plaintiff's RFC and, based on that determination, decide whether the plaintiff is able to return to his/her previous work. McCruter v. Bowen, 791 F.2d 1544, 1547 (11th Cir. 1986). The determination of RFC is within the authority of the ALJ and along with the claimant's age, education, and work experience the RFC is considered in determining whether the claimant can work. Lewis v. Callahan, 125 F.3d 1436, 1440 (11th Cir. 1997) (citing 20 C.F.R. § 404.1520(f)). The RFC assessment is based upon all the relevant evidence of a claimant's remaining ability to do work despite her impairments. Phillips v. Barnhart, 357 F.3d 1232, 1238 (11th Cir. 2004); Lewis, 125 F.3d at 1440 (11th Cir. 1997) (citing 20 C.F.R. § 404.1545(a)). The ALJ must determine the claimant's RFC using all relevant medical and other evidence in the case. Phillips, 357 F.3d at 1238. That is, the ALJ must determine if the claimant is limited to a particular work level. Id. (citing 20 C.F.R. § 404.1567). Plaintiff argues that the ALJ did not properly consider Plaintiff's concentration difficulties and the opinion evidence of record in his evaluation of Plaintiff's RFC, including moderate difficulties in concentration, persistence, and pace. The ALJ's RFC finding was:

"After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform a full range of work at all exertional levels but with the following nonexertional impairments: he is limited to performing repetitive short cycle work with a Specific Vocational Preparation of 1 to 2 which require only limited interactions with the public; however, he is able to be around public and others in the workplace." (Tr. 18).

Contrary to Plaintiff's argument regarding the RFC finding, the ALJ translated the moderate difficulties in concentration, persistence and pace into functional and work-related

limitations, and summarized the evidence that suggested Plaintiff could work despite those limitations. (Tr. 18-20). The Eleventh Circuit recently held that if an ALJ finds a claimant capable of working despite a psychiatric review technique (PRT) finding of moderate difficulties in maintaining concentration, persistence, and pace, he must: (1) indicate that medical evidence suggests the claimant can work despite the difficulties or (2) explicitly or implicitly account for the difficulties in a hypothetical question to a VE. See Winschel v. Comm'r of Soc. Sec., 631 F.3d 1176, 1181 (11th Cir. 2011). In making his findings at step three of the sequential evaluation, the ALJ noted Plaintiff had moderate difficulties in concentration, persistence, and pace, but did not meet the paragraph B criteria of the listing. (Tr. 17-18). As reflected in the ALJ's decision, the evidence of record supports the ALJ's determination that Plaintiff had the RFC to do work involving only repetitive short cycle work and limited interaction with the general public, despite the moderate difficulties in concentration, persistence, or pace assessed at step three. As the ALJ discussed, Dr. Graham's January 2009 evaluation showed Plaintiff had borderline intellectual functioning, with no problems noted in attention, concentration, or recent or remote memory given this level of intellectual functioning. (Tr. 19, 426). Dr. Graham found largely unremarkable status exam findings overall, with normal mood, affect, and thought processes. (Tr. 19, 425). The ALJ also noted Dr. Graham found Plaintiff had a Global Assessment of Functioning (GAF) score of 65 to 75, indicating only mild symptoms with generally good functioning. (Tr. 19, 426). See DSM-IV-TR at 34. The ALJ additionally noted Dr. Oatley found Plaintiff showed no significant concentration or memory deficits in his July 2008 consultative evaluation (Tr. 17, 401). Thus, the ALJ indicated that medical evidence suggested Plaintiff could work despite the concentration difficulties assessed at step three.

With regard to the hypothetical question to the VE, Plaintiff argues that the question included no limitations in concentration. The ALJ's hypothetical question was:

"Okay. Now, suppose we have an individual aged 20 and younger; individual has a 12th grade special education and no past relevant work; the individual has no physical limitations; would have limited reading and writing ability and math, so probably about 3rd-4th grade level; this individual would be able to perform repetitive short cycle employment as SVP-1 and 2 only; would be able to be around others; should have limited contact with the public but could have just casual contact. Would this individual be able to perform any other work that exists in the national and local economies?" (Tr. 53)

Hypothetical questions asked by the ALJ to the vocational expert must describe, comprehensively, the claimant's impairments. Loveless vs. Massanari, 136 F. Supp. 2d 1245, 1250 (M.D. Ala. 2001) (citing Pendley v. Heckler, 767 F.2d 1561, 1652 (11th Cir. 1985) (per curiam)). If the hypothetical question upon which the vocational expert bases his evaluation does not assume all of a claimant's impairments, the decision of the ALJ denying a claimant's applications for disability insurance benefits, which is based significantly on the expert testimony, is not supported by substantial evidence. Loveless, 136 F.Supp.2d at 1250. Notwithstanding, the foregoing general standard, the hypothetical question posed by the ALJ may omit non-severe impairments. Id. When using a VE, the ALJ must pose hypothetical questions to the VE to determine whether someone with the same limitations as the claimant will be able to secure employment in the national economy. Humphries v. Barnhart, 183 F. App'x 887, 891 (11th Cir. 2006) (citing Phillips v. Barnhart, 357 F. 3d 1232, 1239 (11th Cir. 2004)). That hypothetical question must include all of the claimant's impairments. Humphries, 183 Fed. Appx. at 891 (citing Wilson v Barnhart, 284 F.3d 1219, 1227 (11th Cir. 2002)); Jones v. Apfel, 190 F. 3d 1224, 1229 (11th Cir. 1999) cert. denied, 529 U.S., 120 S. Ct. 1723, 146 L. Ed. 2d 664

(2000). However, the ALJ need only include the claimant's impairments as opposed to each and every symptom allegedly suffered by the claimant but either not supported by medical records or alleviated by medication. Ingram v. Comm'r of Soc. Sec., 496 F.3d 1253, 1270 (11th Cir. 2007).

In this case, the ALJ's hypothetical was the same as the RFC, which the Court has recommended is supported by substantial evidence in the record and included credible restrictions based up+on his review of the evidence. Therefore, the hypothetical was proper.

(3) Whether remand for an award of benefits is appropriate relief

Plaintiff argues that because the record in this case is fully developed, and the ALJ has already considered the essential evidence of record, the proper remedy is to remand this case for an award of benefits. As the Court has recommended that the ALJ did not err in his role of evaluating the evidence, remand of this case is not proper.

Accordingly, it is now

RESPECTFULLY RECOMMENDED:

The decision of the Commissioner be **AFFIRMED**.

Failure to file written objections to the proposed findings and recommendations contained in this report within **fourteen (14) days** from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal.

RESPECTFULLY RECOMMENDED at Fort Myers, Florida, this 22nd Day of May, 2012.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

AVE MARIA UNIVERSITY,

Plaintiff,

v.

Case No: 2:12-cv-88-Ftm-99SPC

**KATHLEEN SEBELIUS, U.S.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, HILDA SOLIS,
UNITED STATES DEPARTMENT OF
LABOR, TIMOTHY GEITHNER, and
UNITED STATES DEPARTMENT OF
TREASURY,**

Defendants.

_____ /

ORDER

This case involves a challenge to regulations issued under the Patient Protection and Affordable Care Act of 2010. The challenged regulations require that “group health plan[s] and . . . health insurance issuer[s] offering group or individual health insurance coverage’ provide all FDA-approved contraceptive methods and sterilization procedures.” (Compl. ¶ 69 (citing 76 Fed. Reg. 46621 (published Aug. 3, 2011); 45 C.F.R. § 147.130)). Plaintiff contends that it cannot comply with this contraceptive-coverage mandate without violating its religious beliefs, (*id.* ¶ 34), and it argues that the mandate violates the First Amendment, the Religious Freedom Restoration Act, and the Administrative Procedure Act. Defendants have filed a Motion to Dismiss (Doc. 21) for lack of subject-matter jurisdiction, arguing that Plaintiff’s alleged injury is too speculative to confer standing and that the case is also not ripe for decision.

The case is now before the Court on Defendants' Objections to Magistrate Judge's July 31, 2012 Order Denying a Stay of Discovery (Doc. 37). The Order (Doc. 36), rendered by the assigned magistrate judge, denied Defendants' Motion to Stay Discovery Pending Resolution of Motion to Dismiss (Doc. 31). Plaintiff has filed an Opposition to Defendants' Objections (Doc. 43) and Defendants filed a Reply (Doc. 48) thereto. Defendants' Objections are ripe for the Court's review.

Under 28 U.S.C. § 636(b)(1)(A), a district judge may reconsider a pretrial matter decided by a magistrate judge where it has been shown that the magistrate judge's order is contrary to law. The Order at issue here correctly explains that a court deciding a motion to stay discovery pending resolution of another motion "must balance the harm produced by a delay in discovery against the possibility that the motion will be granted and entirely eliminate the need for such discovery." (Doc. 36 at 2 (quoting Feldman v. Flood, 176 F.R.D. 651, 652 (M.D. Fla. 1997))). However, Defendants object that the challenged Order fails to apply these factors. Defendants' objection is well taken. In this Court's view, the Order is contrary to law. Balancing the omitted factors, the Court finds that discovery should be stayed until the Court rules on Defendants' Motion to Dismiss.

The Order states that "[d]ue to the fact that there are a 'large number of other challenges' by similarly situated plaintiffs . . . the Defendants will still have to conduct nearly identical discovery in numerous other cases." (Doc. 36 at 3). In turn, the Order denies the Motion to Stay Discovery on the basis that "the Defendant will conduct discovery on the issue in this case whether or not the Defendants succeed on their Motion to Dismiss." (Id.). The Order does not address the likelihood that the Motion to

Dismiss will be granted and eliminate the need for discovery in *this* case, nor does the Order address “harm produced by a delay in discovery.” Instead, the Order focuses solely on whether the Defendants would nonetheless have to proceed with similar discovery in other cases.

Having considered the omitted factors, the Court finds that discovery should be stayed until the Court rules on the Motion to Dismiss. There is a significant possibility that the Court will grant Defendants’ Motion to Dismiss for lack of subject-matter jurisdiction, eliminating the need for discovery in this case. It is also evident that delaying discovery until the Court rules on whether it has jurisdiction will cause Plaintiff little, if any, harm.

There is a significant possibility that the Court will grant Defendants’ Motion to Dismiss on the grounds that Plaintiff’s alleged injury is too speculative to confer standing and that the case is not ripe for decision. The contraception-coverage mandate Plaintiff challenges in its Complaint will not be enforceable until January 1, 2014, (Compl. ¶ 116); meanwhile, Defendants are in the process of amending the relevant regulations to address Plaintiff’s concerns. In particular, Defendants have published in the Federal Register their plan to amend the challenged regulations:

Before the end of the temporary enforcement safe harbor, the Departments will work with stakeholders to develop alternative ways of providing contraceptive coverage without cost sharing with respect to non-exempted, non-profit religious organizations with religious objections to such coverage. Specifically, the Departments plan to initiate a rulemaking to require issuers to offer insurance without contraception coverage to such an employer (or plan sponsor) and simultaneously to offer contraceptive coverage directly to the employer’s plan participants (and their beneficiaries) who desire it, with no cost-sharing.

77 Fed. Reg. 8728. Moreover, Defendants have already issued an Advance Notice of Proposed Rulemaking to initiate this amendment process. 77 Fed. Reg. 16503. The Court is also aware that other courts have found a lack of subject-matter jurisdiction in similar cases against the Defendants. See Wheaton Coll. v. Sebelius, Civil Action No. 12-1169 (ESH), 2012 WL 3637162 (D.D.C. Aug. 24, 2012); Belmont Abbey Coll. v. Sebelius, Civil Action No. 11-1989 (JEB), 2012 WL 2914417 (D.D.C. July 18, 2012).


As for “harm produced by a delay in discovery,” Feldman 176 F.R.D. at 652, the Court finds that staying discovery until it resolves the Motion to Dismiss will not cause Plaintiff any significant harm. Plaintiff asserts that “a stay of discovery delays the resolution of the case, and Plaintiff is burdened *now*, as it considers how to manage the ramifications of ceasing to offer insurance to its employees and of paying a crippling annual fine to the government.” (Doc. 43 at 5). But staying discovery will only delay the resolution of the case if the Motion to Dismiss is denied, and there is a significant possibility that it will be granted. Furthermore, whatever burden Plaintiff faces in preparing for enforcement of the mandate must be assessed in light of the fact that such enforcement is speculative given the amendments underway to accommodate Plaintiff’s religious concerns.

Therefore, given the possibility that the Court will grant Defendants’ Motion to Dismiss and the fact that staying discovery until the Court resolves the Motion to Dismiss will not cause the Plaintiff any significant harm, a stay is appropriate.

In accordance with the foregoing, Defendants’ Objections to Magistrate Judge’s July 31, 2012 Order Denying a Stay of Discovery (Doc. 37) are **SUSTAINED**. The ruling in that Order is overturned, and Defendants’ Motion to Stay Discovery Pending

Resolution of Motion to Dismiss (Doc. 31) is **GRANTED**. Discovery in this case is stayed until the Court rules on Defendants' Motion to Dismiss (Doc. 21).

DONE and **ORDERED** in Orlando, Florida on November 28, 2012.



JOHN ANTOON II
United States District Judge

Copies furnished to:

Counsel of Record

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

LORI A. HEITMANN,

Plaintiff,

v.

Case No: 2:12-CV-78-FtM-29SPC

ROBERT L. FRANCOLETTI,

Defendant.

ORDER

_____ /

This matter comes before the Court on Defendant's Motion to Determine Rent (Doc. #11) filed on April 30, 2012. Defendant argues, pursuant to his counterclaim for eviction, that Plaintiff, as a hold-over tenant, should be required to deposit rent in the Court's registry as set forth in Fla. Stat. § 83.60(2). On June 13, 2012, the Court conducted an evidentiary hearing relating to an alleged lease agreement, which is the basis of the Defendant's Motion to Determine Rent. During this hearing, both parties admitted in testimony that a lease agreement was executed between them. Therefore, based on this testimony, the Court determined that a lease agreement existed between the parties. Under Fla. Stat. § 83.60(2), a tenant is required to pay into the registry of the court the accrued rent as alleged in a landlord's action for possession if the tenant interposes any defense other than payment.

Thus, because both parties admitted to having a lease agreement between them, the Plaintiff is required to pay into the registry of the Court the six (6) months of accrued rent as alleged in the Defendant's action for possession. The lease agreement, which as stated above was

admitted into evidence by the Defendant, lists the rent amount as five hundred dollars (500) per month due on the eleventh day of each month. (Def. Ex. 1). The Plaintiff has failed to pay rent from January 2012, to present – a period of six (6) months. Therefore, the Plaintiff is required to place into the Court’s registry six months worth of accrued rent at a rental rate of five hundred (500) dollars per month and five hundred (500) dollars on the eleventh day of every month while this action remains pending.

In addition, the Defendant argued that because the Plaintiff is a “holdover tenant,” due to the fact that she has not paid any rent since January, the Court should allow the Defendant to recover double the amount of rent for the period the Plaintiff refused to surrender possession. *See Fla. Stat. § 83.58*. The Defendant asks that this amount be placed in the Court’s registry. After careful consideration of this matter, and understanding the Court is not determining the ultimate issue in this case, the Court will reject the Defendant’s argument and require the Plaintiff to pay into the registry a reasonable amount which has been determined by the Court to be five hundred (500) dollars per month.

At the hearing, the Plaintiff requested 90 days to deposit the rents into the registry as she is hoping to get a settlement in another action which would assist her in fulfilling the obligation. However, because the Court determined that the Plaintiff should have been depositing monies into the registry since January, the Court will only allow the Plaintiff an additional thirty (30) days to do so.¹

¹ Even though the Court finds, based on testimony, that a lease agreement existed between the parties such that rent should be deposited in the Court’s registry pursuant to Fla. Stat. § 83.60(2), the Court makes no findings relating to the ultimate issues of the case; including a determination of whether this

Accordingly, it is now

ORDERED:

1. Defendant's Motion to Determine Rent and Incorporated Memorandum of Law (Doc. #11) is **GRANTED**. Plaintiff shall have up to and including **July 13, 2012**, to deposit the accrued rent in the Court's registry.
2. Plaintiff may pay the money into the Court's registry by cash or money order. The money order shall be made payable to "Clerk, U.S. District Court," and shall include the case number on the money order (2:12-cv-78). The money order may be mailed to the United States Courthouse and Federal Building, 2110 First Street, Fort Myers, Florida 33901, or Plaintiff may bring the money order in person to the Clerk's Office at the aforementioned address. If Plaintiff pays by cash, she must do so in person at the Clerk's Office.
3. The Clerk of Court is directed to docket a copy of the receipt in the case file.
4. Plaintiff's Motion to Determine Rent and Memorandum of Law in Support Thereof (Doc. #10) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida this 15th Day of June, 2012.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record

transaction violated Truth In Lending Act, Home Owner's Equity Protection Act, Florida's Fair Lending Act, or Florida's Usury statute.

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

LORI A. HEITMANN,

Plaintiff,

V.

Case No: 2:12-CV-78-FtM-29SPC

ROBERT L. FRANCOLETTI,

Defendant.

_____ /

ORDER TO SHOW CAUSE

This matter comes before the Court upon review of the file. On June 15, 2012, the Court granted Defendant's Motion to Determine Rent and Incorporated Memorandum of Law (Doc. #16). The Order directed Plaintiff to place into the Court's registry six months' worth of accrued rent at a rental rate of five hundred (500) dollars per month and five hundred (500) dollars on the eleventh day of every month while this action remains pending. (Doc. #16, p. 2). The Court directed that Plaintiff deposit the accrued rent in the Court's registry by July 13, 2012. The Court's review of the file shows that Plaintiff failed to deposit the accrued rent in the Court's registry by that date. Thus, the Court will now direct the Plaintiff to show cause for failing to comply with the Court's Order. (Doc. #16).

Accordingly, it is now **ORDERED:**

- (1) Plaintiff shall have up to and including **August 2, 2012**, to show cause for failing to comply with this Court's Order (Doc. #16) issued on June 15, 2012.
- (2) Failure to comply with this Court's Order may result in sanctions.

DONE and **ORDERED** in Fort Myers, Florida this 26th day of July, 2012.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LORI A. HEITMANN, also known as LORI
ANN TENAGLIA,

Plaintiff,

vs.

Case No. 2:12-cv-78-FtM-29SPC

ROBERT L. FRANCOLETTI,

Defendant.

ORDER

On September 24, 2012, the Court issued an Opinion and Order (Doc. #22) denying defendant's Motion for Entry of Default Final Judgment of Eviction on his Counterclaim, and directing defendant to show cause why the Counterclaim (Doc. #8) should not be dismissed for lack of subject-matter jurisdiction. The time to respond has expired and no response was filed.

Finding no response to the contrary, the Court will dismiss the Counterclaim for lack of subject-matter jurisdiction. As a result, the Court will vacate the June 15, 2012 Order (Doc. #16) requiring plaintiff to pay accrued rent into the Court registry, and also vacate the Order to Show Cause (Doc. #17) for failure to deposit the rent. The case will proceed on the Complaint (Doc. #1) and the parties will be directed to file a Case Management Report.

Accordingly, it is now


ORDERED:

1. Defendant's Counterclaim (Doc. #8) is **dismissed** for lack of subject-matter jurisdiction.

2. The June 15, 2012 Order (Doc. #16) and July 26, 2012 Order to Show Cause (Doc. #17) are **vacated**.

3. The parties shall file a Case Management Report within **FOURTEEN (14) DAYS** of this Order.

DONE AND ORDERED at Fort Myers, Florida, this 17th day of October, 2012.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record
DCCD