

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Robert Andrew Kirsch

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

United States District Judge for the District of New Jersey

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.

Office: New Jersey Superior Court
Union County Courthouse
2 Broad Street
Elizabeth, New Jersey 07207

Residence: Westfield, New Jersey

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

1966; Livingston, New Jersey

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.

1988 – 1991, Fordham University School of Law; J.D., 1991

1984 – 1988, Emory University; B.A. (*magna cum laude*), 1988

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.

2010 – present
New Jersey Superior Court

Union County Courthouse
2 Broad Street
Elizabeth, New Jersey 07207
Superior Court Judge
Criminal Division Judge (2016 – present)
Civil Division Judge (2015 – 2016)
Family Division Judge (2010 – 2015)

2008 – 2010
Trial Attorneys of New Jersey (“TANJ”)
Trustee

1997 – 2010
United States Attorney’s Office
District of New Jersey
970 Broad Street, Suite 700
Newark, New Jersey 07102
Assistant United States Attorney

1993 – 1997
United States Department of Justice, Civil Division
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
Trial Attorney, Attorney General’s Honors Program

1991 – 1993
United States District Court for the Southern District of Florida
299 East Broward Boulevard
Fort Lauderdale, Florida 33301
Law Clerk to the Honorable William J. Zloch

Summer 1990
Hahn & Hessen LLP
488 Madison Avenue,
New York, New York 10022
Summer Associate

Other Affiliations (uncompensated)

Summer 1989
United States District Court for the District of New Jersey
Frank Lautenberg U.S. Post Office & Courthouse
2 Federal Square
Newark, New Jersey 07102
Judicial Intern to the Honorable Harold A. Ackerman

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 did not serve in the military. I registered for the selective service upon turning 18.

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.

Columbia High School, inductee into the Athletics Hall of Fame as member of 1983-84 championship varsity basketball team (2015)

Family & Children's Services of Union County, "Champion for Children" (2013)

Federal Bureau of Investigation, letter of commendation from Director Robert S. Mueller, III, for outstanding service on behalf of the Department of Justice (2010)

Securities and Exchange Commission, commendation for successful prosecution of Medi-Hut Co., Inc., corporate officers engaging in complex securities fraud scheme (2010)

Federal Drug Administration, award for successful prosecutions involving Able Laboratories for falsification of drug testing data and securities fraud (2010)

Federal Bureau of Investigation, commendation for successful prosecutions related to mortgage fraud and Ponzi scheme involving New Jersey Affordable Homes Corp. (2010)

Immigration and Customs Enforcement, award for successful prosecution of international drug trafficking and escape case (2009)

Department of Education – Office of Inspector General, commendation for successful prosecution of federal grant embezzlement scheme (2008)

Department of Justice, nominee for the Attorney General's Director's Award for Superb Performance (2007)

Postal Inspection Service, Chief Postal Inspector's Award for successful prosecution of major international telemarketing fraud scheme (2006)

Commodity Futures Trade Commission, letter of commendation for successful prosecution of major international telemarketing fraud scheme (2006)

Federal Bureau of Investigation, letter of commendation from FBI Special Agent in Charge for successful prosecution of a lawyer who embezzled funds from several sources

(2003)

United States Customs Service, Outstanding Service Award for legal advocacy in civil personal search litigation (2002)

Acting Governor of New Jersey Donald DiFrancesco, commendation for actions related to New Jersey's rescue, relief, and recovery efforts post-September 11 (2001)

United States Department of Justice
Attorney General's Honors Program

Fordham University School of Law
Dean's List, majority of semesters (specific semesters unknown)

Emory University
Magna Cum Laude
High Honors, Political Science

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.

New Jersey Council on Juvenile Justice System Improvement (2013 – 2015)

New Jersey Supreme Court Committee on Rules of Evidence and Subcommittee on Restyling the Hearsay Rules (2011 – 2018)

Presiding Judges Committee on Juvenile Justice (2014 – 2015)

Union County Bar Association
Member and Co-Chair of Criminal Practice Group (2008)

Union County Juvenile Detention Alternatives Initiative ("JDAI")
Co-Chair (2013 – 2015)
Co-Chair, Subcommittee of Disparate Minority Contacts (2013 – 2015)

Trial Attorneys of New Jersey ("TANJ")
Trustee (2008 – 2010)

Youth Services Commission for Juvenile Justice
Chair (2011 – 2015)

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, 1993
New Jersey, 1992
New York, 1992

There have been no lapses in membership. I assumed "retirement" status in New York when I began service as a full-time judge in 2010.

- 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 District of New Jersey, 1992

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.

None.

- 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.

None.

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.

In Memoriam, *Don Robertson, Jr.: a Celebration of Life*, NEWS REC., Sept. 20, 2001. Copy supplied.

Letter to the Editor, N.Y. TIMES, Oct. 10, 1999. Copy supplied.

Letter to the Editor, *The Gotcha Game*, WASH. POST, Feb. 25, 1995. Copy supplied.

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

None.

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

None.

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

August 2, 2022: Panelist, White Collar Crime Conference, New Jersey State Bar Association, Virtual. I principally spoke about sentencing white-collar cases in state court, with an emphasis on post-COVID issues. I have no notes, transcript, or recording. The address of the New Jersey Bar Association is 1 Constitution Square, New Brunswick, New Jersey 08901.

May 8, 2019: Moderator and Panelist, Effects of Mandatory Minimum Sentencing, New Jersey Judiciary, Newark, New Jersey. I moderated a panel with the filmmaker and subject of the film, "The Sentence," an award-winning documentary. I have no notes, transcript, or recording. The address for the New Jersey Judiciary is Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08611.

May 6, 2019: Judge, Seton Hall Law School, Newark, New Jersey. I served as a judge for presentations relating to the opioid crisis by students enrolled in a Law, Ethics, and Public Policy class. I have no notes, transcript, or recording. The address for Seton Hall Law School is One Newark Center, Newark, New Jersey 07102.

April 18, 2019: Panelist, Prisoner Reentry Conference, New Jersey Reentry Corporation, Jersey City, New Jersey. I served on a panel titled "Criminal Justice Remover, from Jail to Jobs," coordinated by former Governor James McGreevey, and provided remarks on Drug Court and mental health initiatives in the state judiciary. I have no notes, transcript, or recording. The address for the New Jersey Reentry Corporation is 591 Summit Avenue, 6th Floor, Jersey City, New Jersey 07306.

October 18, 2018: Presenter, "Professionalism, Courtesy and Decorum: No Case is Worth Your Reputation," Union County Bar Association, Elizabeth, New Jersey. Notes supplied.

May 16, 2018: Panelist, "How to Handle High-Profile White-Collar Criminal Matters," New Jersey State Bar Association, Atlantic City, New Jersey. I served as a panelist and spoke about my experience in white-collar criminal cases. I have no notes, transcript, or recording. The address for the New Jersey Bar Association is 1 Constitution Square, New Brunswick, New Jersey 08901.

May 11, 2017: Moderator, Prisoner Re-Entry, New Jersey Bar Association, Atlantic City, New Jersey. I moderated a panel on prisoner re-entry at the annual Criminal Division Conference. I have no notes, transcript, or recording. The address for the New Jersey Bar Association is 1 Constitution Square, New Brunswick, New Jersey 08901.

April 13, 2017: Panelist, "A Family Conversation," New Jersey Reentry Corporation, Jersey City, New Jersey. Notes supplied.

April 28, 2016: Panelist, Technological Demonstrative Aids at Trial, Trial Attorneys of New Jersey ("TANJ"), West Orange, New Jersey. I discussed evidentiary considerations regarding the use of technological demonstrative aids at trial. I have no notes, transcript, or recording. The address for TANJ is P.O. Box 184, West Allenhurst, New Jersey 07711.

April 26, 2016: Speaker, "A View from the Bench," Georgetown University Law Center, Washington, DC. Notes supplied.

March 22, 2016: Speaker, Trial Preparation, Seton Hall Law School, Newark, New Jersey. I addressed students involved in the moot court program at Seton Hall Law School on trial preparation. I have no notes, transcript, or recording.

The address for Seton Hall Law School is One Newark Center, Newark, New Jersey 07102.

April 2, 2015: Panelist, "Post-Prison: Reentry at Work," New Jersey Reentry Corporation, Jersey City, New Jersey. I spoke at the Prisoner Reentry Conference to discuss the Juvenile Reentry Initiative, which I founded. I have no notes, transcript, or recording. The address for the New Jersey Reentry Corporation is 591 Summit Avenue, 6th Floor, Jersey City, New Jersey 07306.

February 13, 2015: Keynote Speaker, Awards and Recognition Ceremony, Integrity House, Secaucus, New Jersey. I addressed graduates of the Integrity House adult rehabilitation facility. I have no notes, transcript, or recording. The address for Integrity House is 103 Lincoln Park, Newark, New Jersey 07102.

March 6, 2014: Lecturer, "General Principles for Trial Lawyers (& for Life)," Fordham University School of Law, New York, New York. PowerPoint supplied.

November 5, 2013: Panelist, "The Rules of Evidence: New Developments Involving Privilege and More," Institute of Continuing Legal Education, New Brunswick, New Jersey. Although I did not retain my notes or outline, I located my law clerk's memorandum that I reviewed and incorporated into my own remarks. Copy supplied.

October 29, 2013: Presenter, Opening Remarks, Community Access Unlimited, Union, New Jersey. I presented opening remarks for the Annual Union County Youth Services Networking Conference held at Kean University. I have no notes, transcript, or recording. The address for Community Access Unlimited is 80 West Grand Street, Elizabeth, New Jersey 07202.

April 25, 2013: Lecturer, "A View from the Bench," Columbia Law School, New York, New York. I addressed students at Columbia Law School on my experiences as a Superior Court judge. I have no notes, transcript, or recording. The address for Columbia Law School is 435 West 116th Street, New York, New York 10027.

December 10, 2012: Speaker, "General Principles for Trial Lawyers (& for Life)," Attorney General's Advocacy Institute, Newark, New Jersey. I used the same PowerPoint as that provided for the March 6, 2014, presentation.

November 15, 2012: Panelist, Cross-Examination of Child Witnesses, New Jersey Association for Justice ("NJAJ"), Trenton, New Jersey. Although I did not retain my notes or outline, I located my law clerk's memorandum that I reviewed and incorporated into my own remarks. Copy supplied.

October 1, 2012: Speaker, "General Principles for Trial Lawyers (& for Life)," Attorney General's Advocacy Institute, Trenton, New Jersey. I used the same

PowerPoint as that provided for the March 6, 2014, presentation.

September 20, 2012: Presenter, Clerking for the New Jersey Judiciary, Fordham University School of Law, New York, New York. I spoke about clerking for the New Jersey Judiciary. I have no notes, transcript, or recording. The address for the School of Law is 150 West 62nd Street, New York, New York 10023.

September 10, 2012: Lecturer, Judicial Orientation Program, New Jersey Judiciary, Princeton, New Jersey. Outline supplied.

September 26, 2011: Speaker, Clerking for the New Jersey Judiciary, New York University School of Law, New York, New York. I spoke to students about clerking for the New Jersey judiciary. I have no notes, transcript, or recording. The address for New York University School of Law is 40 Washington Square South, New York, New York 10012.

September 12, 2011: Lecturer, Judicial Orientation Program, New Jersey Judiciary, Princeton, New Jersey. I lectured to newly confirmed judges to the New Jersey Judiciary as part of their orientation program. I have no notes, transcript, or recording. The address for the main office of the New Jersey Judiciary is the Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08611.

Additionally, before I became a Superior Court Judge, I frequently served as a guest speaker or instructor on various topics involving trial and investigative strategies in complex civil and criminal cases, including at the Justice Department's National Advocacy Center, to various New Jersey bar associations, state and federal criminal prosecutors and investigators, private practitioners, forensic accountants, and government regulators. There exist no copies, transcripts, or recordings regarding same, and in light of the elapsed time, it is impossible for me to provide the specific dates, as well as a listing of the formal groups that I addressed. While, in all likelihood, I used notes or an outline, a search of my files has proven unsuccessful in retrieving any copies.

- 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.

Ted Sherman, *Former Bane of Con Men is Now a Judge of Heartbreaking Family Tales*, STAR LEDGER (Apr. 18, 2010). Copy supplied.

Joe Ryan, *N.J. Con Artist gets 18 Years for \$100M Real Estate Scam*, STAR LEDGER (Jan. 15, 2010). Copy supplied.

Joe Ryan, *Accountant Admits to Embezzling \$1M*, STAR LEDGER (Nov. 20, 2009).

Copy supplied.

Michaelangelo Conte, *CPA at Jersey City Firm Pleads Guilty to Embezzling \$1 Million*, JERSEY J. (Nov. 19, 2009). Copy supplied.

Joe Ryan, *Caught in Fla., Fugitive Admits Guilt in Newark*, STAR LEDGER (Sept. 18, 2009). Copy supplied.

David Porter, *Jersey Man Pleads Guilty in \$80M Mortgage Fraud*, ASSOC. PRESS (Apr. 10, 2009). Copy supplied.

Joe Ryan, *Two Admit Guilty in \$20M Real Estate Scam*, STAR LEDGER (Feb. 5, 2009). Copy supplied.

Michael O'Keefe, *N.J. 'Roid Maker Gets 33 Months*, N.Y. DAILY NEWS (Jan. 23, 2009). Copy supplied.

Joe Ryan, *N.Y. Man Admits Smuggling Drugs, Jumping Bail*, STAR LEDGER (Dec. 19, 2008). Copy supplied.

Michael O'Keefe, *Steroid 'Factory' Found in Jersey*, N.Y. DAILY NEWS (Sept. 10, 2008). Copy supplied.

Greg Saitz, *Real Estate Firm Owner Arrested in Fraud Case – He's Accused of Bilking People via NJ Affordable*, SUN SENTINEL (June 11, 2008). Copy supplied.

Gabriel H. Gluck, *Con Man Sentenced to 9 Years in Prison*, STAR LEDGER (May 14, 2008). Copy supplied.

Jeff Whelan, *Ex-College Official Admits Embezzling \$264,000*, STAR LEDGER (May 8, 2008). Copy supplied.

Jeffrey Gold, *Federal Agents Uncover Suspected Steroid Factory in New Jersey Home and Arrest Resident*, ASSOC. PRESS (Sept. 21, 2007). Copy supplied.

James A. Quirk, *Real Estate Con Man Gets Five Years*, ASBURY PARK PRESS (Apr. 3, 2007). Copy supplied.

Greg Farrell, *Four Chemists at Former Drugmaker Admit Falsifying Data*, USA TODAY (Mar. 9, 2007). Copy supplied.

John P. Martin, *Former Executives in Cranford Admit to Defrauding Investors*, SUN SENTINEL (Nov. 17, 2006). Copy supplied.

Rachel Hatzipanagos, *Man Guilty in Fraud Hearing – Investors Lost \$2.5 Million in Currency Case*, SUN SENTINEL (July 13, 2006). Copy supplied.

John P. Martin, *Prison Term Dethrones Scam King*, STAR LEDGER (June 20, 2006). Copy supplied.

Rachel Hatzipanagos, *Pompano Man Draws 17 Years in Prison – Boiler Room Operator given Harsh Sentence*, SUN SENTINEL (June 20, 2006). Copy supplied.

Ken Serrano, *Two Carjackers Sentenced*, HOME NEWS TRIB. (June 16, 2006). Copy supplied.

Katie Wang, *R-Tec's Founder Admits Fraud*, STAR LEDGER (Dec. 23, 2004). Copy supplied.

Michael L. Diamond, *3 Ex-Executives Going to Prison*, ASBURY PARK PRESS (Nov. 17, 2004). Copy supplied.

Joseph R. Perone, *Former Medi-Hut Execs get Prison*, STAR LEDGER (Nov. 17, 2004). Copy supplied.

Kate Coscarelli, *Mastermind of Credit Scheme Admits Guilt*, STAR LEDGER (Oct. 16, 2004). Copy supplied.

Jeff Theodore, *Guilty Plea in Credit Card Fraud Operation*, JERSEY J. (Oct. 24, 2003). Copy supplied.

John Martin, *Pair Held in Plot to Steal Thousands of Identities*, STAR LEDGER (May 2, 2003). Copy supplied.

2 Charged with Stealing Credit Reports, ASSOC. PRESS (May 1, 2003). Copy supplied.

Jeffrey Gold, *Lawmen Arrest Broker in Commodities Scam – U.S. used Jersey Sting Operation Case*, ASSOC. PRESS (Feb. 20, 2003). Copy supplied.

James A. Duffy, *Lawyer Guilty in \$120K Theft*, DAILY REC. (Jan. 14, 2003). Copy supplied.

Man Sentenced in Bogus Bond Case, ASSOC. PRESS (Oct. 4, 2002). Copy supplied.

Robert Rudolph, *Feds Probe Links in Ecstasy Cases*, STAR LEDGER (July 16, 2002). Copy supplied.

Second Load of Ecstasy is Seized in Newark, THE TIMES (July 14, 2002). Copy supplied.

John Martin and Russell Ben-Ali, *Five Jerseyans are Accused of \$1.5 Million Credit Scam*, STAR LEDGER (June 13, 2002). Copy supplied.

Mitchel Maddux, *Five Men Arrested in Credit Card Scams*, THE RECORD (June 13, 2002). Copy supplied.

Guy Sterling, *Story of this Ph.D. from Harvard is a Fraud – Teaneck Man gets 2 Years in Jail for Scheme to Bilk up \$11.8 Million from Companies*, STAR LEDGER (Dec. 12, 2001). Copy supplied.

Robert Rudolph, *Next Field Trip for Touring Stickup Trio: Prison*, STAR LEDGER (June 16, 1999). 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.

In December 2009, I was nominated by Governor Jon Corzine of New Jersey to serve as a Superior Court judge, and thereafter I was unanimously confirmed by the state senate. I have served as a trial court judge since January 2010. In December 2017, I was re-nominated by Governor Christopher J. Christie for lifetime tenure and was unanimously re-confirmed by the state senate.

From January 2010 through August 2011, in the Family Division, I principally presided over matters involving allegations of child abuse and neglect, and termination of parental rights. From September 2011 through August 2015, I served as the sole judge in Union County handling allegations of juvenile delinquency. In this capacity, I presided over 75 trials involving charges ranging from minor offenses through and including murder. While in the Family Division, I also presided over dozens of trials involving allegations of domestic violence and handled hundreds of post-divorce motions.

From September 2015 through October 2016, I served in the Civil Division. In this capacity, I presided over 30 civil jury trials involving allegations of personal injury, malpractice, and business disputes. I also ruled on hundreds of civil pretrial motions.

Since November 2016, I have served in the Criminal Division. In this capacity, I have handled hundreds of criminal cases and presided over approximately 35 criminal jury trials related to charges of homicide, armed robbery, carjacking, sexual assault, fraud, official misconduct, and drugs.

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

I have presided over more than 200 cases that have gone to verdict or judgment.

1. Of these cases, approximately what percent were:

jury trials: 35%
bench trials: 65%

2. Of these cases, approximately what percent were:

civil proceedings: 50%
criminal proceedings: 50%

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

None of my written opinions have been published.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. State v. Morente-Dubon, Ind. No. 17-06-450 (N.J. Super. Ct. Law Div. Jan. 24, 2019). Copy supplied.

In March 2007, a 21-year-old-man was reported missing, prompting a massive search for him. The victim was found deceased, bloodied and bludgeoned, in his vehicle. The defendant, on the evening of the incident, fled the United States for Guatemala, where he remained for more than 10 years until he was extradited to face charges of murder and weapons-related offenses. In January 2020, he was tried before a jury which acquitted him of murder but convicted him of passion/provocation manslaughter and weapons-related offenses. He was sentenced to nine and one-half years in state prison of a statutory maximum sentence of ten years. I issued an opinion on the defense's motion to suppress physical evidence. Copy supplied.

On December 19, 2022, the Appellate Division reversed and remanded for resentencing. The principal ground for reversal was that the sentence, which correctly applied the case law at the time, had been rendered improper by a subsequent New Jersey Supreme Court decision whose "new rule" had retroactive effect. The defendant's resentencing is pending.

Counsel for the State:
Scott Peterson, Esq.
Melissa Caparruva, Esq.
Union County Prosecutor's Office
32 Rahway Avenue
Elizabeth, NJ 07202

(908) 527-4500

Counsel for Defendant:

Roberto Espinosa, Esq.
Sanchez & Associates, P.C.
1203 Chestnut Street, 2nd Floor
Elizabeth, NJ 07201
(908) 659-0575

Annie Mauer, Esq. (retired)

2. State v. McGillvary, Ind. No. 16-05-344 (N.J. Super. Ct. Law Div. Apr. 24, 2019), aff'd, No. A-4519-18 (App. Div. Aug. 4, 2021), certif. denied, 249 N.J. 341 (Dec. 7, 2021), cert. denied, 142 S. Ct. 1685 (Apr. 18, 2022). Opinions supplied.

The defendant, a self-described “internet celebrity” whose fame included viral internet postings and appearances on Jimmy Kimmel Live! and the Colbert Report, was charged with the murder of a 74-year-old man. The victim was a lawyer who had been found deceased in his home after police performed a welfare check. At trial, the medical examiner testified to extensive bruising to the victim’s lips, nose, and eyes; multiple broken ribs; multiple crushed cervical vertebrae; and that his ear had almost been completely severed from his head. The defendant was arrested at an out-of-state bus depot, preparing to travel to Georgia. At trial, the jury rejected the defenses of self-defense and involuntary intoxication, and convicted him of murder in the first degree. The defendant was sentenced to 57 years in state prison. I issued opinions on media access and a motion to proceed pro se on appeal.

Counsel for the State:

Scott Peterson, Esq.
Jillian Reyes, Esq.
Union County Prosecutor’s Office
32 Rahway Avenue
Elizabeth, NJ 07202
(908) 527-4500

Counsel for Defendant:

John Cito, Esq.
1621 Highway 27
Edison, NJ 08817
(732) 819-8777

3. State v. Clay, Ind. No. 18-02-118 (N.J. Super. Ct. Law Div. July 31, 2019), aff'd, No. A-2210-19 (App. Div. Aug. 10, 2022). Opinions supplied.

The defendant, a police officer, was charged with committing a series of thefts from retail stores. He was alleged to have been on duty and in uniform during several incidents. The defendant, an avid action figure toy collector, was charged with intentionally affixing fraudulent barcodes on items which were then scanned at self-checkout counters in order to purchase items at reduced pricings. The defendant was tried before a jury which convicted him of official misconduct and multiple thefts. He was sentenced to the statutory mandatory minimum sentence of two years in state prison.

I issued opinions on multiple pretrial motions, including a motion to dismiss the indictment, a motion to suppress evidence, and cross-motions in limine on a variety of evidentiary issues.

Counsel for the State:

Robert Rosenthal, Esq.
Union County Prosecutor's Office
32 Rahway Avenue
Elizabeth, NJ 07202
(908) 527-4500

Derek Nececkas, Esq.
Office of the Attorney General
P.O. Box 085
Trenton, NJ 08625
(609) 954-3149

Counsel for Defendant:

Charles Sciara, Esq.
Sciarra & Catrambone, LLC
1130 Clifton Avenue
Clifton, NJ 07013
(973) 242-2442

4. State v. Grillo, Ind. No. 16-05-354 (N.J. Super. Ct. Law Div. July 31, 2018), aff'd, No. A-1995-18 (App. Div. May 7, 2021) certif. denied, 2022 N.J. LEXIS 641 (July 12, 2022). Opinions supplied.

Two teenaged boys returned home from dinner with their father to find a suspicious note supposedly written by their mother indicating that she had gone out. As hours passed, family members became concerned. The older boy, looking for his mother, opened her closet door to find a figure holding a weapon and wearing a hockey-style mask with holes cut out for his eyes. The boy ran screaming from the house to seek refuge at a neighbor's, leaving his younger brother alone in his bedroom down the hall. A neighbor saw the highly distraught boy and the figure dressed in black, and chased the aggressor on foot, but the person was not apprehended.

Several hours later, at around 4 a.m., the victim was found dead in a crawl space of her basement by her sister and her sister's boyfriend. She was bloodied, with ligature marks around her neck.

The defendant was arrested that night, wandering in a neighboring town, dressed in a black cape and black mask. The victim had been a witness to a prior pending criminal case alleging that the defendant had sexually molested the victim's niece. The defendant was tried before a jury which convicted him of all 10 counts, including murder. The defendant was sentenced to 55 years in state prison.

I issued opinions on the defense's motion to suppress the defendant's statement to law enforcement and on the state's evidentiary motions.

Counsel for the State:

Melissa Spagnoli, Esq.
Union County Prosecutor's Office
32 Rahway Avenue
Elizabeth, NJ 07202
(908) 527-4500

Counsel for Defendant:

Michael Rubas, Esq.
75 Main Street, Suite 101
Manasquan, NJ 08736
(732) 223-3300

5. State v. Cady, Ind. No. 13-06-597 (N.J. Super. Ct. Law Div. Feb. 24, 2017), aff'd, No. A-0358-17T4 (App. Div. Feb. 12, 2020), certif. denied, 2021 N.J. LEXIS 492 (June 1, 2021). Opinions supplied.

The defendant was charged with murder and related weapons offenses stemming from a killing in retribution for a series of ongoing shootings and murders between local rival crips and bloods criminal street gangs. The trial involved allegations of death threats to a cooperating witness and jury tampering. After the six-week jury trial, which consisted of more than 20 witnesses and 70 exhibits, the jury convicted the defendant on all counts: murder, possession of a weapon for an unlawful purpose, and unlawful possession of a weapon. I sentenced the defendant to 42 years in state prison.

I issued written opinions on the state's motions to admit the defendant's statement to law enforcement, the defendant's status as a member of a criminal street gang, and expert testimony relating to criminal gangs.

Counsel for the State:

Michael Henn, Esq.

Union County Prosecutor's Office
32 Rahway Avenue
Elizabeth, NJ 07202
(908) 527-4500

Counsel for Defendant:

Alan Dexter Bowman, Esq.
One Gateway Center, Suite 105
Newark, NJ 07102
(973) 622-2225

6. State v. Randleman, Ind. No. 14-09-787 (N.J. Super. Ct. Law Div. Apr. 26, 2017), aff'd, No. A-5378-16 (App. Div. Dec. 30, 2021), certif. denied, 2022 N.J. LEXIS 731 (Sept. 7, 2022). Opinions supplied.

The defendant was charged with carjacking and a related theft. A middle-aged woman was unloading groceries in her driveway in the early afternoon when she was assaulted by a passerby. After a physical struggle, the defendant stole her keys and drove off in her vehicle. An observant neighbor followed the fleeing vehicle and contacted the police. The defendant abandoned the stolen vehicle and jumped into an awaiting getaway vehicle which became disabled from an attempt to elude law enforcement in a high-speed chase.

The trial resulted in a jury verdict of guilty on both counts, and I sentenced the defendant to 25 years in prison, due, in part, to his extensive prior criminal history including a conviction for aggravated manslaughter.

I issued opinions on the defense's motion to compel discovery of police internal affairs records, the state's motion to exclude certain evidence, and the defendant's motion for a new trial.

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7. State v. Belo, Ind. No. 15-12-792 (N.J. Super. Ct. Law Div. June 22, 2017).

Opinion supplied.

The defendant was charged with vehicular homicide for running over and killing a co-worker by driving a top loader after having a number of alcoholic drinks during lunch. I conducted an extensive, multi-day evidentiary hearing on the defense's motion to suppress statements made by the defendant; to suppress any evidence relating to the testing of the defendant's blood on the date of the incident; and to suppress video of the defendant eating lunch prior to the incident. I issued a written decision denying the defendant's motions.

After I issued the written decision, the defendant pled guilty to vehicular homicide. Consistent with the plea agreement, I sentenced the defendant to three years in state prison.

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8. State v. Powell, Ind. Nos. 12-10-796 and 12-10-797 (N.J. Super. Ct. Law Div. May 30, 2017), aff'd, No. A-1343-18 (App. Div. July 13, 2021), certif. denied, 2021 N.J. LEXIS 1028 (Oct. 5, 2021). Opinion supplied.

The defendant was charged with committing a series of aggravated sexual assaults and armed robberies of couples staying in several motels in Elizabeth and Linden, New Jersey. He followed couples as they entered their motel rooms, broke into those motel rooms, and, at gunpoint, forced the individuals to engage in sexual acts with each other and him, robbed them, and then fled the scene. The defendant was tried before a jury in a two-month bifurcated trial spanning from January to March 2018. He was found guilty on all 60 counts for which he was charged, and sentenced to an aggregate term of 133 years' imprisonment.

I issued a written decision on the defense's motions to suppress and sever the counts of the indictments. On appeal, I was affirmed on all material grounds and remanded on a single ground to amend the judgment of conviction merging four charges.

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9. State v. A.B., No. FJ-20-184-14 (N.J. Super. Ct. Ch. Div. May 19, 2014).
Opinions supplied.

The juvenile, a 15-year-old male, was charged with armed robbery, aggravated assault, and bias intimidation in the first degree for his role in the alleged bludgeoning to near-death of a random victim. The brutal assault was referred to in testimony as "papi hunting," which involved the deliberate pursuit of Latinos to rob and beat. The victim in this case was in such a precarious state that the Homicide Unit was summoned to the scene, anticipating his demise. The victim survived, albeit having sustained multiple brain hemorrhages and skull fractures, which required multiple hospitalizations.

The state filed an application to transfer the juvenile to adult criminal court. I conducted an evidentiary hearing and determined that the state met the threshold of probable cause, entitling the juvenile to a subsequent hearing regarding amenability to rehabilitation. At the conclusion of that evidentiary hearing, I issued a second written decision holding that the juvenile failed to demonstrate that the probability of his rehabilitation by the age of 19 substantially outweighed the bases for waiver resulting in the court's transferring jurisdiction to the adult criminal court for further proceedings.

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10. State v. C.F., No. FJ-20-1450-12 (N.J. Super. Ct. Ch. Div. Jan. 31, 2013),
aff'd, State in the Interest of C.F., 444 N.J. Super. 179 (App. Div. 2016).

Opinions supplied.

In mid-2012, the defendant was arrested and charged with a murder that had occurred in early 1976. The defendant was a 52-year-old man at the time of trial; he was 15 at the time of the offense. The victim was a 57-year-old female neighbor.

At the time of the offense, New Jersey law did not authorize transfer of 15-year-old juveniles to adult court, including for murder (the statute has since been amended). As a result, the defendant was tried as a juvenile in a bench action before me. The trial consisted of 15 witnesses, including several police officers who were at the scene of the crime and who had retired decades ago, and more than 75 exhibits.

The murder scene was particularly grisly. The victim, who lived alone, was found by the police prone, face down in bed, in a state of partial undress, hog-tied, bloodied and battered. Swabs were taken from her person, her clothing and bedding, indicating the presence of spermatozoa. However, technological advances regarding DNA analysis were decades away. Thus, the scientific evidence contained on slides, as well as on her clothing and bedding, along with other physical evidence, was stored at various locations and remained untouched for almost 35 years.

In 2010, an investigator from the Union County Prosecutor's Office forwarded various pieces of retained evidence to the forensic lab. A partial DNA profile was obtained. The DNA profile was inputted into the national database that stores DNA profiles for certain individuals, including those convicted of prior felonies. The computer-generated data indicated a possible match for the defendant, a man now in his fifties who had lived on an adjoining property in the mid-1970s.

After obtaining the defendant's DNA through a buccal swab, the scientist testified that the probability of an erroneous match of the DNA obtained through the preserved sperm fraction taken from the victim and Mr. Franklin was approximately one in 40 quadrillion. In a 51-page opinion, I adjudicated the defendant guilty of felony murder.

The case presented novel and complex legal issues at sentencing. I sentenced the defendant to 10 years in prison, which was the maximum penalty authorized by law, and issued an opinion setting forth the basis for the sentence.

Both parties appealed: the defense appealed the verdict and the state appealed the sentence. The Appellate Division affirmed both the verdict and sentence.

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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. State v. Knight, Ind. No. 15-08-569 (N.J. Super. Ct. Law Div. Oct. 8, 2021).
Copy supplied.

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2. State v. McGillvary, Ind. No. 16-05-344 (N.J. Super Ct. Law Div. Oct. 30, 2020), aff'd, No. A-4519-18 (App. Div. Aug. 4, 2021), certif. denied, 249 N.J. 341 (Dec. 7, 2021), cert. denied, McGillvary v. New Jersey, 142 S. Ct. 1685, 2022 U.S. LEXIS 1920 (Apr. 18, 2022). Copy previously supplied in response to Q13c.

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3. State v. McGillvary, Ind. No. 16-05-344 (N.J. Super. Ct. Law Div. Apr. 24, 2019), aff'd, No. A-4519-18 (App. Div. Aug. 4, 2021), certif. denied, 249 N.J. 341 (Dec. 7, 2021), cert. denied, McGillvary v. New Jersey, 142 S. Ct. 1685, 2022 U.S. LEXIS 1920 (Apr. 18, 2022). Copy previously supplied in response to Q13c.

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4. State v. Clay, Ind. No. 18-02-118 (N.J. Super. Ct. Law Div. July 3, 2019), aff'd, No. A-2210-19 (Aug. 10, 2022). Copy previously supplied in response to Q13c.

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5. State v. Morente-Dubon, Ind. No. 17-06-450 (N.J. Super. Ct. Law Div. Jan. 24, 2019). Copy previously supplied in response to Q13c.

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6. State v. Randleman, Ind. No. 14-09-787 (N.J. Super. Ct. Law Div. June 29, 2017), aff'd, No. A-5378-16 (App. Div. Dec. 30, 2021), certif. denied., 2022 N.J. LEXIS 731 (Sept. 7, 2022). Copy previously supplied in response to Q13c.

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7. State v. Belo, Ind. No. 15-12-792 (N.J. Super. Ct. Law Div. June 22, 2017). Copy previously supplied in response to Q13c.

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8. State v. Powell, Ind. Nos. 12-10-796 and 12-10-797 (N.J. Super. Ct. Law Div. May 30, 2017), aff'd, No. A-1343-18 (App. Div. July 13, 2021), certif. denied, 2021 N.J. LEXIS 1028 (Oct. 5, 2021). Copy previously supplied in response to Q13c.

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9. State v. C.F., No. FJ-20-1450-12 (N.J. Super. Ct. Ch. Div. Jan. 31, 2013), aff'd, State in the Interest of C.F., 132 A.3d 426, 444 N.J. Super. 179 (App. Div. 2016). Copy previously supplied in response to Q13c.

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10. State v. C.F., No. FJ-20-1450-12 (N.J. Super. Ct. Ch. Div. Dec. 20, 2012),
aff'd, State in the Interest of C.F., 132 A.3d 426, 444 N.J. Super. 179 (App.
Div. 2016). Copy previously supplied in response to Q13c.

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

I have searched electronic databases to determine whether certiorari was requested or granted, and to my knowledge, the only case in which certiorari was requested is State v. McGillvary, Ind. No. 16-05-344 (N.J. Super. Ct. Law Div. Oct. 30, 2020), aff'd, No. A-4519-18 (App. Div. Aug. 4, 2021), certif. denied, 249 N.J. 341 (Dec. 7, 2021), cert. denied, McGillvary v. New Jersey, 142 S. Ct. 1685, 2022 U.S. LEXIS 1920 (Apr. 18, 2022). I did not find any cases in which certiorari was granted.

- 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.

Since becoming a judge approximately 13 years ago, I have been reversed nine times. In two of the cases, I was affirmed by the Appellate Division but reversed

by the New Jersey Supreme Court. I have supplied copies of all appellate opinions cited below.

State v. Morente-Dubon, Ind. No. 17-06-450 (N.J. Super. Ct. Law Div. Jan. 24, 2019), rev'd, No. A-459-20, 2022 N.J. Super. LEXIS 143 (App. Div. Dec. 19, 2022). In this criminal case, the defendant, an employee of a used-tire shop, bludgeoned a customer to death with an aluminum baseball bat and then enlisted his 16-year-old cousin to assist him in covering up the death. The defendant then fled the country to Guatemala, his native country, where he remained for more than ten years until he was extradited to the United States. The jury found defendant guilty of second-degree passion-provocation manslaughter, third-degree possession of a weapon for an unlawful purpose, and fourth-degree unlawful possession of a weapon. At sentencing, I found that that aggravating factors one (the manner in which defendant committed the offense was particularly heinous), three (risk that defendant will commit another offense), four (defendant took advantage of a position of trust to commit the offense), and nine (need for deterring the defendant and others) applied. Because these factors outweighed the sole mitigating factor (defendant's lack of prior criminal history), I sentenced defendant to a term of nine-and-a-half years of imprisonment – under the statutory maximum sentence of ten years. The Appellate Division reversed and remanded for re-sentencing. The principal ground for reversal indicated that while my sentencing analysis was sound and followed applicable law at the time, a subsequent New Jersey Supreme Court case (decided in 2021) applied retroactively and rendered my sentence improper. The matter is now pending resentencing.

State v. Oshinaike, Ind. No. 05-04-538, rev'd, No. A-0927-20, 2022 N.J. Super. Unpub. LEXIS 1469 (App. Div. Aug. 24, 2022). The matter was before me on a Petition for Post-Conviction Relief. The petitioner pleaded guilty in 2005 to possession with intent to distribute cocaine, an offense in the third degree. Consistent with the plea, the trial judge sentenced petitioner to 180 days in the county jail, and sentenced the defendant to probation for an unrelated charge of contempt in the fourth degree. In late 2019, petitioner was arrested for allegedly failing to pay child support and was referred to Immigration and Customs Enforcement officers based on a detainer, which resulted in deportation proceedings. On March 1, 2020, the defendant moved to withdraw his guilty plea tendered almost 15 years prior and alleged that his prior counsel provided ineffective assistance of counsel. Among other things, under oath, the defendant testified at the change of plea hearing that he was a U.S. citizen, and the written plea forms clearly advised him that if he were a non-citizen, he may be subject to deportation. He now claims that he was not a U.S. citizen, and that his lawyer was aware that he was a non-citizen. I found that the petition was time-barred, and in the alternative, without basis. The Appellate Division reversed, holding that the defendant was entitled to an evidentiary hearing. The hearing is pending.

State v. Graham, Ind. No. 19-02-0007, rev'd, No. A-001676-21 (N.J. Super. Ct. App. Div. June 6, 2022). The matter was before me on the defendant's violation of probation. The defendant pled guilty before me to an indictable third-degree offense of criminal mischief. The plea agreement included a provision recommending three years in state prison. Instead, I deviated downward and imposed a non-custodial sentence to a period of probation which required her to comply with intensive outpatient mental health treatment, among other conditions. The defendant failed to comply, and the Probation Department filed a Violation of Probation. After an evidentiary hearing, I ruled that defendant violated a number of conditions of probation and sentenced her to five years in state prison. While in state prison, the defendant was charged with escape, which prompted a state-wide manhunt. The Appellate Division, in a summary order, remanded the case back to me for more specific findings. Thereafter, I issued a 28-page opinion setting forth my findings of fact and conclusions of law, and re-sentenced the defendant to five years in state prison for the violations of probation. The defendant appealed, and in a summary order the Appellate Division remanded the matter again "to correlate the specific allegations of violation of probation with specific conditions of probation." The matter was heard by a different judge, who also ruled that the defendant violated probation, and sentenced the defendant to four years in state prison. The defendant has appealed that judge's ruling, which remains pending. Copies of my opinion, dated January 24, 2022, and the Appellate Division Order, dated June 6, 2022, supplied.

State v. Rivas, Ind. No. 15-02-114, aff'd, No. A-1994-18, 2021 N.J. Super. Unpub. LEXIS 1494 (App. Div. July 20, 2021), rev'd, 251 N.J. 132 (2022). In this criminal case, the defendant was charged with murdering his wife and dumping her naked body, with her mouth duct-taped, in the basement of an abandoned home. I conducted a five-day pre-trial evidentiary hearing on the defendant's motion to suppress a series of statements given by the defendant to law enforcement after he reported his wife missing to police in late February 2014. After initially claiming that his wife had disappeared after a night-time visit to the drug store, the defendant gave conflicting statements to law enforcement over the ensuing days. Eventually, he confessed that they had a marital argument, that she bit his finger, and that he lost control and struck her repeatedly in the head with a meat tenderizer in the kitchen of his residence. He then provided the details of the crime and the location where her body was thereafter discovered. At the outset of the interrogation which led to his confession, and for the first time, defendant asked if he should have a lawyer. I found that the invocation was ambiguous, and since law enforcement's attempt to clarify were inadequate, I suppressed the inculpatory statement, including the confession. However, at the end of the interview, the defendant repeatedly requested law enforcement to return the next day to talk to him. In light of the overnight hiatus, the change in location, the defendant's repeated entreaties for the officers to return, the clear Mirandizing of the defendant at the outset of the interview conducted the next day, and the absence of bad faith, I found that the defendant initiated "further communications" with law enforcement, and thus his subsequent confession was

admissible. I issued a written decision memorializing my findings of fact and conclusions of law. The Appellate Division affirmed in all respects. The New Jersey Supreme Court reversed, holding that law enforcement did not sufficiently clarify the defendant's ambiguous invocation of his right to counsel requiring the suppression of his confession, and that the defendant's repeated requests at the end of the interview to return to talk to him tomorrow did not constitute a voluntary reinitiation of communications with law enforcement. The matter is now pending a retrial.

State v. Knight, Ind. No. 15-08-569, rev'd, No. A-0838-19 (N.J. Super. Ct. App. Div. Apr. 26, 2021). The defendant, a police officer who was indicted for second-degree official misconduct and a series of third and fourth-degree thefts, pleaded guilty to a non-criminal petty disorderly conduct. Pursuant to the plea agreement, the defendant was sentenced to fines and restitution only. Thereafter, she moved to withdraw her guilty plea, which I denied. The Appellate Division reversed, holding that while the defendant made a knowing, voluntary, and intelligent guilty plea, and that "she testified to improperly submitting multiple overtime pay 'slips' or vouchers to her public employer for off-duty security work she did not perform," nonetheless her allocution did not constitute an adequate basis for the petty disorderly persons offense of disorderly conduct. As such, the matter was remanded for further proceedings. In November and December 2021, the matter was tried before a jury. The defendant was convicted of five counts of third and fourth-degree thefts. She was sentenced to 180 days in the county jail and placed on probation. Her appeal is pending.

State v. Outland, Ind. No. 16-02-107, aff'd, No. A-2857-17 (N.J. Super. Ct. App. Div. June 17, 2019), rev'd, 245 N.J. 494 (2021). This was a criminal case where the defendant was charged with an armed robbery and had filed a pro se pre-trial motion to represent himself. At oral argument, in response to the court's questions, the defendant indicated he had no knowledge of the criminal code, rules of evidence, rules of procedure, or the jury selection process. Moreover, he did not know that he was charged with conspiracy, although the charge was plainly set forth in the indictment, or that a conviction to first-degree robbery would subject him to a mandatory extended term of up to life in prison. I denied the defendant's motion to represent himself, granted his lawyer's motion to withdraw as counsel because the defendant no longer wanted him to represent him, and then adjourned the trial to allow the defendant's third assigned lawyer adequate time to prepare. At trial, the jury acquitted the defendant of first-degree robbery, which could have subjected him to life in prison, but convicted him of second-degree conspiracy and a related weapons offense. I sentenced him to nine years in state prison. My rulings, the verdict, and my sentence were affirmed by the Appellate Division. The New Jersey Supreme Court reversed the Appellate Division, holding that the defendant should have been allowed to represent himself, remanding the matter for a new trial. Upon remand, the defendant no longer sought to represent himself and instead sought to have the same counsel who represented him at the initial trial for the retrial. Because Double Jeopardy

attached, he could not be tried on the original charge of robbery in the first degree. In June 2022, the defendant was retried and convicted of the same offenses as in the first trial and sentenced to nine years in state prison.

State ex rel. D.M., No. FJ-20-209-15, rev'd, 451 N.J. Super. 415 (App. Div. 2017), rev'd, 238 N.J. 2 (2019). In a juvenile delinquency case, D.M., a 14-year-old boy, was charged with committing an aggravated sexual assault and related charges on an 11-year-old boy identified as Z.Y. Z.Y. told his mother that D.M., an older boy whom he knew from a local playground, had engaged in sexual conduct with him, prompting her to contact law enforcement. I conducted a five-day bench trial. During trial, it was established that Z.Y. had repeatedly communicated with D.M. through instant messaging and admitted to sending D.M. profane messages asking if he could perform oral sex on D.M. In a written decision, I found that the state failed to prove, beyond a reasonable doubt, that D.M. committed the offense of aggravated sexual assault but adjudicated D.M. to a lesser-related offense of child endangerment. Copy supplied. The Appellate Division reversed, finding that the child endangerment statute was sufficiently ambiguous and thus a juvenile cannot be adjudicated for the offense when the children are less than four years apart, absent penetration or coercion. The Supreme Court reversed the Appellate Division on alternate grounds.

Mone v. Graziadei, Girls Softball League of Westfield et al., No. UNN-L-3240-13, rev'd, No. A-4578-15T2, 2017 N.J. Super. Unpub. LEXIS 2727 (App. Div. Oct. 30, 2017). This civil personal injury lawsuit alleged that a volunteer softball coach in a recreational league was negligent when a 13-year-old player, while warming up the pitcher before a game in an area adjacent to the field, missed catching a ball, resulting in injuries to her teeth and jaw. The injured player wore shin guards and a chest protector during the warm-up but did not wear a face mask. At her deposition, the player testified that the coach instructed the players that they must wear “full equipment,” which included face masks, when warming up the pitcher on the field, but was uncertain if the coach gave the same instruction when warming up the pitcher off the field. I granted summary judgment in favor of the defendant coach, finding no genuine issue of material fact in dispute. The Appellate Division reversed, holding that a “rational fact finder could conclude the coach’s conduct constituted gross negligence if the coach, as plaintiff’s supervisor, failed to ensure plaintiff was wearing a safety mask at the time she was warming up the pitcher.” Upon remand, the parties settled the case.

State of New Jersey in the Interest of D.C., Nos. FJ-20-1338-12 and FJ-20-1374-12, aff'd in part, rev'd in part, State ex rel. D.C., No. A-1637-12T3, 2014 N.J. Super. Unpub. LEXIS 1438 (App. Div. June 18, 2014). In a case involving allegations of juvenile delinquency, I was affirmed in part and reversed in part. D.C. was a juvenile tried on two separate complaints: (1) causing a false public alarm and (2) assaulting a public school employee. On the false public alarm charge, the Appellate Division found that D.C.’s dislodging of the pull-box station

of the fire alarm in school which triggered “a high-pitched buzzer” did not “initiate a school-wide alarm or evacuation,” within the meaning of the statute, and thus was “constrained” to reverse. State ex rel. D.C. at *13–14. I was affirmed on the assault charge, and the sentence was unaffected.

N.J. Div. of Youth & Family Servs. v. R.R., No. FN-20-42-09K, rev'd, No. A-0436-10 (N.J. Super. Ct. App. Div. May 13, 2011). In a case of alleged child abuse and neglect, R.R. was charged with physically beating her young biological daughter. Prior to my handling of the matter, the child had been removed from R.R. twice by other judges because of allegations of physical abuse. In addition, R.R. had pleaded guilty to a fourth-degree crime of child abuse, and she admitted to a prior judge in the Family Part matter that she had beaten the child. Based on the foregoing, citing the published decision of N.J. Div. of Youth & Family Servs. v. A.P., 408 N.J. Super. 252 (App. Div. 2009), I determined that a second factfinding trial based on a new allegation of physical abuse was not required, and thus the child did not have to testify against her mother. The Appellate Division reversed, holding that a second factfinding was required. As a result, I presided over an ensuing trial and issued a written opinion, finding that R.R. physically abused her daughter. My opinion was appealed and affirmed in all respects.

- 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.

I have issued approximately 300 written unpublished opinions, and I have maintained hard copies in the courthouse.

- 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.

While I have issued dozens of written unpublished decisions involving various aspects of criminal law which implicate federal or state constitutional issues, none have addressed novel constitutional questions.

- 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 any 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.

There is no “automatic” recusal system in the vicinage in which I sit. I assess recusal consistent with R. 1:12, titled “Disqualification and Disability of Judges,” and the Code of Judicial Conduct. R. 1:12-1 (a) and (b) require recusal of the court if a party or lawyer, or member of the firm, is a close family relative, which is defined therein. In addition, R. 1:12-1(g) is a general proscription requiring “fair and unbiased” judgment, and the appearance of same. Canons 2 and 3 of the Code of Judicial Conduct require a judge to act impartially, free from influence of personal, professional, and political relationships, and in a manner which promotes the public’s confidence in the judiciary.

To the best of my recollection, pursuant to the above, I have recused myself, sua sponte, on two occasions:

N.J. Div. of Youth and Family Servs. v. D.S., No. FN-20-59-09. The case involved alleged parental abuse and neglect, and the subject children to the litigation attended the same elementary school as my children. I recused myself because while I did not know the litigants, I did not want them or myself to be uncomfortable if we saw each other at school-related events.

State v. T. H., No. FJ-20-1959-11. This was a juvenile delinquency case involving a home burglary with substantial restitution, and I recused myself because I personally knew the alleged victims.

To the best of my recollection, I have been the subject of motions to recuse myself in one matter by one lawyer and two litigants, as follows:

Hall v. Hall, No. FM- 20-1365-05. This was a post-divorce matrimonial matter in which one party sought an ex-spouse’s parental contribution for a child’s college tuition. The plaintiff and his counsel had requested that I recuse myself on the grounds that I was predisposed and biased against him. I declined to recuse myself as the grounds were baseless. Counsel appealed, and the Appellate Division affirmed on all grounds, finding “no merit whatsoever to plaintiff’s challenge to the trial court’s impartiality.” Hall v. Hall, No. A-2451-11T1, 2014 N.J. Super. Unpub. LEXIS 453 (App. Div. Mar. 6, 2014).

State v. Figueroa, Ind. No. 19-02-147. The defendant was charged with luring a 13-year-old-girl, who was walking to school in her school uniform, into his vehicle. Both the defendant and the victim were unrelated and unknown to each other. The defendant verbally sought my recusal on the grounds that I was biased against him because the defendant was Catholic. The defendant failed to file a motion or certification to support his allegation. His lawyer affirmatively stated on the record that he did not support his client's position and would not argue in favor of it. I issued a written decision denying the defendant's pro se motion for recusal as utterly without merit. On appeal, the Appellate Division affirmed in all respects. State v. Figueroa, No. A-1007-20 (N.J. Super. Ct. App. Div. June 28, 2022).

State v. Outland, Ind. No. 16-02-107. As described above in response to Q13f, prior to the initial trial, the defendant requested to represent himself. After a hearing, I denied the request, finding that the facts did not support a knowing, voluntary, and intelligent waiver of his right to counsel. The defendant, with highly experienced counsel, was tried before a jury resulting in an acquittal of the robbery in the first-degree charge but convicted on conspiracy and weapons-related offenses. The defendant was sentenced accordingly. The Appellate Division unanimously affirmed in all respects. The New Jersey Supreme Court reversed and vacated the convictions, holding that the defendant had a right to represent himself. On remand, the defendant filed a pro se motion for my recusal, claiming without basis that I was biased against the defendant because of the New Jersey Supreme Court's reversal of the trial court. Both the prosecutor and defense counsel stated on-the-record that there was no basis for recusal. The defendant's counsel affirmatively disavowed the position of his client, stating on the record, "I think you were utterly fair at the trial, and I have no doubt that you will be fair going forward. I don't see any conflict or bias ... I'm not aware of any basis for your recusal." On March 26, 2022, I supplemented my oral findings denying the motion for recusal in a written decision.

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.

None.

- 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.

None.

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

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

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

I served as a law clerk to the Honorable William J. Zloch, U.S. District Judge, Southern District of Florida, from 1991 to 1993.

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

None.

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;

1993 – 1997

U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, DC 20004
Trial Attorney

1997 – 2001

United States Attorney's Office
970 Broad Street, Suite 700
Newark, New Jersey 07102
Assistant U.S. Attorney, Civil Division

2001 – 2010

United States Attorney's Office
970 Broad Street, Suite 700
Newark, New Jersey 07102
Assistant U.S. Attorney, Criminal Division; Frauds Division; and
Securities and Healthcare Fraud Unit

2010 – present

New Jersey Superior Court
Union County Courthouse
2 Broad Street
Elizabeth, New Jersey 07102
Superior Court Judge

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

I have not served as a mediator or arbitrator.

b. Describe:

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

My entire legal career since law school graduation has been in public service. After graduating law school in 1991, I clerked for two years for the Honorable William J. Zloch, U.S. District Judge for the Southern District of Florida.

In 1993, I was selected to serve in the Attorney General's Honors Program at the Department of Justice, in the Civil Division, as a Trial Attorney. In this capacity, I served as lead counsel handling complex civil litigation matters, primarily qui tam actions brought under the False Claims Act, for alleged contracting fraud. I handled all aspects of litigation, which included drafting civil complaints, discovery, motion practice, pre-trial preparation, settlement negotiations, and trial.

Thereafter, I served for four years as an Assistant U.S. Attorney in the United States Attorney's Office in New Jersey, in the Civil Division. I served as lead trial and appellate counsel in civil actions brought against the United States involving claims of general torts, constitutional torts, employment discrimination, sexual harassment and retaliation, and medical malpractice.

In mid-2001, I joined the Frauds Division and later the Securities and Healthcare Fraud Unit of the Criminal Division. I focused on sophisticated financial frauds, including corporate fraud, securities fraud, and a variety of investment and business fraud schemes. In this capacity, I successfully prosecuted dozens of individuals, including corporate executives of publicly traded and privately held companies, as well as accountants, lawyers, doctors, and business executives for their involvement in various fraud schemes. In addition, I prosecuted general crimes involving domestic and international drug trafficking, weapons offenses, bank robbery, carjacking, embezzlement, tax offenses, identity theft, insurance fraud, and bankruptcy fraud.

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

In my more than 15 years at the Department of Justice in Washington, DC, and the U.S. Attorney's Office in New Jersey, I served the people of the United States of America.

- 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 a trial attorney at the Department of Justice in Washington, DC, I generally appeared in court a few times per month. As an Assistant U.S. Attorney, I appeared in court multiple times per week.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 99% |
| 2. state courts of record: | 1% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 50% |
| 2. criminal proceedings: | 50% |

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

I tried approximately ten civil and criminal cases to verdict, and, with one exception, all matters were tried in federal court. For most of the cases, I served as sole counsel.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 70% |
| 2. non-jury: | 30% |

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

I have not practiced before the United States Supreme Court.

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

in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

1. United States v. Puff, No. 2:09-cr-271 (01) JLL

In 2008 through early 2010, I, along with co-counsel, investigated and prosecuted more than ten individuals for their roles in a Ponzi and mortgage fraud scheme, which defrauded more than 400 investors and financial institutions of more than \$100 million. The defendants included lawyers, senior management at the company, loan appraisers, and processors.

NJ Affordable Homes, Inc., marketed itself as a real estate business which bought, refurbished and resold residential properties which it financed through an investment pool from residents in 30 states, predominantly New Jersey, but also from Sweden, the Caribbean, and Israel. The company falsely touted its profitability and security, luring investors with inflated profits and promised returns. The evidence proved that, in addition to the unlawful use of investor monies for personal gain, new investor money was used to pay off prior investors.

Mr. Puff, the president and owner of NJ Affordable Homes, Inc., the fraud's ringleader and mastermind, pled guilty to conspiracy to commit wire fraud, and was sentenced to 18 years in prison. I, along with co-counsel, coordinated and supervised the broad investigation, negotiated the plea agreements, drafted the charging documents and sentencing material, and handled all court appearances.

Judge:

Honorable Jose Linares (retired)
United States District Court for the District of New Jersey

Co-counsel:

Justin Arnold, Esq. (formerly at the U.S. Attorney's Office for the District of New Jersey)
United States Attorney's Office for the Western District of Washington
700 Stewart Street
Seattle, WA 98101
(206) 553-5558

Counsel for Defendant:

Joshua Markowitz, Esq.

1834 Stuart Road West
Princeton, NJ 08540
(609) 915-9042

2. United States v. Scott, No. 2:08-cr-00789(WHW), aff'd, 463 F. App'x 85 (3d Cir. 2011)

In 2009, as an Assistant U.S. Attorney, along with co-counsel, I tried to a jury a former convicted felon for drug and weapons offenses. Defendant Scott was approached by two officers on foot as it appeared that he was drinking alcohol in public. The defendant immediately fled into an adjacent alley, and while fleeing, appeared to turn toward the officers while brandishing a firearm. Upon his apprehension, he was found to possess a 9 mm semi-automatic pistol loaded with hollow-point bullets, and 40 individually packaged doses of heroin. I, along with co-counsel, prepared and presented the matter at trial, including conducting direct and cross-examinations, and closing argument. A jury convicted defendant Scott of all counts, and he was sentenced to ten years in prison.

Judge:

Honorable William H. Walls (deceased)
United States District Court for the District of New Jersey

Co-Counsel:

Ronnell L. Wilson, Esq.
United States Attorney's Office
District of New Jersey
970 Broad Street
Newark, NJ 07102
(973) 645-2923

Counsel for Defendant:

Lisa Mack, Esq.
Federal Public Defender's Office
976 Broad Street
Newark, NJ 07102

3. United States v. Urciuoli, No. 07-cr-637-01, aff'd, No. 08-1208 (3d Cir. Feb. 20, 2013)

In 2007 and 2008, as an Assistant U.S. Attorney, I investigated and prosecuted a number of officers of InsPara Networking Technologies, Inc., a privately owned business information technologies firm, for defrauding investors by falsely inflating stated revenue and profits, among other things. In 2008, along with co-counsel, I tried Mr. Urciuoli, InSpara's Vice President of Finance and a Director, in federal court for his role in defrauding investors of more than \$5 million. He was convicted of wire fraud and obstruction of justice, and was sentenced to nine years in prison.

I handled the case from its inception through its conclusion. I was involved in coordinating the investigation with federal agents, and along with co-counsel, presented the matter at trial. At trial, I handled the direct and cross-examinations of multiple witnesses, and presented the closing and rebuttal summations. Post-conviction, I also submitted the sentencing material and presented the argument on behalf of the United States at the sentencings of the defendants.

Judge:

Honorable Peter Sheridan
United States District Court for the District of New Jersey

Co-counsel:

Craig Carpenito, Esq.
King & Spalding
1185 Avenue of the Americas, 34th Floor
New York, NY 10036
(212) 556-2142

Counsel for Co-defendant Henches:

Michael Pedicini, Esq.
560 Main Street
Chatham, NY 07928
(973) 769-3723

Counsel for Co-defendant Urciuoli:

David Feingold, Esq.
Broadstreet Private Equity
211 North Main Street
Greenville, SC 29601
(561) 309-5767

4. United States v. DaCosta, No. 2:04cr-00572 (JCL)

In 2006 to 2007, as an Assistant U.S. Attorney, along with co-counsel, I tried this criminal case to a jury. Defendant DaCosta's investment company swindled approximately two dozen mostly elderly investors through false promises involving bogus real estate transactions and non-existent "high yield" banking instruments. In order to assuage the investors and promote the infusion of additional monies, defendant DaCosta sent them fraudulent account statements, indicating exorbitant but nonexistent returns. The monies were used for the defendant's personal expenses and lifestyle purchases. I, along with co-counsel, prepared and presented the matter at trial, including conducting direct and cross-examinations, and opening statement. Mid-trial, the defendant pled guilty to wire fraud, and was sentenced to five years in prison. There was no appeal.

Judge:

Honorable John Lifland (retired)
United States District Court for the District of New Jersey.

Co-Counsel:

Adam Lurie, Esq.
Linklaters
601 13th Street, Northwest
Suite 400 South
Washington, DC 20005
(202) 654-9229

Counsel for Defendant:

Abukela Adetula, Esq.
(973) 652-6539

I am unable to locate additional contact information.

5. United States v. Hoffecker and Myers, Nos. 03-cr-120(01) and (02), aff'd, 530 F.3d 137 (3d Cir. 2008)

From 2003 through mid-2006, as an Assistant U.S. Attorney, I investigated and prosecuted defendants Hoffecker and Myers, for their roles in owning and operating a major complex international telemarketing fraud which targeted U.S. investors believing they were purchasing a variety of physical commodities which the company represented they were safely storing.

The scheme involved an offshore central “office” in the Bahamas, with claimed worldwide offices, and approximately 10 U.S. boiler rooms. The investment scheme defrauded more than 1,000 U.S. citizens of more than \$20 million, specifically targeting senior citizens and the unsophisticated, resulting in individual financial ruin. One trial witness, an 82-year-old great-great grandmother from Kansas who invested \$125,000, of which all was lost, testified that she was solicited by one of the boiler rooms more than 20 times in a single day.

While both Messrs. Hoffecker and Myers were notorious as ringleaders in several prior substantial fraud schemes, they nonetheless avoided any meaningful sanctions from investigating regulators or law enforcement despite repeated referrals to their agencies. The investigation included thousands of documents, more than 100 secretly recorded meetings and conversations, interviews of victims located across the U.S., and interviews of their employees both in the U.S. and abroad.

I, along with co-counsel, conducted two three-month jury trials of both defendants, which resulted in convictions of both defendants to all counts of conspiracy and mail fraud. Both prosecutions spanned years and required extensive pretrial litigation on a multitude of complicated legal issues. I, along with co-counsel, briefed and argued a litany of pretrial motions, including conducting direct and cross-examination of witnesses at pretrial evidentiary hearings. At the trials, I conducted numerous direct and cross-

examinations, as well as presented the opening statement and closing arguments. I also drafted the post-trial sentencing material for both defendants, and argued the sentencing issues in court on behalf of the United States as it related to Mr. Hoffecker.

Defendant Hoffecker was sentenced to more than 17 years in prison; Defendant Myers was sentenced to nine years in prison. When both defendants appealed the sentence, I provided strategic advice to appellate counsel, edited the brief, and participated in the moot oral argument. The Third Circuit Court of Appeals affirmed.

Judge:

Honorable Katharine Hayden
United States District Court for the District of New Jersey

Co-counsel:

Bohdan Vitvitsky, Esq.
Former Assistant U.S. Attorney (retired)

Counsel for Co-defendant Hoffecker:

Benedict Kuehne, Esq.
100 Southeast 2nd Street
No. 3550
Miami, FL 33131
(786) 369-0213

Counsel for Defendant Myers:

Jon May, Esq.
11122 Landsman Street
Boca Raton, FL 33428
(954) 439-6500

6. United States. v. Kaiser, No. 04-cr-434(02)

In 2004, as an Assistant U.S. Attorney, I investigated and prosecuted Mr. Kaiser for his principal role in promoting a supposed a mobile chemical and biological detection device referred to as C-BAND, two weeks after the tragedy of September 11, through a company, R-Tec, which he founded. He falsely claimed the purported anti-terrorism device was patented and operational, readily deployable for immediate use in homes, hospitals, and schools.

The investigation proved that the device was a fraud, and that defendant Kaiser's false representations propped up the value of the company, and his own shares. On the eve of trial, the defendant pled guilty to securities fraud. He was sentenced to 12 months in prison. I coordinated and supervised the investigation, negotiated the plea agreement, drafted the charging document and sentencing material, and handled all court appearances.

Judge:

Honorable John Bissell (retired)
United States District Court for the District of New Jersey

Counsel for Defendant Kaiser:

Mark Wasserman, Esq.
329 South Oyster Bay Road
Suite 225
Plainview, NY 11803
(516) 476-6040

7. United States v. Sanpietro, No. 2:03-cr-595-001(JLL)

In 2003 and 2004, as an Assistant U.S. Attorney, I served as lead counsel in the investigation and prosecution of a series of officers in Medi-Hut, a publicly traded healthcare company, relating to a \$100 million securities fraud case which resulted in the convictions of members of the entire executive suite, including the CEO, CFO, COO, and VP. Medi-Hut, a small-cap stock which traded on the Nasdaq exchange, was based in Wall Township, New Jersey, and made and distributed medical devices such as syringes, as well as brand-name and generic over-the-counter and prescription drugs. Medi-Hut's corporate officers engaged in sham transactions which inflated revenue and created false and inflated accounts receivables. These tactics were designed to artificially inflate the value of the company's stock, which had increased 15-fold during the timeframe of the fraud. The defendant executives, whose personal holdings ranged from 30,000 to 3.3 million shares, stood to gain substantial financial windfalls.

I coordinated and supervised the broad investigation, negotiated the plea agreements, drafted the charging documents and sentencing material, and handled all court appearances. The entire executive suite pled guilty: Co-defendants Sanpietro, Sr., and Simon, the CEO and CFO, respectively, pled guilty to conspiracy to commit securities fraud and making false statements to the SEC and each were sentenced to 46 months in prison. Co-defendant Marasco pled guilty to conspiracy, making false statements to the SEC, and tax fraud. He was sentenced to 42 months in prison. Mr. Sanpietro, the COO, pled guilty obstruction of justice and was sentenced to probation.

Judge:

Honorable Jose Linares (retired)
United States District Court for the District of New Jersey

Counsel for Defendant Sanpietro, Sr.:

Jonathan Goldstein, Esq.
Hellring Lindeman Goldstein & Siegel
One Gateway Center
Newark, NJ 07102
(973) 621-9020

Counsel for Defendant Simon:
Edward Dauber, Esq.
Greenberg Dauber Epstein & Tucker
One Gateway Center, No. 600
Newark, NJ 07102
(973) 643-3700

Counsel for Defendant Marasco:
Paul Nittoly, Esq.
McElroy Deutsch
1300 Mount Kemble Avenue
P.O. Box 2075
Morristown, NJ 07962
(973) 425-8731

Counsel for Defendant Sanpietro:
William Maderer, Esq.
Saiber
18 Columbia Turnpike
Florham Park, NJ 07932
(973) 645-4814

8. United States v. Qaraeen, No. 2:03-cr-00749 (FSH)

In 2003 and 2004, as an Assistant U.S. Attorney, I investigated and prosecuted Mr. Qaraeen for his role as a ringleader in recruiting dozens of others to commit credit card fraud schemes in New Jersey over a period of several years, which resulted in approximately \$7 million in losses through fraudulent purchases and unlawful cash advances.

Defendant Qaraeen and his recruits opened more than 1,000 credit card accounts and other credit accounts through fraudulent applications, which resulted in obtaining millions of dollars in cash and merchandise, including jewelry, electronics, home furnishings, and airline tickets. In order to perpetuate the scheme, the defendant and his co-conspirators would issue checks to the credit card companies which were immediately credited to their account but which were rejected for insufficient funds days later when processed by the bank. I coordinated and supervised the investigation, negotiated the plea agreement, drafted the charging document and sentencing material, and handled all court appearances. The case also involved coordination for restitution purposes of dozens of creditors. He was sentenced to nine years in prison and was ordered to pay restitution in the amount of \$6.8 million. No appeal was filed.

Judge:
The Honorable Faith Hochberg (retired)
United States District Court for the District of New Jersey

Counsel for Defendant:

Laurie Fierro, Esq.
135 Kinnelon Road
Kinnelon, NJ 07405
(973) 838-4405

9. Latella v. United States, No. 2:97-cv-5744 (DRD)

From 1997 through early 2000, I represented the United States in this personal injury civil suit brought by the plaintiff against the U.S. Postal Service stemming from an automobile accident. Initially, the matter appeared to be a rather routine and unremarkable rear-end collision case. Through discovery and extensive motion practice, it was revealed that the plaintiff had had multiple prior accidents, through automobile accidents and slip-and-falls, and had sustained previous injuries to her neck and back. Thus, the parties contested the issue of damages.

I tried the case, which included conducting the direct and cross-examinations of numerous expert witnesses, and presented the opening statement and closing argument before the Honorable Dickinson Debevoise. Plaintiff sought damages in excess of \$120,000 and in a written Final Judgment, Judge Debevoise awarded less than \$10,000. No appeal was filed.

Judge:

Honorable Dickinson Debevoise (deceased)
United States District Court for the District of New Jersey

Counsel for Plaintiff:

Gregory Miller, Esq.
Rivkin Radler
25 Main Street
Court Plaza North
Hackensack, NJ 07601
(201) 287-2474

10. United States v. Cheney, No. 99-cr-137 (NHP)

In 1998 and 1999, as an Assistant U.S. Attorney, I handled the investigations and prosecutions of a trio of defendants, two of whom escaped from federal prison for prior bank robberies and then went on a multi-state bank robbery spree until they were ultimately apprehended by U.S. Marshals.

The lead defendant, Mr. Cheney, met his male co-codefendant in federal prison where both were incarcerated. On a visit to the prison, Cheney and his then-girlfriend and co-conspirator planned his escape which was finalized through subsequent coded communications. With proceeds from a string of bank robberies, the trio spent their days at breweries, zoos, Broadway plays, and luxury hotels. When the defendants were

arrested at a New Jersey motel, law enforcement seized an exotic jungle pet, among other items. I coordinated and supervised the investigation, negotiated the plea agreement, drafted the charging document and sentencing material, and handled all court appearances. Mr. Cheney was sentenced to 60 months for escape and the bank robberies, to be served after the completion of his prior sentence. No appeal was filed.

Judge:

Honorable Nicholas Politan (deceased)
United States District Court for the District of New Jersey

Counsel for Defendant Cheney:

Stacy Biancamano, Esq.
312 North Avenue, East
Suite 7
Cranford, NJ 07016
(908) 325-3023

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

Throughout my career both as a practicing lawyer and as a judge, I have undertaken various roles, including positions of supervision. In the U.S. Attorney's Office, when I served in the Securities and Healthcare Fraud Unit, I served as the Healthcare Fraud Coordinator. In this capacity, I led meetings and coordinated the work of various agencies whose shared mission was investigating and prosecuting healthcare fraud. Throughout my career, I gave numerous lectures and participated on various panels to federal prosecutors and investigators on a variety of fraud-related topics, including effective trial strategy and presentation in fraud cases. In addition, while at the U.S. Attorney's Office, for many years I served on the hiring committee. In this capacity, I interviewed numerous applicants, spoke with references, and issued written evaluations regarding the applicant's candidacy. In addition to my case-related responsibilities as a lawyer at the Department of Justice, I also served in leadership positions as Trustee of the Trial Association of New Jersey and Co-chair of the Criminal Section of the Union County Bar Association.

As a judge, I have served as a mentor to a number of newly confirmed judges, in order to provide guidance and assistance in acclimating to the responsibilities and challenges of serving as a Superior Court judge. I have served on a number of leadership committees, including the New Jersey Supreme Court Committee on Rules of Evidence and Subcommittee on Restyling the Hearsay Rules. I have also served on a number of statewide and local committees devoted to juvenile justice. I also created a juvenile

reentry program which was implemented statewide.

I have not performed any lobbying activities or registered as a lobbyist.

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

None.

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

None.

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.

None.

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

No family members or other persons, parties, categories of litigation or financial arrangements are likely to present potential conflicts of interest for me. I would recuse myself from any matter coming before me on collateral review in which I was involved as a state court judge.

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

If confirmed, I would resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts.

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.

My career has been in public service and, pursuant to judicial canons, I have been unable to provide direct pro bono representation. As a judge, in 2014, I initiated a juvenile re-entry program for statewide implementation. The format of the program included a motivational guest speaker series for juveniles held at various youth detention centers throughout the state, in coordination with community-based service providers and on-site educators to assist in transitioning youth post-release. The program was presented at every youth detention facility serving at-risk youth from all 21 counties in New Jersey.

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.

In December 2014, I was referred to Senators Booker and Menendez for consideration for a judicial position on the U.S. District Court for the District of New Jersey. In early 2015, I was interviewed by Senator Cory Booker's Judicial Advisory Committee and was subsequently contacted by Senator Menendez's staff. Senator Booker's Judicial Advisory Committee recommended that I be interviewed by the Senator's staff. As a result, I was interviewed by members of Senator Booker's staff. A few days later, I was interviewed by Senator Booker.

In early 2021, I was telephonically interviewed by both Senators Booker and Menendez. On August 4, 2022, I was interviewed by Senator Menendez. On August 9, 2022, I was interviewed telephonically by Senator Booker.

On August 12, 2022, I interviewed with attorneys from the White House Counsel's Office. Since August 15, 2022, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On December 21, 2022, the President announced his intent to nominate me.

- 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.

