

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Joseph Francis Saporito, Jr.

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

United States District Judge for the Middle District of Pennsylvania

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.

Max Rosenn United States Courthouse
197 South Main Street
Wilkes-Barre, Pennsylvania 18701

Residence: Jenkins Township, Pennsylvania

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

1960; Pittston, Pennsylvania

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.

1982 – 1985, Dickinson School of Law; J.D., 1985

1978 – 1982, Villanova University; B.A., 1982

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2015 – present

United States District Court for the Middle District of Pennsylvania
Max Rosenn United States Courthouse
197 South Main Street

Wilkes-Barre, Pennsylvania 18701
Chief United States Magistrate Judge (2024 – present)
United States Magistrate Judge (2015 – present)

2001 – 2015
Saporito, Saporito & Falcone
490 North Main Street
Pittston, Pennsylvania 18640
Partner

1987 – 2001
Saporito & Saporito
490 North Main Street
Pittston, Pennsylvania 18640
Partner

1985 – 1987
Law Offices of Joseph F. Saporito, Sr.
49 South Main Street
Pittston, Pennsylvania 18640
Associate

1985 – 2015
County of Luzerne
Office of the Public Defender
20 North Pennsylvania Avenue
Wilkes-Barre, Pennsylvania 18702
Assistant Public Defender

1986 – 2009
Court of Common Pleas of Luzerne County
200 North River Street
Wilkes-Barre, Pennsylvania 18702
Law Clerk

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 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.

Jean Yates Annual Award for Distinguished Library Service, Pittston Memorial Library (2022)

Luzerne County Bar Association, President's Award (2016)

Northeastern Pennsylvania Alumni Chapter of Penn State University's Dickinson School of Law, Distinguished Alumnus Award (2015)

Scranton Preparatory School, Reverend T. Donald Rinfret, S.J., Distinguished Alumnus Award (2013)

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

American Bar Association (1985 – present)

Federal Bar Association (2015 – present)

Federal Bar Association, Middle District Chapter (2015 – present)

Federal Magistrate Judges Association (2015 – present)

Pennsylvania Bar Association (1985 – present)

Wilkes-Barre Law & Library Association (Luzerne County Bar Association) (1985 – present)

President (2012 – 2014)

Vice-President (2010 – 2012)

Executive Committee (1994 – 1995; 2006 – 2007)

Fee Dispute Committee (1985 – 2014)

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.

Pennsylvania, 1985

There have been no lapses in membership. I have been on judicial status since my appointment to the bench in 2015.

- 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 Court of Appeals for the Third Circuit, 1997
United States District Court for the Middle District of Pennsylvania, 1985

There have been no lapses in membership.

11. **Memberships:**

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

American Association of Justice (1985 – 2014)

Earthly Angels Autism Fund, Board of Directors (2001 – present)

First National Community Bank, Luzerne County Advisory Board (pre-2001)

Fox Hill Country Club, Exeter, Pennsylvania (1993 – present)

Greater Pittston Chamber of Commerce (1986 – 2011)
Board of Directors (various years)

President John F. Kennedy Knights of Columbus Council 372 (1986 – present)

Luzerne County Bar Association Charitable Foundation, Inc., Board of Directors (2010 – 2016)
President (2014 – 2016)
Vice-President: (2012 – 2014)

Northeastern Pennsylvania Trial Lawyers Association (1986 – 2014)

Pennsylvania Association of Criminal Defense Lawyers (1990 – 2014)

Pennsylvania Association for Justice (1985 – 2014)

Pittston Memorial Library Association, Board of Trustees (2005 – 2011)

San Cataldo Society of Pittston (1990s – 2012)

Scranton Preparatory School, Board of Trustees (2006 – 2012)
Chairman (2011 – 2012)
Development Committee (2006 – 2011)

Saint Joseph Mareello Parish at Our Lady of Mount Carmel Church

Parish Finance Council and Holy Name Society (1995 – present)

Saint Mary's Assumption School, School Advisory Board (1990s – 2006)
President; Representative to Diocese of Scranton School Advisory Board
(2004 – 2006)

- 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.

During the course of my completion of this Questionnaire, I first became aware of a 1994 allegation of discrimination at Fox Hill Country Club wherein some women alleged a discrimination practice involving the scheduling of starting tee times. I later learned, anecdotally, that there had been a time when women and mixed-gender groups were prevented from scheduling tee times on certain days and times. I was unaware of this practice, and had I been aware, I would have taken steps to rectify these discriminatory tee times. I have been informed that the practice was completely eliminated before 2012, when new club rules for golf went into effect. Since that time, it is my understanding, and it has been my experience, that women and mixed-gender groups have been eligible for any tee time on any day, except when both men and women are ineligible for assignment of tee times during reserved golf tournaments. Lastly, it is my clear understanding that no discrimination of any kind exists at Fox Hill at the present time.

It is my understanding that membership in the President John F. Kennedy Knights of Columbus Council 372 is available to Catholic men in good standing with their church. Women are eligible to join the corresponding Jacquelines of the Knights of Columbus Council 372. I have been a dues paying member only, and I have rarely participated in any of the social events or activities of the organization.

Except as set forth above, to the best of my knowledge, none of the organizations listed in response to 11a above currently or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Letter to the Editor, SUNDAY DISPATCH (Pittston, Pa.), May 22, 2011. Copy supplied.

Candidacy Announcement for Judge of the Court of Common Pleas of Luzerne County, SUNDAY DISPATCH (Pittston, Pa.), Feb. 20, 2011. Copy supplied.

- b. Supply an electronic copy 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.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Practical Assessment of Regina Smith’s Final Report for the Re-organization of the Honorable Max Rosenn Memorial Law Library for the 2013 year prepared by Joseph P.J. Burke, III, Esquire, Executive Director and Law Librarian-in-Chief, December 14, 2012. Copy supplied.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Library Re-organization, October 15, 2012. Copy supplied.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Final Report “A Plan for the Future” prepared by Regina L. Smith, September 2012. Copy supplied.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Status Report prepared by Regina L. Smith, April 2012. Copy supplied.

- c. Supply an electronic copy 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.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Letter to Honorable Stewart Greenleaf, Chairman, Senate Judiciary Committee Senate of Pennsylvania, June 24, 2013. Copy supplied.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Letter to Robert Lawton, County Manager, Luzerne County, Pennsylvania, August 21, 2012. Copy supplied.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Letter to Robert Lawton, County Manager, Luzerne County, Pennsylvania, August 6, 2012. Copy supplied.

Wilkes-Barre Law and Library Association (Luzerne County Bar Association) – Letter to Honorable Stewart J. Greenleaf, Chairman, Senate Judiciary Committee Senate of Pennsylvania, May 28, 2010. Copy supplied.

In my role as solicitor to each of the following municipal entities: Township of Pittston (1986 – 1997); the Pittston Township Sewer Authority (1986 – 2015); the Lower Lackawanna Valley Sanitary Authority (2005 – 2015); the Pittston Area School District (2006 – 2015); and the Borough of Duryea (2013 – 2015), I regularly and routinely gave legal opinions and interpretations at the various regular and special meetings, including executive sessions that either preceded or followed those meetings. I am unable to obtain transcripts or recordings of those meetings.

- d. Supply an electronic copy, 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 delivered they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following list reflects my best efforts to identify the speeches or talks that I have delivered. To compile the list, I consulted my own records and internet sources. There may, however, be other speeches or talks that I have been unable to recall or identify.

2021 – present: I speak annually to a criminal justice class at Penn State Wilkes-Barre about federal court and its jurisdiction. I also give the students a tour of the Max Rosenn United States Courthouse in Wilkes-Barre. I have no notes, transcripts, or recordings. The address for Penn State Wilkes-Barre is 44 University Drive, Wilkes-Barre, Pennsylvania 18612.

2015 – present: Naturalization Ceremonies, United States District Court for the Middle District of Pennsylvania, Scranton, Pennsylvania. Since my appointment as a United States Magistrate Judge in 2015, I have participated in almost all naturalization ceremonies in federal court in the Scranton vicinage, along with other judges of the court. In some of the ceremonies, I was the presiding jurist. There are approximately five ceremonies each year. I have no notes, transcripts, or recordings, but press coverage of a July 17, 2020, ceremony supplied. The

address of the U.S. District Court for the Middle District of Pennsylvania is William J. Nealon Federal Building and United States Courthouse, 235 North Washington Avenue, Scranton, Pennsylvania 18503.

2015 – present: Attorney Admission Ceremonies, United States District Court for the Middle District of Pennsylvania, Scranton and Wilkes-Barre, Pennsylvania. Since my appointment to the bench, I have participated in—and in some instances presided over—annual admission ceremonies for new lawyers in federal court in the Scranton and Wilkes-Barre vicinages, along with other judges of the court. Standard remarks from December 2, 2021, ceremony supplied.

2015 – present: Judge, high school mock trial competition, Scranton, Pennsylvania. I presided over mock trial competitions sponsored by the Pennsylvania Bar Association and the Lackawanna County Bar Association. The mock trials were typically held in the Scranton federal courthouse. I have no notes, transcripts, or recordings. The address for the Pennsylvania Bar Association is 100 South Street, Harrisburg, Pennsylvania 17101.

October 20, 2023: Panelist, Federal Practice Institute 2023 – Alternative Dispute Resolution (webinar). I participated as a panelist in a discussion about mediation and settlement conferences. I have no notes, transcript, or recording. The address for the Pennsylvania Bar Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

November 5, 2022: Award recipient, Jean Yates Award for Distinguished Library Service, Pittston Memorial Library, Exeter, Pennsylvania. Remarks supplied.

March 24, 2022: Panelist, Electronic Discovery (webinar), Middle District Chapter of the Federal Bar Association. I participated as a panelist in a discussion regarding electronic discovery. I have no notes, transcript, or recording. The Middle District Chapter of the Federal Bar Association does not maintain a physical address.

June 3, 2021: Panelist, Magistrate Judge Jurisdiction in the Middle District of Pennsylvania (webinar), Middle District Chapter of the Federal Bar Association. I participated as a panelist in a discussion regarding magistrate judge jurisdiction. I have no notes, transcript, or recording. The Middle District Chapter of the Federal Bar Association does not maintain a physical address.

May 13, 2021: Reader, In Memoriam Ceremony for recently deceased members of the Luzerne County Bar Association, conducted via Zoom. Remarks supplied.

April 22, 2021: Panelist, Views from the Bench (webinar). I participated as a panelist in a discussion regarding jury trials in the age of COVID-19. I have no notes, transcript, or recording. The address for the Northeastern Pennsylvania

Trial Lawyers Association is 201 Franklin Avenue, Suite 1, Scranton, Pennsylvania 18503.

April 9, 2021: Keynote Speaker, Law Review Symposium – Pandemic Practices: COVID-19 and Its Impact on the Law (webinar). Video available at <https://www.youtube.com/watch?v=8Y7eLLpnvaM&t=224s>.

December 9, 2020: Panelist, Views from the Bench (webinar). I participated as a panelist in a discussion regarding trial practice. I have no notes, transcript, or recording. The address for the Northeastern Pennsylvania Trial Lawyers Association is 201 Franklin Avenue, Suite 1, Scranton, Pennsylvania 18503.

May 7, 2019: Presenter, Joseph F. Saporito Lifetime of Service Award, Pittston, Pennsylvania. Remarks supplied.

September 25, 2018: Presenter, Joseph F. Saporito Lifetime of Service Award, Pittston, Pennsylvania. Remarks supplied.

December 7, 2017: Panelist, Views from the Bench, NEPATLA Personal Injury Potpourri, Wilkes-Barre, Pennsylvania. I participated as a panelist in a discussion regarding trial practice. I have no notes, transcript, or recording. The address for the Northeastern Pennsylvania Trial Lawyers Association is 201 Franklin Avenue, Suite 1, Scranton, Pennsylvania 18503.

April 18, 2017: Presenter, Joseph F. Saporito 2016 Lifetime of Service Award, Pittston, Pennsylvania. Remarks supplied.

November 10, 2016: Award recipient, Luzerne County Bar Association-President's Award, Wilkes-Barre, Pennsylvania. Remarks supplied.

March 23, 2016: Presenter, Joseph F. Saporito 2015 Lifetime of Service Award, Pittston, Pennsylvania. Video available at <https://www.youtube.com/watch?v=T7sL1ya2fOk>.

October 11, 2015: Speaker, annual Columbus Day Banquet sponsored by the Italian-American Association of Luzerne County, Wilkes-Barre, Pennsylvania. Remarks supplied.

May 21, 2015: Award recipient, 2015 Distinguished Alumnus Award by the Northeastern Pennsylvania Alumni Chapter of Penn State University's Dickinson School of Law, Wilkes-Barre, Pennsylvania. Remarks supplied.

April 16, 2015: Speaker, Investiture as United States Magistrate Judge for the United States District Court for the Middle District of Pennsylvania, Scranton, Pennsylvania. Remarks supplied.

March 26, 2015: Speaker, Mid-Winter Breakfast of the Greater Pittston Chamber of Commerce, Pittston, Pennsylvania. Remarks supplied.

2007 – 2015: Master of Ceremonies, annual installation of officers of the Pittston Area High School Chapter of the National Honor Society, Pittston Area Senior High School, Yatesville, Pennsylvania. I have no notes, transcripts, or recordings. The address of the Pittston Area Senior High School is 5 Stout Street, Yatesville, Pennsylvania 18640.

December 12, 2013: Speaker, New Attorney Induction Ceremony, Luzerne County Bar Association, Wilkes-Barre, Pennsylvania. Remarks supplied.

October 28, 2013: Award recipient, the Reverend T. Donald Rinfret, S.J., Distinguished Alumnus Award, Scranton Preparatory School, Scranton, Pennsylvania. Remarks supplied.

September 17, 2013: Speaker, introduction of judges of the Superior Court of Pennsylvania in my capacity as President of the Luzerne County Bar Association, Dallas, Pennsylvania. Remarks and press coverage supplied.

July 30, 2013: Speaker, Induction Ceremony of the Honorable Correale F. Stevens, Justice of the Pennsylvania Supreme Court, Wilkes-Barre, Pennsylvania. Remarks supplied.

July 30, 2013: Speaker, Reception following the Induction Ceremony of the Honorable Correale F Stevens, Justice of the Pennsylvania Supreme Court, Wilkes-Barre, Pennsylvania. Remarks supplied.

December 13, 2012: Speaker, New Attorney Induction Ceremony, Luzerne County Bar Association, Wilkes-Barre, Pennsylvania. Remarks supplied.

October 18, 2012: Speaker, "Conflict Resolution Day," Luzerne County Bar Association, Wilkes-Barre, Pennsylvania. I gave welcome remarks regarding the program established by the Pennsylvania Bar Association and implemented through the Luzerne County Bar Association. I have no notes, transcript, or recording. The address for the Luzerne County Bar Association is Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, Pennsylvania 18711.

June 3, 2012: Presenter, Ignatian Award to Mr. Patrick J. Marx during Commencement Exercises at Scranton Preparatory School, Scranton, Pennsylvania. Remarks supplied.

January 17, 2012: Speaker, response speech upon election as President of the Luzerne County Bar Association, Wilkes-Barre, Pennsylvania. Remarks supplied.

December 14, 2011: Speaker, "Trustee Day," Scranton Preparatory School, Scranton, Pennsylvania. Remarks supplied.

March 31, 2011: Speaker, fundraiser in support of my candidacy for Judge of the Court of Common Pleas of Luzerne County, Wilkes-Barre, Pennsylvania. Remarks supplied.

February 10, 2011: Speaker, announcement of my candidacy for Judge of the Court of Common Pleas of Luzerne County, Pittston, Pennsylvania. Remarks supplied.

November 4, 2010: Speaker, introduction of United States Senator Robert P. Casey, Jr., Luzerne County Bar Association Bench/Bar Conference, Wilkes-Barre, Pennsylvania. Remarks supplied.

July 30, 2009: Speaker, Pittston Memorial Library recognition of John P. Cosgrove, Pittston, Pennsylvania. Remarks supplied.

May 22, 2008: Presenter, Junior Achievement Business Hall of Fame Award, Junior Achievement of Northeastern Pennsylvania 21st Annual Business Hall of Fame Awards Dinner, Wilkes-Barre, Pennsylvania. Remarks supplied.

April 6, 2006: Presenter, the Jean Yates Award for Distinguished Library Service to the Honorable Michael Lombardo, Mayor of the City of Pittston, Pittston, Pennsylvania. Notes supplied.

October 27, 2005: Presenter, the Sister Sienna Finley Ethics Award to Mike and Sandy Insalaco, Ethics Institute of Northeastern Pennsylvania, Wilkes-Barre, Pennsylvania. Remarks supplied.

October 9, 1995: Speaker, Columbus Day Statue Ceremony, Italian-American Association of Luzerne County, Pittston, Pennsylvania. I spoke about the legacy of Christopher Columbus and his discoveries. I have no notes, transcript, or recording, but press coverage is supplied. The Italian-American Association of Luzerne County does not maintain a physical address.

- 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 an electronic copy of the clips or transcripts of these interviews where they are available to you.

I have searched my files and electronic databases in an effort to locate all materials responsive to this question, but it is possible that I have not been able to identify some items.

Bob Kalinowski, *Parents file suit against Pittston Area, claim teacher bullied son*, THE CITIZENS' VOICE, March 27, 2013. Copy supplied.

Terrie Morgan-Besecker, *Bar settles copyright infringement lawsuit*, THE TIMES LEADER, March 15, 2013. Copy supplied.

Terrie Morgan-Besecker, *Unlawful music use hits chord in Kingston*, THE TIMES LEADER, December 20, 2012. Copy supplied.

Elizabeth Skrapits, *A. Peter Kanjorski, brother of former congressman and attorney, dies*, THE CITIZENS' VOICE, November 19, 2012. Copy supplied.

Terrie Morgan-Besecker, *Lawyers aid alleged victims*, THE TIMES LEADER, April 5, 2012. Copy supplied.

Elizabeth Skrapits, *Judge awards millions to Dallas, Pittston Area from health trust*, THE CITIZENS' VOICE, December 2, 2011. Copy supplied.

Tom Ragan, *Joseph F. Saporito Jr.: Pittston Attorney Followed His Bloodlines into Law*, CITIZENS' VOICE (Wilkes-Barre, Pa.), May 7, 2011. Copy supplied.

Michael R. Sisak and Andrew Staub, *Court of Common Pleas Candidates' Proposals for Change*, STANDARD-SPEAKER, April 24, 2011. Copy supplied.

Michael P. Buffer, *14 of 16 judicial candidates have contributed to prior candidates*, STANDARD-SPEAKER, April 12, 2011. Copy supplied.

The Sam Lasante Show, Service Electric Cablevision Channel 13 (Hazleton, Pa.), April 5, 2011. I am unable to locate a transcript or recording.

Clark Van Orden, *Saporito Sees His Varied Experience Key in Judge Race*, TIMES LEADER (Wilkes-Barre, Pa.), April 2, 2011, 2011 WLNR 6383389.

Terrie Morgan-Besecker, *Pittston Area janitor settle for \$250,000*, THE TIMES LEADER, November 2, 2010. Copy supplied.

Bob Kalinowski, *Pittston man pleads guilty in beating, strangulation death*, THE CITIZENS' VOICE, September 30, 2010. Copy supplied.

Terrie Morgan-Besecker, *Arbitration case sees another link*, THE TIMES LEADER, December 4, 2009. Copy supplied.

Ryann Grochowski, *Termination proceedings unchanged*, THE CITIZENS' VOICE, May 30, 2009. Copy supplied.

Terrie Morgan-Besecker, *PA aide to sue over jobs denied: Lawyer for Camille Poli says school officials told her jobs lost over politics. Officials deny that.*, THE TIMES LEADER, May 12, 2009. Copy supplied.

Michael R. Sisak, *Embattled Pittston superintendent still collecting pay*, THE CITIZENS' VOICE, May 4, 2009. Copy supplied.

The Associated Press, *Regional News*, STAR-GAZETTE (Elmira, NY), April 17, 2009. Copy supplied.

Michael R. Sisak and Erin Moody, *Feds: Superintendent took kickbacks*, THE CITIZENS VOICE, April 17, 2009. Copy supplied.

Update: Pittston Area superintendent faces corruption charges, THE TIMES-TRIBUNE, April 16, 2009. Copy supplied.

Feds: Pa. school superintendent took kickbacks, THE ASSOCIATED PRESS STATE & LOCAL WIRE, April 16, 2009. Copy supplied.

Michael R. Sisak, *Former police officer sentenced for sex assault*, THE CITIZENS VOICE, June 12, 2008. Copy supplied.

Michael R. Sisak, *Judge denies request to hear arguments on reducing Plymouth woman's sentence*, THE CITIZENS' VOICE, April 26, 2008. Copy supplied.

Michael R. Sisak, *Plymouth woman sentenced to up to 40 years for rape*, THE CITIZENS' VOICE, April 12, 2008. Copy supplied.

David Weiss, *Hard time sought for salon attack: Thomas Leyshon, 41, pleaded guilty in Plains Township hammer attack last August*, THE TIMES LEADER, March 28, 2008. Copy supplied.

David Weiss, *Husband says wife is innocent: Woman was convicted of raping 2 boys. Husband says he coached boys to lie*, THE TIMES LEADER, January 22, 2008. Copy supplied.

David Weiss, *Competence questioned in hammer case: Accused attacker will be evaluated, and proceedings could be delayed, tossed out*, THE TIMES LEADER, October 4, 2007. Copy supplied.

David Weiss, *Woman convicted of raping 2 boys: Prosecutor says she'll push for 20-40-year sentence for Christine Carver-Schlessler*, THE TIMES LEADER, September 19, 2007. Copy supplied.

David Weiss, *Deal reached in suit over cop schedules*, THE TIMES LEADER, August 1, 2007. Copy supplied.

Terrie Morgan-Besecker, *Suits Aim at Alleged TV Signal Theives; Dozens in Region Settle with DirecTV. Defense Lawyer Says Firm Coercing Payments*, THE TIMES LEADER, January 24, 2005. Copy supplied.

Kris Wernowsky, *Tough Cookie Oreo the Cat Survives Shot*, THE TIMES LEADER, January 9, 2005. Copy supplied.

Terrie Morgan-Besecker, *DirecTV Satellite Case Delayed in Scranton, Pa.*, THE TIMES LEADER, December 24, 2003. Copy supplied.

Michael McNarney, *TJ Maxx Employment; Hispanic Workers Take Heat Pittston Township Officials are Upset about What They Call a Surprisingly Low Pay Scale and the Mass Hiring of Out-of-Area People*, THE TIMES LEADER, August 8, 2003. Copy supplied.

Terrie Morgan-Besecker, *Seeking Death Proves a Strain for DA; David Lupas Could Earn the Title 'Deadliest DA' if he Succeeds in Trials in which he is Involved*, THE TIMES LEADER, May 8, 2003. Copy supplied.

Lauren Roth, *Sewer Authority Head Still on the Job after Theft Charges*, THE TIMES LEADER, April 10, 2003. Copy supplied.

Marques G. Harper and Jennifer Learn-Andes, *Developers 'Proceeding' with Plans to Build Juvenile Detention Facility Pennsylvania Child Care L.L.C.'s Proposal will be up for Discussion Next Week by the Luzerne County Planning Commission*, THE TIMES LEADER, September 7, 2001. Copy supplied.

Marques G. Harper and Jennifer Lean-Andes, *Group Moving Ahead to build Pittston, Pa.-Area Juvenile Detention Facility*, THE TIMES LEADER, August 7, 2001. Copy supplied.

Terrie Morgan-Besecker, *Times Leader Investigation Records Indicate Luzerne County Attorney was Paid Master's Fees Prematurely for Work on Divorce Cases A Case of Premature Paydays*, THE TIMES LEADER, April 9, 2000. Copy supplied.

Joe Healey, *Woodworker's Court Battle with Exeter Twp. Ends*, THE TIMES LEADER, November 15, 1998. Copy supplied.

John Decker, *Local Official, Former Official Resolve Alleged*, THE TIMES LEADER, October 7, 1998. Copy supplied.

Jerry Lynott, *Lawsuit Filed Against 3 Foes Settled, Says Former*, THE TIMES LEADER, December 31, 1997. Copy supplied.

Charles H. Bogino, *Another Judge is Upset with Maintenance Lawyers*, THE TIMES LEADER, May 13, 1993. Copy supplied.

Associated Press, *Judge Offers a Way Out of Jail Church Attendance Ordered as Term of Parole*, PHILADELPHIA INQUIRER, April 24, 1986. 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.

I was appointed to an eight-year term as a United States Magistrate Judge by the Board of Judges of the United States District Court for the Middle District of Pennsylvania on February 12, 2015. I was re-appointed on February 12, 2023. Jurisdiction of magistrate judges is set out in 28 U.S.C. § 636. In criminal matters, I preside over misdemeanors and petty offenses, including trial and sentencing. In felony criminal matters, I preside over initial appearances, arraignments, bail determinations, pleas, preliminary hearings, and search and arrest warrants. In civil matters where the parties consent, a magistrate judge may exercise essentially the same jurisdiction as an Article III district judge. In consent cases, I preside over all proceedings in a civil action, including case management, discovery disputes, dispositive pretrial motions, jury or bench trials, entry of final judgment, and post-trial proceedings. In those matters where one or more of the parties do not consent, I handle pretrial case management, I prepare a report and recommendation on dispositive motions, and I make direct rulings on certain discovery motions. Throughout my tenure as a United States Magistrate Judge, I have issued more than 950 memorandum opinions and reports and recommendations.

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

I have presided over 16 trials. I presided over an additional case that settled after five days of trial but before closing arguments.

Of these cases, approximately what percent were:

- | | | |
|-----|-----------------------|-------|
| i. | jury trials: | 87.5% |
| | bench trials: | 12.5% |
| ii. | civil proceedings: | 100% |
| | criminal proceedings: | 0% |

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

See attached list of citations.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Civo v. Pocono Mountain Sch. Dist.*, No. 3:18-cv-01210, 2022 WL 836821 (M.D. Pa. Mar. 21, 2022), *aff'd*, 2023 WL 4994527 (3d Cir. Aug. 4, 2023)

This federal civil rights action involved a home-school student-athletic who participated as a member of the school district's wrestling team whose members were told by the coaches that they would be playing a game called "flickerball" inside the wrestling room. The game involved football-like tackling the ball carrier without protective equipment. The student-athletic snapped his femur during the activity. The case was before me on consent of the parties. The complaint alleged that the coaches violated the student-athlete's substantive due process rights under the Fourteenth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983. The claim relied upon a state-created danger theory of liability. On the defendants' motion for summary judgment, I concluded that the plaintiffs satisfied the four elements of the state-created danger claim. However, I granted the motion on a qualified immunity defense concluding that the plaintiffs failed to meet their burden of establishing that, at the time of the incident, it was clearly established law that a student-athlete had a constitutional right to be free from playing dangerous sports without protective equipment. I declined to exercise jurisdiction over the remaining state law claims. On appeal to the Third Circuit, the sole issue was whether the coaches were entitled to qualified immunity from the student-athlete's state-created danger claim. The Third Circuit agreed with my decision and affirmed my judgment.

Counsel for Plaintiffs:

Curt M. Parkins
Matthew Thomas Comerford
Comerford Law
538 Biden Street, Suite 430
Scranton, PA 18503
(570) 880-0777

Counsel for Defendants:

John E. Freund, III
Brian J. Taylor
King Spry Herman Freund & Faul, LLC
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2. *McNamara v. Susquehanna Cnty.*, No. 3:17-cv-02182, 2018 WL 2183266 (M.D. Pa. May 11, 2018), *granting dismissal in part and denying it in part, summary judgment granted in part & denied in part*, 2019 WL 4451870 (M.D. Pa. Sept. 17, 2019)

This was an employment discrimination case raising Title VII and Pennsylvania Human Relations Act claims against Susquehanna County and two commissioners and one director on the basis of gender discrimination, retaliation, and hostile work environment before me on consent of the parties. I granted in part and denied in part a motion to dismiss filed by the defendants and dismissed all claims against the individual defendants. I dismissed the plaintiff's request for punitive damages, and I denied Susquehanna County's motion related to the Title VII and PHRA claims involving sexual harassment, retaliation, and hostile work environment. I subsequently denied a motion for summary judgment filed by Susquehanna County regarding the Title VII and PHRA claims involving sexual harassment, retaliation, and hostile work environment. The parties settled all remaining claims shortly before a jury trial was scheduled to begin.

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3. *Billups v. Penn State Milton S. Hershey Med. Ctr.*, No. 1:11-cv-01784, 2017 WL 9485535 (M.D. Pa. Mar. 20, 2017), *R. & R. adopted*, 2017 WL4325383 (M.D. Pa. Sept. 29, 2017), *aff'd*, 750 F. App'x 97 (3d Cir. 2018)

This federal civil rights action arose out of a child abuse investigation that caused the plaintiffs to temporarily lose custody of their children, and the father to be incarcerated and criminally prosecuted. The matter was referred to me for a report and recommendation. After the father was acquitted, the plaintiffs brought § 1983 due process claims against the county, two county caseworkers, and three medical providers who reported the suspected abuse. The parties filed cross-motions for summary judgment. I recommended that the defendants' motions be granted because the plaintiffs were afforded adequate process which involved

balancing the private interest affected by the official actions; the risk of an erroneous deprivation of such interest through the procedures used, and the probable cause of additional or substitute procedural safeguards; and the Government's interest. I recommended that the plaintiffs' motion be denied based upon the reasoning regarding the defendants' motion. Those recommendations were adopted by the presiding district judge, and the decision was subsequently affirmed on appeal to the United States Court of Appeals for the Third Circuit.

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4. *Thourot v. Monroe Career & Tech. Inst.*, No. 3:14-cv-01779, 2018 WL 1453210 (M.D. Pa. Mar. 23, 2018)

This was a pro se employment case raising sex discrimination and retaliation claims under Title VII of the Civil Rights Act of 1964 before me on consent of the parties. I granted summary judgment in favor of the employer-defendant. Here, with respect to the plaintiff's discrimination claim, the plaintiff failed to demonstrate any weaknesses or contradictions in the employer's proffered legitimate reasons for her termination (failure to submit to a medical examination). With respect to the plaintiff's hostile work environment claim, the plaintiff failed to report the alleged harassment to the administration and no reasonable jury could find that the employer did not exercise reasonable care to prevent and correct the alleged harassing behavior once reported. Finally, with respect to the plaintiff's retaliation claim the plaintiff failed to present any admissible evidence to demonstrate any weaknesses or contradictions in the employer's proffered legitimate reasons for its termination that a reasonable factfinder could rationally find them unworthy of credence.

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5. *Branch v. Odhner*, No. 3:15-cv-01971, ECF No. 108 (M.D. Pa. Sept. 12, 2017), *amended*, ECF No. 115 (M.D. Pa. Oct. 5, 2017), *adopted*, 2018 WL 1129596 (M.D. Pa. Mar. 1, 2018). Copies supplied.

This was a federal civil rights action asserting false arrest and racial discrimination claims under 42 U.S.C §§ 1981 and 1983 referred to me for a report and recommendation. I recommended that the defendants' motion for summary judgment be granted in part and denied in part. I found that a genuine dispute of material fact with respect to whether the individual defendant's transport of the plaintiff to his vehicle and whether the plaintiff's continued detention at this vehicle while the officer searched the contents of the plaintiff's bag and wrote down the plaintiff's personal and vehicle identification information were related to the defendant's initial mission. After determining that the individual defendant was not entitled to qualified immunity, I recommended that the motion for summary judgment as to the plaintiff's Fourth Amendment claim be denied. I further recommended that the defendant's motion under the Equal Protection clause of the Fourteenth Amendment be denied because I found

sufficient evidence in the record to create a dispute of material fact whether the individual defendant acted with discriminatory intent when he arrested the plaintiff, an African American, because the defendant previously did not arrest similarly situated white individuals who were soliciting without a license. I recommended granting summary judgment on the plaintiff's intentional infliction of emotional distress claim because the plaintiff withdrew that claim. Lastly, I recommended that the Township defendant's motion be granted because the plaintiff failed to point to any evidence of a policy or custom that led to the unconstitutional acts and failed to present any evidence that, in not enacting a policy against bias-based policing, the Township acted with deliberate indifference to a known or obvious risk. Those recommendations were adopted by the presiding district judge. The case was subsequently dismissed upon settlement.

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6. *Slate Bar & Lounge, Inc. v. Founders Ins. Co.*, No. 3:15-cv-02251, 2017 WL 4681311 (M.D. Pa. Oct. 18, 2017)

This was an insurance declaratory judgment action involving an insurer's duty to defend and indemnify under a commercial liquor liability policy before me on consent of the parties. The question presented in this case was whether the underlying tort complaint sufficiently alleged that a patron of the plaintiff sustained injuries which were a direct result of the plaintiff's "selling, serving, or furnishing alcoholic beverages." The parties filed cross-motions for judgment on the pleadings. I granted judgment in favor of the plaintiff with respect to the

insurer's duty to defend because I determined that the plaintiff's selling, serving, or furnishing of alcoholic beverages was a substantial contributing factor in bringing about the patron's injury and potentially could support recovery under the commercial liquor liability policy issued to the plaintiff. I denied the plaintiff's claim with respect to the insurer's duty to indemnify as premature and denied the insurer-defendant's motion. The case settled while on appeal to the United States Court of Appeals for the Third Circuit.

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7. *Singh v. Sabol*, No. 1:16-cv-02246, 2017 WL 1659029 (M.D. Pa. Apr. 6, 2017), *R. & R. adopted*, 2017 WL 1541847 (M.D. Pa. Apr. 28, 2017)

This was a petition for a writ of habeas corpus under 28 U.S.C. § 2241, brought by an Indian immigrant in ICE custody who sought a bond hearing after having been held in pre-removal custody for 17 months. The matter was referred to me for a report and recommendation. I recommended that the petition be granted, and a bond hearing be ordered. In doing so, I followed existing Third Circuit case law at that time, and I found that arriving aliens detained pre-removal pursuant to 8 U.S.C. § 1225(b) have a due process right to an individualized bond consideration once it is determined that duration of their detention became unreasonable. I further found that the 17-month duration of the plaintiff's detention had reached this presumptively unreasonable length. I recommended that the court defer to the immigration judge in the first instance for a prompt individualized bond determination applying Third Circuit law. That recommendation was adopted by the presiding district judge. The Supreme Court recently overruled Third Circuit case law which rejected the Third Circuit's conclusion that 8 U.S.C. § 1226(c) contains an implicit reasonableness limitation. *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

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8. *Hunter v. Kennedy*, No. 3:17-cv-00007 (M.D. Pa. filed Jan. 3, 2017)

This was a diversity case involving a medical negligence claim against two medical providers. The plaintiff fell off a ladder at work and sustained a calcaneal fracture of her foot. The defendant workers compensation physician and radiologist misdiagnosed her injury as merely an ankle sprain. By the time it was determined that she had suffered a heel fracture, it was too late for surgical intervention. I initially served as a settlement officer, but after the parties were unable to reach a settlement, the matter was referred to me on consent of the parties. Following an eight-day trial, the jury returned a verdict for the plaintiff in the amount of \$1,170,000. The defendants made an oral motion to amend the verdict pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. Prior to disposition of that post-trial motion, the parties reached a settlement.

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9. *Hartman v. Sabor Healthcare Grp.*, No. 3:14-cv-02167, 2016 WL 5341758
(M.D. Pa. Sept. 23, 2016)

This was a diversity action for wrongful death against the operators of a nursing home, brought by the co-administrators of the decedent's estate. The case was before me on consent of the parties. The defendants moved for summary judgment on the issue of causation. I denied the motion, finding the existence of genuine dispute over material facts such that submission of the case to a jury was required. I subsequently presided over a jury trial, which resulted in a defense verdict.

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10. *Haines v. Cherian*, No. 1:15-cv-00513, 2016 WL 831946 (M.D. Pa. Feb. 29, 2016)

This was a diversity case involving medical negligence claims. The presiding district judge referred a motion to compel discovery on issues involving the Pennsylvania Peer Review Protection Act and the Pennsylvania Medical Care Availability and Reduction of Error Act for my consideration. The plaintiffs alleged that the defendants misread a CT scan that misdiagnosed the mother-plaintiff pregnant with twins, with a pulmonary embolus when she only had a case of the flu. The plaintiffs further alleged that the mother-plaintiff was improperly treated with lovenox, a blood thinner, which caused massive internal hemorrhaging and severe brain damage to the gestating twin fetuses. I conducted an *in-camera* review of the records at issue categorized as incident reports; investigative notes, memoranda, and correspondence; and adverse-event letters. In my memorandum opinion, I discussed the application of the MCARE Act and the PARA wherein the defendants maintained that the subject documents were immune or protected from discovery under both acts. I determined that one of the documents was irrelevant and precluded from disclosure. I sustained the defendants' objections on two requests for production of documents finding that the requests, as drafted, were overly broad. I overruled an objection to a request for production of documents because those documents related to a defendant doctor's involvement in the CT scan at issue in the lawsuit. Ultimately, the case was settled.

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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. *McNamara v. Susquehanna Cnty.*, No. 3:17-cv-02182, 2019 WL 4451870 (M.D. Pa. Sept. 17, 2019) (granting summary judgment in part and denying it in part).

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2. *McNamara v. Susquehanna Cnty.*, No. 3:17-cv-02182, 2018 WL 2183266 (M.D. Pa. May 11, 2018) (granting dismissal in part and denying it in part).

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3. *Thourot v. Monroe Career & Tech. Inst.*, No. 3:14-cv-01779, 2018 WL 1453210 (M.D. Pa. Mar. 23, 2018).

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4. *Slate Bar & Lounge, Inc. v. Founders Ins. Co.*, No. 3:15-cv-02251, 2017 WL 4681311 (M.D. Pa. Oct. 18, 2017).

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5. *Branch v. Odhner*, No. 3:15-cv-01971, R. & R. (M.D. Pa. Sept. 12, 2017), amended by Am. R. & R. (M.D. Pa. Oct. 5, 2017), adopted by 2018 WL 1129596 (M.D. Pa. Mar. 1, 2018). Copies previously supplied in response to Question 13c.

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6. *Singh v. Sabol*, No. 1:16-cv-02246, 2017 WL 1659029 (M.D. Pa. Apr. 6, 2017).

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7. *Cuvo v. Pocono Mountain Sch. Dist.*, No. 3:18-cv-01210, 2022 WL 836821 (M.D. Pa. Mar. 21, 2022), *aff'd*, 2023 WL 4994527 (3d Cir. Aug. 4, 2023).

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8. *Billups v. Penn State Milton S. Hershey Med. Ctr.*, No. 1:11-cv-01784, 2017 WL 9485535 (M.D. Pa. Mar. 20, 2017).

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9. *Hartman v. Sabor Healthcare Grp.*, No. 3:14-cv-02167, 2016 WL 5341758
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10. *Haines v. Cherian*, No. 1:15-cv-00513, 2016 WL 831946 (M.D. Pa. Feb. 29, 2016).

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

Carter v. Hayes, No. 1:23-cv-00312, ECF No.11 (M.D. Pa. Apr. 4, 2023), *adopted*, ECF No. 22 (M.D. Pa. May 16, 2023), *aff'd*, No. 23-2200, 2023 WL 7297333 (3d Cir. Nov. 6, 2023), *petition for cert. filed*, No. 23-7034 (U.S. Mar. 20, 2024).

Nelson v. Acre Mortg. & Fin., Inc., No. 23-1860, 2023 WL 6804577 (3d Cir. Oct. 16, 2023) (affirming jury trial verdict), *cert. denied*, No. 23-710, 2024 WL 674845 (U.S. Feb. 20, 2024).

Xavier v. Harlow, No. 3:12-CV-01603, 2021 WL 3520649 (M.D. Pa. May 14, 2021), *R. & R. adopted*, 2021 WL 3514191 (M.D. Pa. Aug. 10, 2021), *aff'd*, No. 21-2688, 2022 WL 17369593 (3d Cir. 2022), *cert. denied*, 144 S. Ct. 150 (2023).

Burrell v. Loungo, No. 3:14-cv-01891, 2021 WL 3485412 (M.D. Pa. Mar. 1, 2021), *R. & R. adopted in part, rejected in part sub nom. Burrell v. Lackawanna Recycling Ctr., Inc.*, 2021 WL 3476140 (M.D. Pa. Aug. 6, 2021), *aff'd in part, rev'd in part sub nom. Burrell v. Staff*, 60 F.4th 25 (3d Cir. 2022), *cert. denied sub nom. Lackawanna Recycling Ctr., Inc. v. Burrell*, 143 S. Ct. 2662 (2023).

Bressi v. Brennen, No. 4:17-cv-01742, 2019 WL 5092529 (M.D. Pa. Aug. 5, 2019), *R. & R. adopted*, 2019 WL 4386897 (M.D. Pa. Sept. 13, 2019), *aff'd*, 823 F. App'x 116 (3d Cir. 2020), *cert. denied*, 141 S. Ct. 1705 (2021).

Wade v. Monroe Cnty. Dist. Att'y, No. 3:15-cv-00584, 2019 WL 2084533 (M.D. Pa. May 13, 2019), *rev'd*, 800 F. App'x 114 (3d Cir. 2020), *cert. denied*, 141 S. Ct. 344 (2020).

Burrell v. Loungo, No. 3:14-cv-01891, 2016 WL 7177549 (M.D. Pa. July 18, 2016), *R & R. adopted*, 2016 WL 7175615 (M.D. Pa. Dec. 8, 2016), *on remand to* 2017 WL 727266 (M.D. Pa. Jan. 19, 2017), *R. & R. adopted*, 2017 WL 722596 (M.D. Pa. Feb. 23, 2017), *aff'd in part, rev'd in part per curiam*, 750 F. App'x 149 (3d Cir. 2018), *cert. denied*, 139 S. Ct. 2640 (2019).

Beenick v. Lefebvre, No. 4:14-cv-01562, 2016 WL 5402249 (M.D. Pa. July 29, 2016), *R. & R. adopted*, 2016 WL 5376120 (M.D. Pa. Sept. 26, 2016), *aff'd*, 684 F. App'x 200 (3d Cir. 2017), *cert. denied*, 138 S. Ct. 427 (2017).

Bennett v. Pennsylvania, No. 1:14-cv-01837, 2016 WL 3467752 (M.D. Pa. June 1, 2016), *R. & R. adopted*, 2016 WL 3458357 (M.D. Pa. June 24, 2016), *certificate of appealability denied*, No. 16-3119, 2017 WL 3122309 (3d Cir. Feb. 6, 2017), *cert. denied*, 138 S. Ct. 320 (2017).

- 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.

Pace-o-Matic, Inc. v. Eckert Seamans Cherin & Mellott, LLC, No. 1:20-cv-00292, 2023 WL 8358117 (M.D. Pa. Dec. 1, 2023), *aff'd in part, rev'd in part*, 2024 WL 1861526 (M.D. Pa. Apr. 29, 2024); and *Pace-o-Matic, Inc. v. Eckert Seamans Cherin & Mellott, LLC*, No. 1:20-cv-00292, 2021 WL 602733 (M.D. Pa. Feb. 16, 2021), *rev'd*, 2021 WL 1264323 (M.D. Pa. Apr. 6, 2021), *on remand*, 2021 WL 5330641 (M.D. Pa. Nov. 16, 2021), *aff'd*, 2022 WL 2441556 (M.D. Pa. July 5, 2022), *rev'd*, No. 22-2445, 2023 WL 7491133 (3d Cir. Nov. 13, 2023). This ongoing diversity action involves a state-law breach of fiduciary duty claim brought by a manufacturer of electronic “skill games” against a law firm that had previously represented it. The plaintiff claims that the law firm breached its professional duties of loyalty and confidentiality by undertaking the concurrent adverse representation of another client—a casino operator—in litigation against the skill games manufacturer. The presiding district judge referred two separate discovery disputes to me for resolution, both involving attorney-client privilege issues.

The more recent dispute involved a set of 120 email messages withheld from production on attorney-client privilege or work-product protection grounds. Based on an in-camera review of the challenged documents, I found that most were not privileged because they involved communications concerning lobbying services, legislative strategy, and policy advice that did not contain or implicate confidential client communications or legal advice communicated to the client. I sustained the assertion of attorney-client privilege or work-product protection in whole or in part with respect to four documents, ordering that three of these four documents be produced with redactions. I ordered that the remaining 116 documents be produced in their entirety. On appeal, the presiding district judge found that a few select pages of a particular legislative strategy memorandum, copies of which were attached to three different email messages, contained protected legal advice. She reversed my ruling with respect to those few pages of three documents, but affirmed my discovery rulings with respect to the remainder of the documents reviewed in camera.

Previously, I considered a discovery dispute involving hundreds of email messages withheld from production on attorney-client privilege or work-product protection grounds. Based on an in-camera review of the challenged documents, I sustained objections to production of 55 documents on attorney-client privilege or work-product protection grounds. I overruled objections to production of 131 documents involving non-privileged communications with government regulators, non-substantive transmittal messages forwarding otherwise non-privileged messages or documents, non-privileged business communications, non-privileged lobbying and public affairs communications, and previously protected communications that had been publicly disclosed by the casino-client in other litigation. I also overruled objections to production of 182 documents involving the law firm's representation of the casino-client in litigation directly adverse to the plaintiff, finding sua sponte that the law firm and its casino-client were judicially estopped from asserting attorney-client privilege based on the law firm's assertion that it was not involved in any other litigation where the plaintiff was an adverse party, which I found to be irreconcilably inconsistent with its assertion of attorney-client privilege for communications concerning its representation of the casino-client in that litigation against the plaintiff, and which I found to have been adopted in bad faith. I further found that no lesser sanction would suffice. The law firm and casino-client appealed my ruling only with respect to the judicial estoppel portion. On appeal, the presiding district judge reversed on procedural grounds. On remand, based on additional briefing by the parties and reinspection of the documents in camera, I reached the same conclusion for essentially the same reasons. On appeal, the presiding district judge affirmed my judicial estoppel ruling in its entirety. The Third Circuit subsequently reversed that decision, finding that, while perhaps "hyper-technical," the law firm's position was not wholly incompatible with assertion of attorney-client privilege, that the inconsistent positions did not present a systemic threat to judicial integrity, and that unspecified lesser sanctions might be available. This discovery dispute currently remains pending on remand before the presiding district judge.

Burrell v. Loungo, No. 3:14-cv-01891, 2021 WL 3485412 (M.D. Pa. Mar. 1, 2021), *R. & R. adopted in part, rejected in part sub nom. Burrell v. Lackawanna Recycling Ctr., Inc.*, 2021 WL 3476140 (M.D. Pa. Aug. 6, 2021), *aff'd in part, rev'd in part sub nom. Burrell v. Staff*, 60 F.4th 25 (3d Cir. 2022), *cert. denied sub nom. Lackawanna Recycling Ctr., Inc. v. Burrell*, 143 S. Ct. 2662 (2023); and *Burrell v. Loungo*, No. 3:14-cv-01891, 2016 WL 7177549 (M.D. Pa. July 18, 2016), *R. & R. adopted*, 2016 WL 7175615 (M.D. Pa. Dec. 8, 2016), *on remand to* 2017 WL 727266 (M.D. Pa. Jan. 19, 2017), *R. & R. adopted*, 2017 WL 722596 (M.D. Pa. Feb. 23, 2017), *aff'd in part, rev'd in part per curiam*, 750 F. App'x 149 (3d Cir. 2018), *cert. denied*, 139 S. Ct. 2640 (2019). The lead plaintiff in this action was incarcerated in a county prison for several months as a civil contemnor for failure to pay child support. The state family court found the plaintiff in contempt of court for refusing to pay court-ordered child support despite having

the financial means to do so, and it sentenced him to serve a period of up to 12 months in a county jail, subject to a provision permitting him to purge the contempt upon payment of his child support arrears, and authorizing him to participate in a county work-release program. Upon incarceration, the plaintiff was advised that participation in the work-release program required him to work for a period of months in a privately operated county recycling facility for \$5 a day. The plaintiff was transferred to work-release status only after working at the recycling center in deplorable conditions for three months. Once on work release, the plaintiff was able to pay his arrears and purge the contempt in short order. The plaintiff asserted a variety of constitutional, statutory, and common law claims against several federal, state, municipal, and private-sector defendants.

Initially, I recommended that the pro se amended complaint be dismissed for lack of subject matter jurisdiction with respect to claims against federal law enforcement officials, and that it be dismissed without prejudice for failure to state a plausible claim with respect to the remainder. The presiding district judge adopted that recommendation and remanded the case to me for further consideration of the plaintiff's anticipated second amended complaint. Instead of filing a second amended complaint, the plaintiff filed a notice of his intent to stand on his complaint. I then recommended that the amended complaint be dismissed with prejudice to permit him to appeal, and the presiding district judge adopted that recommendation. On appeal, the Third Circuit affirmed the dismissal of claims against federal officials and against various state officials entitled to judicial or quasi-judicial immunity, and it affirmed the dismissal of the plaintiff's First Amendment retaliation claim, Fourteenth Amendment access-to-courts claim, Fourteenth Amendment equal protection claim, and § 1985(3) civil rights conspiracy claim, but it reversed dismissal of the plaintiff's Fourteenth Amendment conditions-of-confinement due process claim, Thirteenth Amendment involuntary servitude claim, Trafficking Victims Protection Act (TVPA) forced labor claim, civil RICO claim, and state-law tort claims, finding the dismissal of the latter claims on screening review to be premature.

On remand from the Third Circuit, the plaintiff, now represented by counsel, filed a second amended complaint, which added several co-plaintiffs and several new claims, but somewhat narrowed the field of defendants. The defendants sorted themselves into four groups and moved to dismiss the second amended complaint. I recommended that one official-capacity-only defendant be dismissed as redundant because his employing municipality had also been named as a defendant. I recommended that, in light of the Third Circuit's prior ruling, the motions be denied with respect to the plaintiffs' Thirteenth Amendment and TVPA claims, their state-law unjust enrichment claim, and a civil RICO claim against the private corporate operator of the recycling center. I recommended that new federal and state minimum wage claims, a state wage payment and collection law claim, and civil RICO claims against the two individual co-owners of the corporate operator of the recycling center be dismissed for failure to state a claim. The presiding district judge adopted my recommendations to the extent I

recommended dismissal, but disagreed with respect to those claims I recommended be permitted to proceed to discovery. He entered an order dismissing the entire case for failure to state a claim. On appeal, the Third Circuit affirmed the dismissal of the plaintiffs' Thirteenth Amendment involuntary servitude claim and their state wage payment and collection law claim, and it affirmed dismissal of the plaintiffs' TVPA and civil RICO claims against the two individual co-owners of the corporate recycling center operator. But it reversed the district judge's dismissal of the plaintiff's TVPA forced labor claim against the municipal and corporate defendants, the civil RICO claim against the corporate recycling center operator, the federal and state minimum wage claims, and the state-law unjust enrichment claim. This case currently remains pending before the presiding district judge.

Mancuso v. MDG USA, Inc., No. 3:22-cv-01405, order supplied (M.D. Pa. May 5, 2023), *rev'd*, No. 23-1963, 2024 WL 1230149 (3d Cir. Mar. 22, 2024). The plaintiff asserted claims against the defendant under the Fair Credit Reporting Act, 15 U.S.C. § 1681, the Pennsylvania Fair Credit Extension Uniformity Act, 73 P.S. § 32270.1, and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1. This case was before me on consent of the parties and the defendant's motion to compel arbitration. I denied the motion without prejudice because I found that on the face of the complaint, it was not apparent that the plaintiff's claims were subject to arbitration. The complaint did not rely on, mention, or incorporate the revolving credit agreement proffered by the defendant in support of its motion to compel arbitration, I also ordered that the parties engage in a period of limited discovery on the issue of arbitrability. In a non-precedential opinion, the Third Circuit reversed holding that the documents on which the plaintiff's claims were based contained an arbitration provision which it declared to be enforceable.

Nelson v. Acre Mortg. & Fin., Inc., No. 3:17-cv-01050, 2020 WL 5751218 (M.D. Pa. Sept. 25, 2020), *rev'd*, No. 20-3126, 2022 WL 109006 (3d Cir. Jan. 12, 2022). In this civil action, the plaintiff made claims under the Truth in Lending Act and the Real Estate Settlement Procedures Act alleging that Acre failed to make all required disclosures under these federal statutes. I granted summary judgment to Acre based on a finding that no reasonable jury could return a verdict for the plaintiff on the evidentiary record as presented. The Third Circuit, in a non-precedential per curiam opinion, vacated my ruling and remanded the case for a jury trial because it concluded that a reasonable jury could accept the plaintiff's testimony that she disclosed her education benefits and disbelieve the Acre employee's contrary testimony, and likewise that the plaintiff did not receive a servicing disclosure statement at closing. On remand, a jury trial was held, and the jury returned a verdict in favor of Acre. The verdict was subsequently affirmed on appeal to the Third Circuit, and the Supreme Court denied the plaintiff's petition for a writ of certiorari.

Fox v. Saul, No. 3:18-cv-01486, 2019 WL 13098883 (M.D. Pa. Aug. 23, 2019), *R. & R. adopted in part, rejected in part sub nom. Fox v. Kijakazi*, 2021 WL 5441509 (M.D. Pa. Nov. 19, 2021). In this appeal from denial of social security benefits, I recommended that the decision of the ALJ be affirmed because it was supported by substantial evidence. Further, all five assignments of error were thoroughly analyzed. The presiding district judge adopted the report in part, but he rejected it in part based on a narrow finding that the ALJ failed to adequately explain why she rejected certain findings by a consultative examining physician. The case was remanded for further administrative proceedings.

Wade v. Monroe Cnty. Dist. Att’y, No. 3:15-cv-00584, 2019 WL 2084533 (M.D. Pa. May 13, 2019), *rev’d*, 800 F. App’x 114 (3d Cir. 2020), *cert. denied*, 141 S. Ct. 344 (2020). The plaintiff filed a § 1983 civil rights action seeking access to certain evidence for DNA testing that previously had not been technologically feasible. He alleged that he had been denied access to and DNA testing of physical evidence in the district attorney’s possession in connection with a 1996 murder, and that his denial violated his right to procedural due process and an opportunity to prove his innocence. He had been convicted in state court in April 2000 of first-degree murder. Following a September 2018 civil bench trial, on a set of stipulated facts, I ruled in the plaintiff’s favor, concluding that the state courts’ interpretation of Pennsylvania’s DNA testing statute deprived the plaintiff of his federal constitutional right to procedural due process. In particular, I found that the state court’s construction of an otherwise facially constitutional DNA testing statute was fundamentally unfair because it effectively foreclosed any possibility of relief. I directed that the evidence be made available for inspection and touch DNA testing. The Third Circuit, in a non-precedential opinion, vacated my ruling on the basis that the federal court lacked jurisdiction under the *Rooker-Feldman* doctrine. I had considered and addressed the *Rooker-Feldman* doctrine early in the case and I found it inapplicable. Instead, I relied upon *Skinner v. Switzer*, 562 U.S. 521 (2011), in which the Supreme Court held on similar facts that an independent procedural due process claim challenging a state post-conviction DNA testing statute “as construed” by the state courts was not barred by the *Rooker-Feldman* doctrine. Notably, when subsequently presented with another DNA testing challenge by an inmate in *Reed v. Goertz*, 598 U.S. 230 (2023), the Supreme Court once again expressly rejected the argument that *Rooker-Feldman* precludes the lower court’s exercise of jurisdiction over a procedural due process claim challenging a DNA testing statute as construed by the courts.

Johnson v. Wireman, No. 1:15-cv-02254, 2019 WL 1383575 (M.D. Pa. Mar. 27, 2019), *aff’d in part, rev’d in part*, 809 F. App’x 97 (3d Cir. 2020), *remanded*, 2023 WL 2870709 (M.D. Pa. Apr. 10, 2023). The plaintiff, an inmate in a Pennsylvania state correctional institution, asserted claims under 42 U.S.C. § 1983 for violation of his right to free exercise of religion. The defendants interposed an affirmative defense of failure to exhaust available administrative remedies. Prior to bringing suit, the plaintiff had filed three separate inmate

grievances with prison officials. Following a bench trial on the exhaustion issue, I found that the defendants were entitled to judgment as a matter of law because the plaintiff had failed to exhaust available administrative remedies. On appeal, the Third Circuit affirmed my decision with respect to two of the three grievances, but it reversed and remanded with respect to the third grievance. On remand, based on the previously compiled trial record, now reviewed in light of the Third Circuit's opinion and additional briefing by the parties, I found that the plaintiff failed to exhaust his available remedies with respect to certain claims, but other claims would proceed to trial. Following this ruling, the parties reached a settlement.

M.S. v. Susquehanna Twp. Sch. Dist., No. 1:13-cv-02718, 2019 WL 2158906 (M.D. Pa. Mar. 4, 2019), *R. & R. adopted in part, rejected in part*, 2019 WL 2158903 (M.D. Pa. Apr. 30, 2019). In this civil rights case, a minor student alleged that a school administrator had engaged in a sexual relationship with her. A default was entered against the defendant-administrator. The matter was referred to me to conduct a hearing on a motion for default judgment and the issue of damages. Following an evidentiary hearing, I recommended that the motion be granted and the plaintiff be awarded \$125,000 in compensatory damages and \$125,000 in punitive damages. The presiding district judge adopted my recommendation as to the entry of a default judgment against the defendant-in-default, but she disagreed on the amount of damages, instead awarding the plaintiff \$350,000 in compensatory damages and \$350,000 in punitive damages.

Dooley v. Wetzel, No. 3:18-cv-01310, 2019 WL 1051205 (M.D. Pa. Jan. 3, 2019), *R. & R. adopted*, 2019 WL 1040546 (M.D. Pa. Mar. 5, 2019), *rev'd*, 957 F.3d 366 (3d Cir. 2020), *remanded*, 2022 WL 21757166 (M.D. Pa. Dec. 29, 2022), *R. & R. adopted*, 2024 WL 150075 (M.D. Pa. Jan. 12, 2024), *appeal filed*, No. 24-1230 (3d Cir. Feb. 13, 2024). In this prisoner civil rights action, a state inmate claimed that prison officials had been deliberately indifferent to his serious medical needs because they had failed to classify him as a "D code" inmate, thereby denying him access to unspecified mental health treatment programs, in violation of his Eighth Amendment rights. The plaintiff contended that a jury's 2002 finding that he was "guilty but mentally ill" should operate as a *per se* finding that he suffers from a serious mental illness and is entitled to receive unspecified mental health treatment while incarcerated. His original complaint named only the state secretary of corrections and two prison officials who had investigated and reviewed an inmate grievance he had filed regarding this claim. I recommended that the action be dismissed as legally frivolous and for failure to state a claim, and the presiding district judge adopted that recommendation. On appeal, the Third Circuit agreed that the plaintiff had failed to state a claim against the named defendants, but it found that the plaintiff's claims were not frivolous with respect to other potential defendants, and it reversed and remanded the case to permit the plaintiff to file an amended complaint. The plaintiff twice amended his complaint on remand. Ultimately, I recommended that his second amended complaint, which named additional defendants but failed to allege any facts regarding his

mental health condition or any treatment that had been denied, be dismissed for failure to state a claim, and the presiding district judge adopted that recommendation. The plaintiff has recently filed an appeal to the Third Circuit, which remains pending.

Bizarre v. Berryhill, No. 1:18-cv-00048, ECF No. 24 (M.D. Pa. Dec. 17, 2018), *R. & R. rejected*, 364 F. Supp. 3d 418 (M.D. Pa. 2018), *aff'd sub nom. Cirko v. Comm'r Soc. Sec.*, 948 F.3d 148 (2020). Report and recommendation supplied. In this appeal from denial of social security benefits, I recommended that the decision of the ALJ be affirmed because it was supported by substantial evidence and because the plaintiff waived any objection based on the Appointments Clause of the United States Constitution by failing to raise the issue before the agency. Without reaching the merits of the ALJ's opinion, the district court declined to adopt the report and recommendation and remanded the matter for further administrative proceedings, focusing its analysis on the unsettled area of law concerning the plaintiff's claim of error under the Appointments Clause. I had found that the plaintiff waived this objection because he did not raise it before the ALJ—an interpretation consistent with a majority of district courts that had previously decided Appointments Clause challenges. The district court acknowledged that its decision “breaks from the emerging consensus of federal district courts to address this issue.” The district court's decision was later affirmed by the Third Circuit in a matter of first impression, which fully settled the issue in this circuit.

Faust v. Berryhill, No. 3:17-cv-01236, ECF No. 13 (M.D. Pa. Sept. 2018), *R. & R. rejected*, 2019 WL 522692 (M.D. Pa. Feb. 11, 2019). Report and recommendation supplied. In this appeal from the denial of supplemental security benefits, I recommended that the ALJ's decision to deny supplemental security income benefits be affirmed because it was supported by substantial evidence. Further, both assignments of error were thoroughly analyzed. The district court did not adopt the report because it found that the ALJ's determination that the plaintiff did not meet Listings 12.04 or 12.06 was not supported by substantial evidence. The matter was remanded to the Commissioner for further proceedings.

Freeman v. Berryhill, No. 1:17-cv-01071, ECF No. 10 (M.D. Pa. June 12, 2018), *R. & R. adopted in part, rejected in part*, 2019 WL 2540650 (M.D. Pa. June 20, 2019). Report and recommendation supplied. In this appeal from denial of social security benefits, I recommended that the ALJ's decision to deny the plaintiff social security benefits be affirmed because it was supported by substantial evidence. Further, all 11 assignments of error were thoroughly analyzed. The presiding district judge adopted the recommendation that the ALJ did not abuse his discretion when he denied the plaintiff's request for a continuance and declined to adopt my recommendation in all other respects, reaching a different conclusion with respect to the ALJ's evaluation of two medical opinions and remanding the case for further administrative proceedings.

Deutsche Bank Nat'l Tr. Co. v. Bendex Props. LLC, No. 3:16-cv-00432, 2018 WL 1532796 (M.D. Pa. Mar. 29, 2018), *rev'd*, 778 F. App'x 159 (3d Cir. 2019). The plaintiff filed an action against the purchaser of a judicial tax sale seeking a declaratory judgment voiding the tax sale. I granted summary judgment in favor of the tax sale purchaser. The Third Circuit reversed, holding that the judicial tax sale purchaser took the property subject to a mortgage.

Nofsker v. Berryhill, No. 3:16-cv-02151, ECF No. 22 (M.D. Pa. Mar. 21, 2018), *R. & R. rejected*, 2018 WL 4186404 (M.D. Pa. Aug. 31, 2018). Report and recommendation supplied. In this appeal of a denial of social security benefits, I recommended that the ALJ's decision to deny social security benefits be affirmed because it was supported by substantial evidence. Further, both assignments of error were thoroughly analyzed. The district court declined to adopt the report, finding instead that the ALJ had not sufficiently considered the plaintiff's obesity or mental impairments. The same claimant later came before me in an appeal from a subsequent denial of social security benefits on remand. In that subsequent case, in which the parties had consented, I vacated the ALJ's decision denying the plaintiff's claim and remanded it for further proceedings in *Nofsker v. Saul*, No. 20-cv-00193, 2021 WL 103661 (M.D. Pa. Jan. 12, 2021).

Richardson v. Prison Transp. Servs. of Am., No. 3:15-cv-01061, 2018 WL 3028961 (M.D. Pa. Feb. 28, 2018), *R. & R. adopted in part, rejected in part*, No. 3:15cv-01061, 2018 WL 2981344 (M.D. Pa. June 14, 2018). This was a prisoner civil rights case where the plaintiff alleged civil rights violations while being transported pursuant to a bench warrant from Florida to Pennsylvania. The defendant, Pike County, moved for summary judgment on the ground that its sheriff was a policy maker for the state rather than the county, relying on a United States Supreme Court case involving a sheriff in Alabama, where state law provided that sheriffs represented the state, and thus were not municipal policy makers. Finding that, under Pennsylvania state law, sheriffs are county rather than state policy makers, and finding a genuine dispute of material fact with respect to whether the county had actual or constructive notice of a custom of abusive treatment by a private company contracted to provide prisoner transport services, I recommended that the motion be denied. The presiding district judge agreed with my finding that the sheriff was a county policy maker, but he disagreed with respect to my finding on actual or constructive notice. He granted summary judgment in favor of the County. The case subsequently went to trial against the prisoner transport company, and a jury returned a plaintiff's verdict.

Thomas v. Tice, No. 4:16-cv-01487, 2018 WL 1278586 (M.D. Pa. Jan. 11, 2018), *R. & R. rejected*, 2018 WL 1251831 (M.D. Pa. Mar. 12, 2018), *aff'd in part, rev'd in part*, 948 F.3d 133 (3d Cir. 2020). In this civil rights action, the plaintiff claimed that his Eighth Amendment rights were violated when he was in administrative custody and placed in a dry cell for nearly ten days. I recommended that the defendants' motion for summary judgment be denied because there existed a genuine dispute of material fact on both the merits of the

plaintiff's claims and on the defendants' qualified immunity defense. The presiding district judge declined to adopt the report and granted summary judgment on qualified immunity grounds. The Third Circuit affirmed in part and reversed in part, effectively agreeing with my recommendation. On remand, the case was settled.

Kates v. Packer, No. 3:13-cv-01525, 2017 WL 7384828 (M.D. Pa. Aug. 24, 2017), *R. & R. adopted in part, rejected in part*, 2018 WL 724444 (Feb. 6, 2018). In this prisoner civil rights action, the pro se plaintiff asserted Eighth Amendment excessive force and failure to protect claims against seven correctional officer defendants. The defendants moved for summary judgment. I recommended that summary judgment be granted in favor of one of the defendants with respect to all claims, and in favor of another defendant with respect to some of the claims against him, but I recommended that the case be permitted to proceed to trial with respect to the remaining claims against the remaining six defendants. The presiding district judge disagreed with my findings with respect to granting summary judgment on all claims against one defendant, but he adopted my recommendations with respect to the remaining claims and defendants. The case subsequently went to trial against all seven defendants, and the jury returned a defense verdict.

Stephenson v. Berryhill, No. 3:16-cv-01097, ECF No. 21 (M.D. Pa. June 23, 2017), *R. & R. rejected*, No. 3:16-cv-01097, ECF No. 26 (M.D. Pa. Sept. 27, 2017). Decisions supplied. In this appeal of a denial of social security benefits, I recommended that the ALJ's decision to deny the plaintiff social security benefits be affirmed because it was supported by substantial evidence. Further, both assignments of error were thoroughly analyzed. The district court did not adopt the report because it disagreed with my conclusion that the plaintiff did not adequately offer his lack of insurance as a factor to be considered by the ALJ and therefore remanded the matter for a new hearing to develop the record further.

Uddin v. Lowe, No. 3:16-cv-02561, ECF No. 10 (M.D. Pa. May 9, 2017), *R. & R. rejected*, 2017 WL 2960791 (M.D. Pa. July 11, 2019). Report and recommendation supplied. I recommended that the petition for habeas corpus be granted and that the matter be referred to an immigration judge to conduct an individualized bond determination because the petitioner's detention for 26 months was unreasonable under then-applicable circuit precedent. The district court declined to adopt the report because it determined that the petitioner had failed to exhaust administrative remedies prior to filing his petition.

Mace v. Colvin, No. 3:15-cv-01229, 2016 WL 6645818 (M.D. Pa. Sept. 9, 2016), *R. & R. rejected*, 2016 WL 6600004 (M.D. Pa. Nov. 8, 2016). In this appeal from denial of social security benefits, I recommended that the ALJ's decision to deny the plaintiff social security benefits be affirmed because it was supported by substantial evidence. Further, all four assignments of error were thoroughly analyzed. The district court did not adopt the report on a narrow finding that the

plaintiff's gastrointestinal problems and hypokalemia had more than a minimal effect on her ability to do basic work activities and therefore remanded the matter for a new hearing.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a United States Magistrate Judge, all of my decisions are docketed and stored on the federal courts' Case Management/Electronic Case Files (CM/ECF) system. Most of my judicial opinions are available on commercial legal research databases, such as Westlaw and Lexis, as well. A handful are also included in published case law reporters. I do not select which opinions are included in the databases or published in the reporters.

- 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.

Cuvo v. Pocono Mountain Sch. Dist., No. 3:18-cv-01210, 2022 WL 836821 (M.D. Pa. Mar. 21, 2022), *aff'd*, 2023 WL 4994527 (3d Cir. Aug. 4, 2023).

Oren v. Pa. Dep't of Corrs., No. 3:20-cv-02451, 2022 WL 710188 (M.D. Pa. Mar. 9, 2022), *aff'd*, 2023 WL 314302 (3d Cir. Jan. 19, 2023).

Romero v. Tobyhanna Twp., No. 3:19-cv-01038, 2021 WL 4149189 (M.D. Pa. Sep. 13, 2021), *aff'd*, 2023 WL 2728829 (3d Cir. Mar. 31, 2023).

Bird v. Borough of Moosic, No. 3:20-cv-00337, 2021 WL 665897 (M.D. Pa. Feb. 19, 2021), *aff'd*, 2021 WL 4472865 (3d Cir. Sep. 30, 2021).

Davison v. Kennedy, No. 3:15-cv-01373, 2019 WL 1424558 (M.D. Pa. Mar. 29, 2019), *aff'd*, 820 F. App'x 167 (3d Cir. 2020).

- 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.

In determining the propriety of recusal, I rely upon the statutory language contained in 28 U.S.C. § 455 which, in part, requires disqualification of a magistrate judge in cases where his impartiality may be reasonably questioned, where he has a personal bias or prejudice concerning a party, or where he has a financial interest in a party. The United States District Court for the Middle District of Pennsylvania maintains a judge conflict list which contains the names of individuals and entities with whom I maintain a close personal relationship or a financial relationship. These parties are automatically excluded from any court assignments.

The following is a list of the cases in which a party has filed a motion for recusal or in which I have recused myself on my own initiative:

Proctor v. Vican, No. 3:24-cv-00243 (M.D. Pa. Apr. 30, 2024): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff appeared to argue that I should recuse because of prior adverse rulings denying the appointment of counsel to represent him and granting him leave to proceed in forma pauperis but directing that he pay the full \$350 filing fee in installments as required by 28 U.S.C. § 1915(b). I declined to recuse, finding that the plaintiff had failed to establish any extrajudicial bias.

Mickell v. Middle Dist. Ct. Admin., No. 1:21-cv-00440, 2021 WL 11114946, at *2 n.3 (M.D. Pa. Nov. 4, 2021): I considered recusal sua sponte because the lawsuit asserted claims based on official conduct by another United States Magistrate Judge in our court. I declined to recuse, having determined that the suit was frivolous. In doing so, I relied on Standing Order No. 19-06 (M.D. Pa. June 24, 2019), which provides that, “[i]f the assignee judge determines that the suit is frivolous . . . , the assignee judge need not recuse,” and prior case law from our court, *Nottingham v. U.S. Dist. Ct. M.D. Pa.*, No. 1:21-CV-396, 2021 WL 1313526 at *2 n.1 (M.D. Pa. Apr. 8, 2021).

Lucarelli v. Mallia, No. 1:21-cv-00525, 2021 WL 11114486 (M.D. Pa. Sept. 20, 2021): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff argued that I should recuse because I am assigned to the Wilkes-Barre vicinage

of the Middle District of Pennsylvania, and the City of Wilkes-Barre is associated with the “Kids for Cash” scandal, which ultimately led to the conviction of two state court judges on federal wire fraud and conspiracy charges. I found that the plaintiff failed to establish any basis for recusal, noting that: (1) this federal district court was completely separate and distinct from the state trial court where the two state court judges were seated; (2) I was seated in a physically separate and distinct courthouse one mile away from the county courthouse where those state court judges sat; (3) I personally played no role whatsoever in the “Kids for Cash” events or proceedings, and I had no personal connection whatsoever to the state court judges involved; (4) I was not appointed to the bench until several years after those criminal proceedings took place; and (5) the plaintiff had failed to articulate any reason at all why those proceedings would be relevant to the adjudication of his claims against a Social Security Administration official and a United States Postmaster.

Dunn v. Tunkhannock Twp., No. 3:20-CV-0515 (M.D. Pa. July 9, 2021): I sua sponte recused myself from this case because I had previously represented the plaintiff in a criminal matter as an assistant public defender.

Polit v. Grey Flannel Auctions, Inc., No. 3:19-CV-0590 (M.D. Pa. June 3, 2020): I sua sponte recused myself from this case because I had previously represented the plaintiff in private practice, and because he had been a former neighbor of mine.

Mitchell v. Comm’r, No. 3:19-cv-02024 (M.D. Pa. Feb. 12, 2020): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff argued that I should recuse based solely upon prior adverse rulings in this same case. In the absence of any allegation of extrajudicial bias, I denied the motion.

Pennsylvania v. Boldrini, No. 3:19-cv-01401 (M.D. Pa. Aug. 21, 2019): I considered a motion by the pro se defendant in this removal case seeking my recusal under 28 U.S.C. § 455. The defendant referenced similar motions he had filed in other cases before me, which I had denied, and he reiterated arguments that I was personally biased against him due to lawsuits he had filed against a person he mistakenly believed to be a relative of mine. In the absence of any showing of extrajudicial bias or any other reasonable basis for recusal, I denied the motion.

Moss v. Pennsylvania, No. 1:18-cv-02197, 2019 WL 13441737 (M.D. Pa. Mar. 14, 2019): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff argued that I should recuse because my prior ruling on a procedural motion in the same case created an appearance of bias in favor of the defendants. In denying the recusal motion, I noted that § 455 requires the existence of extrajudicial bias to mandate recusal or disqualification, and no extrajudicial bias whatsoever had been alleged.

Chambers v. Ebbert, No. 3:18-cv-01009, 2018 WL 6729795 (M.D. Pa. Dec. 21, 2018): I liberally construed a plaintiff’s pro se submissions objecting to my participation in the case as a motion for recusal. The plaintiff had argued that my failure to report alleged misconduct by defense counsel to the United States Department of Justice’s Office of

Professional Responsibility was evidence of personal bias. The nature of the alleged misconduct was entirely unclear. I denied the motion on the ground that no extrajudicial bias whatsoever had been alleged.

Chambers v. Ebbert, No. 3:18-cv-01207, 2018 WL 6618376 (M.D. Pa. Dec. 18, 2018): In a second case by the same pro se plaintiff, I liberally construed the plaintiff's pro se submissions as a motion for recusal. The plaintiff had argued that a single adverse ruling in the case—an order granting the defendants an extension of time to answer the complaint—was evidence of personal bias against him. I denied the motion on the ground that no extrajudicial bias whatsoever had been alleged.

Chambers v. Ebbert, No. 3:18-cv-02081 (M.D. Pa. Nov. 6, 2018): In a third case by the same pro se plaintiff, I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff argued that I should be recused because he had “too many cases” assigned to the same magistrate judge. I noted that this was not a valid ground for recusal and, finding no other grounds for recusal alleged, I denied the motion.

Ribaudo v. Desimone, No. 3:18-CV-1190 (M.D. Pa. June 12, 2018): I sua sponte recused myself from this case because I had previously represented the plaintiff while in private practice.

Phelps v. Doe, No. 1:17-cv-02193 (M.D. Pa. Mar. 14, 2018): I liberally construed the pro se plaintiff's objection to my participation in this case as a motion to recuse. I noted that no bias or conflict of interest was alleged in the motion. The plaintiff merely objected generally to the assignment of a magistrate judge to his case. In the absence of any reasonable basis for recusal, I denied the motion.

Boldrini v. Pega Real Estate Tr., No. 3:18-cv-00410 (M.D. Pa. Mar. 5, 2018): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff based his motion on an alleged prospective client consultation with me while I was in private practice nearly a decade earlier. The plaintiff contended that I had refused to represent him or the estate of his relative at the time. I have no recollection of such a meeting, and at no time during the practice of law did I represent the plaintiff or the estate of his relative. The plaintiff also argued that my former law partner had represented an adverse party in other litigation in which the plaintiff was involved, but my former law partner had never represented that adverse party—it was my understanding that the plaintiff had mistaken my former partner for a similarly named local attorney. In the absence of any reasonable basis for recusal, I denied the motion.

Tonkin v. Luzerne Cnty., No. 4:17-CV-0142 (M.D. Pa. June 21, 2017): I sua sponte recused myself from this case because I had previously represented the plaintiff in a criminal matter as his assistant public defender.

Demark v. Harry, No. 3:17-CV-0732 (M.D. Pa. Apr. 26, 2017): I sua sponte recused myself from this case because I had previously represented the plaintiff while in private practice.

Burrell v. Loungo, No. 3:14-cv-01891 (M.D. Pa. July 18, 2016): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff based his motion solely on prior adverse rulings in this same case. In the absence of any allegation of extrajudicial bias, I denied the motion.

Walker v. Ct. of Common Pleas, No. 3:CV-15-1930 (M.D. Pa. Nov. 30, 2015): I liberally construed a plaintiff's pro se submission objecting to my participation in the case as a motion for recusal. The plaintiff had based his objection on a clerical error in an order, which was subsequently corrected in an amended order. I denied the motion to recuse on the ground that the clerical error did not reasonably call into question my impartiality.

Tarapchak v. Lackawanna Cnty., No. 3:15-CV-00621 (M.D. Pa. Oct. 27, 2015): I considered a motion by the pro se plaintiff for my recusal under 28 U.S.C. § 455. The plaintiff's motion alleged personal bias based on prior adverse rulings in the same case and other contemporaneous litigation. I denied the motion on the ground that no extrajudicial bias whatsoever had been alleged.

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.

From 1986 to 1997, I was the Solicitor of the Township of Pittston. I was appointed by the Board of Supervisors.

From 1986 to 2015, I was the Solicitor of the Pittston Township Sewer Authority. I was appointed by the Board of Directors.

From 2005 to 2015, I was the Solicitor of the Lower Lackawanna Valley Sanitary Authority. I was appointed by the Board of Directors.

From 2006 to 2015, I was the Solicitor of the Pittston Area School District. I was appointed by the Board of School Directors.

From 2013 to 2015, I was the Solicitor of the Borough of Duryea having been appointed by the Borough Council.

I was an unsuccessful candidate for Judge of the Court of Common Pleas of Luzerne County, Pennsylvania, in a primary election held on May 17, 2011.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever

held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held any office, nor have I rendered any service, compensated or not, to any political party or election committee. I was a candidate for Judge of the Court of Common Pleas of Luzerne County, Pennsylvania, between February and May 2011. In that role, I appeared as a candidate on both the Democratic and Republican primary election ballots. Otherwise, I have not held any position or played any role in a political campaign.

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

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

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

From January 1986 to February 1990, I served as a part-time law clerk to the late Honorable Arthur D. Dalessandro, Judge of the Court of Common Pleas of Luzerne County, Pennsylvania.

From February 1990 to August 2005, I served as a part-time law clerk to the Honorable Joseph M. Augello, a now-retired Judge of the Court of Common Pleas of Luzerne County, Pennsylvania.

From August 2005 to January 2007, I served as a part-time law clerk to the Family Court Division of the Court of Common Pleas of Luzerne County, Pennsylvania.

From January 2007 to February 2009, I returned to serve as a part-time law clerk to Judge Augello.

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

I have never practiced law alone.

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

1986 – 2009
Court of Common Pleas of Luzerne County
200 North River Street
Wilkes-Barre, Pennsylvania 18702

Law Clerk

1985 – 2015

County of Luzerne
Office of the Public Defender
20 North Pennsylvania Avenue
Wilkes-Barre, Pennsylvania 18702
Assistant Public Defender

1985 – 1987

Law Offices of Joseph F. Saporito, Sr.
49 South Main Street
Pittston, Pennsylvania 18640
Associate

1987 – 2001

Saporito & Saporito
490 North Main Street
Pittston, Pennsylvania 18640
Partner

2001 – 2015

Saporito, Saporito & Falcone
490 North Main Street
Pittston, Pennsylvania 18640
Partner

2015 – present

United States District Court for the Middle District of Pennsylvania
Max Rosenn United States Courthouse
197 South Main Street
Wilkes-Barre, Pennsylvania 18701
Chief United States Magistrate Judge (2024 – present)
United States Magistrate Judge (2015 – present)

- 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.

During my years as a practitioner, I served on several compulsory arbitration panels where I was selected, on a rotation basis, by the Prothonotary of Luzerne County. In all those instances, the panels reached a unanimous decision. I neither opened a file regarding those appointments, nor retained any documentation therefrom.

As a practitioner, I was also appointed by agreement of counsel or by the Court of Common Pleas of Luzerne County to serve as a neutral arbitrator in more than 70 cases. Many of these matters were resolved without a hearing and in some instances after the hearing. As I recall, in all but two cases, the decisions were unanimous decisions by the panel. I no longer have access to any files that were opened, as it is my understanding that those files have been purged. However, I specifically recall the nature of some of those cases including uninsured and underinsured motorist cases, breach of contract cases, and construction disputes.

b. Describe:

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

My law practice was a general law practice with substantial emphasis on civil and criminal litigation. I practiced law for more than 29 years before my appointment as a United States Magistrate Judge. During my years of practice, I served clients in a wide range of legal matters and proceedings, including representation of various municipal entities. I handled real estate and business transactions, and I prepared wills and trusts and represented clients in the administration of estates as well.

I served as a part-time assistant public defender with the Luzerne County Public Defender's Office from 1985 through 2015. In that capacity, I represented thousands of indigent defendants facing criminal charges, including homicide, burglary, robbery, drug offenses, thefts, assaults, and DUIs. I tried at least 60 cases to verdict in both jury and bench trials.

I served as a law clerk to a trial judge of the Court of Common Pleas of Luzerne County, Pennsylvania on a part-time basis. The judge permitted me to conduct my research and draft legal opinions outside the courthouse. Consequently, I worked evenings and weekends to complete the tasks assigned to me.

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

In my private practice, I represented a wide variety of individuals and business entities. I represented clients who were injured, terminated from employment, engaged in domestic disputes, and purchased or sold real estate. I prepared wills and trusts for clients and served as counsel to personal representatives in the administration of estates. I represented clients who were denied life insurance benefits and those who were sued by hospitals for non-payment of medical bills. I represented many claimants for social security disability benefits, workers' compensation

benefits, unemployment compensation benefits, and black lung benefits before both courts and administrative tribunals. I represented clients in personal injury litigation, land use disputes, construction litigation, and commercial litigation.

I also served as solicitor to many municipal entities, including Pittston Township, the Pittston Township Sewer Authority, the Pittston Area School District, the Lower Lackawanna Valley Sanitary Authority, and the Borough of Duryea. As solicitor, I drafted legislation in the form of ordinances and resolutions, and I was involved in representing some of those entities in labor disputes, collective bargaining agreements, land developer agreements, and intermunicipal agreements. I also handled administrative matters before the Pennsylvania Human Relations Commission, the Pennsylvania Labor Relations Board, and labor arbitrators. I rendered legal opinions in connection with municipal financing. I was also involved in condemnation proceedings under the Pennsylvania Eminent Domain Code.

- 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.

A significant portion of my practice involved litigating both criminal and civil cases. Consequently, I appeared in court frequently and on a regular basis.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. Federal courts: | 10% |
| 2. State courts of record: | 80% |
| 3. Other courts: | 0% |
| 4. Administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 40% |
| 2. criminal proceedings: | 60% |

- 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 many cases to verdict in both jury and bench trials. I have been able to confirm my role as either sole counsel or chief counsel in at least 60 trials. Most of these cases were jury trials. As an assistant public defender for more than 29 years, I had many criminal trials, and in many of these cases, I have not retained any records of my representation. In addition, I tried multiple matters before

administrative law judges in social security disability, workers' compensation, and unemployment compensation proceedings.

- i. What percentage of these trials were:
 - 1. jury: 90%
 - 2. non-jury: 10%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply an electronic copy of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I did not practice before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give 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. *Commonwealth v. Geasey*, No. 1656 of 2009 (Luzerne Cnty. (Pa.) Ct. Com. Pl.).

I served as defense counsel to Mr. Geasey in my capacity as assistant public defender. Mr. Geasey was charged with aggravated assault in connection with a stabbing incident in the City of Wilkes-Barre. The victim, alleged to be a homeless person, accused Mr. Geasey of stabbing him with the victim's own knife. I impeached the victim's testimony on identification, and I argued that his scant testimony on identification created reasonable doubt. Mr. Geasey was acquitted of all charges.

Date of representation: 2010

Judge: Honorable Kenneth Brown (retired)

Opposing Counsel:
Rebecca S. Reimiller
35 West Main Street
Bloomsburg, PA 17815

(570) 389-5656

2. *Peck v. Winsock*, No. 1819 of 2008 (Luzerne Cnty. (Pa.) Ct. Com. Pl. filed Feb. 15, 2008).

I represented the plaintiff, Mr. Peck, who was the victim of a rear-end collision in the Borough of Exeter. The matter was tried before a panel of three arbitrators pursuant to the county's compulsory arbitration program. The arbitration panel awarded my client \$12,000 in damages. The defendant's insurance carrier then offered \$1,500 to settle the matter, which was rejected, and the defendant appealed the arbitration award to receive a trial de novo. We proceeded to trial under Pa. R. Civ. P. 1311.1, which allowed a plaintiff to offer documentary medical evidence without live expert testimony in exchange for limiting his or her damages to no more than \$25,000. A jury awarded Mr. Peck \$10,000 in damages. In my representation, I wrote all pretrial submissions and conducted all phases of the jury trial.

Date of representation: 2008 – 2010

Judge: Honorable Thomas F. Burke, Jr. (retired)

Opposing Counsel:

Kenneth A. Goodman (deceased)

3. *Commonwealth v. Singer*, No. 1893 of 2001 (Luzerne Cnty. (Pa.) Ct. Com. Pl.).

I served as privately retained defense counsel for Mr. Singer, who was charged with possession of a controlled substance with intent to deliver and delivery of a controlled substance. An alleged sale of ecstasy took place at a local bar between Mr. Singer and a confidential informant who was accompanied by an undercover state trooper. Through cross examination of the state trooper, I was able to create reasonable doubt as to the reliability of the confidential informant because the state trooper did not witness the alleged delivery of the controlled substance at the time it allegedly occurred. Also, the state trooper was evasive in his testimony regarding the prior criminal record of the confidential informant. The jury acquitted Mr. Singer of all charges after only 45 minutes of deliberation.

Date of representation: 2001

Judge: Honorable Thomas F. Burke, Jr. (retired)

Opposing Counsel:

Andrew W. Duncan
501 Las Vegas Boulevard South
Las Vegas, NV 89101
(702) 249-9208

4. *Scalzo v. Twp. of Exeter*, No. 4:96-cv-01760 (M.D. Pa. filed Sept. 27, 1996).

I represented the plaintiff, Mr. Scalzo, in a federal civil rights action against the Township of Exeter and its Supervisors. The plaintiff asserted that the defendants had prevented him from full use and enjoyment of his property, and that they had been motivated by discriminatory animus. Mr. Scalzo was a cabinetmaker who had applied for a special exemption to utilize his property for his business purposes. The Township set down restrictions, which the Luzerne County Court of Common Pleas ultimately declared to be arbitrary, capricious, contrary to law, and an abuse of discretion. The Township appealed to the Commonwealth Court, which denied the Township's application to vacate an appeal bond. In this federal court action, Mr. Scalzo based his claims on a violation of his substantive due process rights and 42 U.S.C. § 1983. In my representation, I prepared all pretrial submissions and I made the opening statement at trial. I also examined the witnesses. After two days of a jury trial, the case was settled, and the parties entered into a confidential settlement agreement.

Date of representation: 1996 – 1997

Judge: Honorable A. Richard Caputo (deceased)

Co-counsel: Joseph F. Saporito, Sr. (deceased)

Opposing Counsel:

Charles A. Shaffer
Pugliese, Finnegan and Shaffer, LLC
575 Pierce Street
Kingston, PA 18704
(570) 283-1800

5. *Ansilio v. Scranton Zoning Hearing Bd.*, No. 95 CIVIL 88 (Lackawanna Cnty. (Pa.) Ct. Com. Pl. July 17, 1996), *rev'd*, 690 A.2d 307 (Pa. Commw. Ct. 1997) (unpublished table decision); *Ansilio v. Scranton Zoning Hearing Bd.*, No. 97 CIV 2744 (Lackawanna Cnty. (Pa.) Ct. Com. Pl. July 9, 1998), *aff'd*, 737 A.2d 872 (Pa. Commw. Ct. 1999) (unpublished table decision); and *Ansilio v. Scranton Zoning Hearing Bd.*, 99 CIV-81 (Lackawanna Cnty. (Pa.) Ct. Com. Pl. Aug. 2, 1999), *appeal dismissed*, No. 2342 CD 1999 (Pa. Commw. Ct. Sept. 9, 1999); *Ansilio v. Scranton Zoning Hearing Bd.*, No. 00-CV-1733 (Lackawanna Cnty. (Pa.) Ct. Com. Pl. Oct. 26, 2000).

I represented Mr. Ansilio, who traded as "The Flower Tent." On several occasions, Ansilio submitted applications to the Scranton Zoning Hearing Board requesting special exceptions to erect tents on separate parcels of property in the City of Scranton for the purpose of selling flowers over a 60-day period to include Easter, Mother's Day, and Memorial Day.

In the first case, the Zoning Hearing Board denied Ansilio's 1995 application for special exception. Judge Munley of the Court of Common Pleas of Lackawanna County affirmed the Zoning Hearing Board's decision. Ansilio appealed to the Commonwealth Court of Pennsylvania, which reversed Judge Munley's decision and granted the requested special exception.

In the second case, on a similar 1997 application for special exception, the Zoning Hearing Board once again rejected Ansilio's application. Relying on the earlier Commonwealth Court decision, Judge Minora of the Court of Common Pleas of Lackawanna County reversed the Zoning Hearing Board's decision. The Zoning Hearing Board appealed to the Commonwealth Court of Pennsylvania, which affirmed Judge Minora's decision and granted the requested special exception.

In the third case, on a similar 1999 application for special exception, the Zoning Hearing Board yet again rejected Ansilio's application. Judge Minora once again reversed the Zoning Hearing Board's decision and granted the special exception. The Zoning Hearing Board filed an appeal to the Commonwealth Court of Pennsylvania, but the appeal was dismissed for lack of standing.

In the fourth case, on a similar 2000 application for special exception, the Zoning Hearing Board yet again rejected Ansilio's application. Judge Minora once again reversed the Zoning Hearing Board's decision and granted the requested special exception. No appeal followed, and no further denials of Ansilio's subsequent applications occurred.

My representation included the preparation of all pleadings, briefs, the conduct of hearings, and all arguments before the zoning hearing boards and courts.

Dates of representation: 1995 – 2000

Judges:

Honorable James M. Munley (deceased)
Honorable Carmen D. Minora
Honorable Samuel L. Rodgers (deceased)
Honorable James R. Kelley (deceased)
Honorable Jim Flaherty (deceased)
Honorable Joseph F. McCloskey (deceased)
Honorable Eunice Ross (deceased)

Co-Counsel: Mark C. Walsh (deceased)

Opposing Counsel:

Edmund J. Scacchitti
Scacchitti Law Firm
400 Spruce Street, Suite 402
Scranton, PA 18505
(570) 343-9000

6. *Agri-Concrete Prods., Inc. v. Fabcor, Inc.*, 153 B.R. 673 (Bankr. M.D. Pa. 1993), *aff'd*, No. 3:96-cv-00396 (M.D. Pa. Dec. 19, 1996), *appeal dismissed*, No. 97-7149 (3d Cir. Oct. 23, 1998); and *In re Agri-Concrete Prods., Inc.*, Case No. 5-90-01355, Adv. No. 5-91-00134, 1996 WL 31857 (Bankr. M.D. Pa. Jan. 16, 1996), *aff'd*, No. 3:96-cv-00396 (M.D. Pa. Dec. 19, 1996), *appeal dismissed*, No. 97-7149 (3d Cir. Oct. 23, 1998).

I represented a Chapter 11 debtor, Agri-Concrete, which brought an adversary action against Fabcor, Inc. and the Mount Pocono Municipal Authority alleging breach of contract and discriminatory treatment prohibited by the Bankruptcy Code. Agri-Concrete had submitted a subcontractor bid to install two tanks in connection with Fabcor's contract with the Authority to upgrade a municipal wastewater treatment facility. The bid was accepted by Fabcor, but the Authority and Fabcor requested additional suretyship from Agri-Concrete when they learned that it had filed a bankruptcy reorganization petition. After a trial on the merits, the court entered judgment in favor of my client, Agri-Concrete, in the amount of \$226,733. The matter was appealed by Fabcor to the United States Court of Appeals for the Third Circuit and settled after the briefs were submitted to the court. My representation included the preparation of all pleadings, briefs, the conduct of hearings, and the trial before the Bankruptcy Court. Throughout all phases of this matter, I was assisted by my co-counsel.

Dates of representation: 1990 – 1997

Judges:

Honorable John J. Thomas (deceased)
Honorable Edwin M. Kosik (deceased)
Honorable Morton I. Greenberg (deceased)
Honorable Robert E. Cowen
Honorable Anthony J. Scirica

Co-counsel: Mark C. Walsh (deceased)

Opposing Counsel:

James A. Doherty, Jr.
Scanlon, Howley & Doherty, P.C.
217 Wyoming Avenue
Scranton, PA 18501
(570) 346-7651

7. *Grunza v. Insalaco Enters.*, No. 90-E-111 (Lackawanna Cnty. (Pa.) Ct. Com. Pl.).

The plaintiff, Ms. Grunza, attempted to declare void a deed signed by her allegedly incompetent mother, which conveyed a parcel of real property to an agent for an undisclosed principal, who turned out to be the Honorable Chester T. Harhut, a Judge of the Court of Common Pleas of Lackawanna County, Pennsylvania. The property was

subsequently sold by Judge Harhut to the defendant, Insalaco Enterprises, which I represented. Venue was transferred to another county after Judge Harhut was added as a third-party defendant and the entire bench of the Lackawanna County Court of Common Pleas recused. The case was tried before the Honorable Michael V. Franciosa, a Senior Judge of the Court of Common Pleas of Northampton County, Pennsylvania. After lengthy discovery and a trial before an advisory jury, the court ruled in favor of my client, Insalaco refusing to set aside the deed and declaring the original deed valid. My representation included the preparation of all pleadings, briefs, the conduct of hearings, and the trial.

Dates of representation: 1990 – 1994

Judge: Honorable Michael V. Franciosa (retired)

Co-counsel: Joseph F. Saporito, Sr. (deceased)

Opposing counsel:

Honorable Leonard N. Zito
Florio Perrucci Steinhardt Cappelli & Tipton LLC
404 Third Street
Belvidere, NJ 07823
(908) 475-4661

Anthony J. Martino (deceased)

Andrew Hailstone (retired)
Kreder Brooks Hailstone LLP
220 Penn Avenue, Suite 200
Scranton, PA 18503
(570) 346-7922

8. *Airport Sand & Gravel Co. v. Duryea Borough*, No. 38-E-1988 (Luzerne Cnty. (Pa.) Ct. Com. Pl. filed Apr. 5, 1988).

I represented the plaintiff, Airport Sand & Gravel Co., which had rights to mine topsoil in Duryea Borough. The Borough interfered with those rights by blocking access to a bridge that connected the plaintiff's land to a Borough Street. The plaintiff sought equitable relief from the court in the form of an injunction, which was granted, and which provided the plaintiff with access to the bridge on certain days with established time limits. My representation included the preparation of all pleadings, briefs, the conduct of hearings, and the trial. Throughout all phases of this matter, I was assisted by my co-counsel.

Date of representation: 1988

Judge: Honorable Patrick J. Toole, Jr. (retired)

Co-counsel: William DeGilio (deceased)

Opposing Counsel:

Barry Chromey (retired)

9. *Commonwealth v. Smith*, No. 1988-CR-0000652 (Luzerne Cnty. (Pa.) Ct. Com. Pl.).

I served as criminal defense counsel to Mr. Smith, an inmate at the State Correctional Institute at Dallas. He was charged with assaulting another inmate. Because of logistical challenges that would be posed by transporting from prison to court the numerous inmates who witnessed the alleged assault, a jury trial was held in a community room at the prison. The court overruled a defense objection that the forum of the trial—the premises of a prison—was improper and thus violated the defendant's right that the trial be open to the public. It was one of the only cases in Luzerne County to be tried outside of the courthouse and on the premises of a prison. Smith was found guilty of assault by a prisoner and simple assault. I am unable to locate a record of the sentence imposed. My representation included the preparation of all motions, argument before the court, and the conduct of the trial.

Date of representation: 1988

Judge: Honorable Gifford S. Cappellini (deceased)

Opposing Counsel:

Thomas Marsilio
Marsilio Law Offices
15 Darling Street
Wilkes-Barre, PA 18702
(570) 824-9949

10. *Commonwealth v. Ryzner*, (docket information unavailable) (Luzerne Cnty.) (Pa.) Ct. Com. Pl.).

I served as defense counsel to Ms. Ryzner in my capacity as an assistant public defender. Ms. Ryzner was charged with delivery of a controlled substance to a confidential informant in the Borough of Duryea. The informant went into a home which he claimed was Ms. Ryzner's home. His entry into the home was witnessed by a Pennsylvania state trooper who was seated in a surveillance vehicle outside of the home. The trooper recorded the address of the home in his notes. The case was tried before a jury on three occasions. During cross examination of the trooper at each trial, I elicited testimony from him that he recorded the address incorrectly and that he did not witness the alleged delivery. Further, he acknowledged that the informant was not equipped with any audio or video recording devices at the time of the alleged delivery. Ms. Ryzner testified that the alleged transaction never occurred. The first trial resulted in a hung jury and a mistrial was declared. The second trial resulted in a mistrial when a juror disclosed,

during deliberations, that he did not hear all the testimony because of a hearing deficit. The third trial resulted in an acquittal.

Date of Representation: approximately 1987 – 1988

Judge: Honorable Robert J. Hourigan (deceased)

Opposing Counsel:
John C. Eichorn
80 Yorktown Road
Mountaintop, PA 18707
(570) 678-7006

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.)

In addition to the litigation work described above, many of my representations in private practice resolved via settlements. These included representing plaintiffs in whistleblower retaliation, product liability matters, wrongful discharge claims, personal injury matters, claims for life insurance benefits, and suits for defamation. I also represented defendants who were sued in collection matters and class action suits.

In matters not involving litigation, I represented individuals and entities in the acquisition and sale of real estate, stock in private corporations, memberships in limited liability companies, and interests in partnerships, and other assets. In a few of those instances, the sales price amounted to eight and nine figures. I prepared, wills and trusts for clients and represented individuals in the administration of estates and the preparation of powers of attorney.

As a municipal solicitor, I was involved in the legislative process on a local government level. In those roles, I drafted ordinances, resolutions, and motions. I worked on the process of collective bargaining and labor law related issues. I handled matters before the Pennsylvania Human Relations Commission and the Pennsylvania Labor Relations Board. I rendered legal opinions regarding several Pennsylvania laws including the Second-Class Township Code, the Municipality Authorities Act, the Public-School Code of 1949, and the Borough Code. I was also involved in condemnation proceedings under the Pennsylvania Eminent Domain Code.

Earlier this year, I was appointed to serve the United States District Court for the Middle District of Pennsylvania as Chief United States Magistrate Judge. I also serve our court on the Magistrate Judges and Pro Se Law Clerk Committee and the Rules Committee.

Additionally, I serve on the Courts, Community, and Rule of Law Committee of the United States Court of Appeals for the Third Circuit.

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 an electronic copy to the committee.

None.

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

I receive a pension of approximately \$3,000 per month from my service to Luzerne County as a part-time assistant public defender and as a part-time law clerk.

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.

The only potential conflicts regarding family members would be cases where my son or my brother-in-law serve as counsel to a party. In addition, in my capacity as a judge, I am prevented from presiding over a case involving a former client in litigation pending before the court. Also, when I become aware of a witness who was a former client, it is my practice to disclose that fact on the record and allow the parties sufficient opportunity to confer with their respective counsel outside of my presence and to permit them an opportunity to be heard on the issue.

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

I will continue to adhere to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and applicable Judicial Conference Advisory Opinions, in addition to continuing regular review of my automated recusal list.

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.

During my 29 years as an assistant public defender, I regularly provided criminal defense services to indigent defendants. In addition, during my years as a practitioner, I served the disadvantaged in many areas of the law on a regular basis. For example, I represented many individuals who simply did not have the financial ability to pay for certain legal services. I represented, without charge, many individuals in the application for unemployment compensation benefits, domestic matters, and criminal matters.

As a United States Magistrate Judge, I am not permitted to do pro bono legal work.

26. **Selection Process:**

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

On November 20, 2023, I submitted an application for the judicial vacancy in the United States District Court for the Middle District of Pennsylvania to the 2024 Middle District Pennsylvania Judiciary Advisory Commission. On January 4,

2024, I interviewed with the Judicial Advisory Commission. On February 12, 2024, I interviewed with members of Senator Casey's staff. On February 27, 2024, I interviewed with Senator Casey and his staff. On March 28, 2024, I interviewed with attorneys from the White House Counsel's Office. Since March 28, 2024, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 8, 2024 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.