

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Ellen Lipton Hollander (formerly, Ellen Frances Lipton)

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

United States District Judge for the District of Maryland

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.

Courthouse East, Room 626
111 North Calvert Street
Baltimore, Maryland 21202

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

1949; New York, New York

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.

1972-1974, Georgetown University Law Center; J.D., 1974
1971-1972, Hofstra University School of Law (no degree)
1967-1971, Goucher College; B.A., 1971
1969 (Fall), City of London College, London, England (semester abroad; no degree)

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.

1994 to present
Maryland Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard

Annapolis, Maryland 21401
Associate Judge

1989 to 1994
Circuit Court for Baltimore City
Courthouse West
100 North Calvert Street
Baltimore, Maryland 21202
Associate Judge

1983 to 1989
Frank, Bernstein, Conaway & Goldman (dissolved in 1992)
300 East Lombard Street
Baltimore, Maryland 21202
Partner (1985 to 1989)
Associate (1983 to 1985)

1979 to 1983
United States Attorney's Office, District of Maryland
U.S. Courthouse
101 W. Lombard Street
Baltimore, Maryland 21201
Assistant United States Attorney

1979
Office of the Maryland Attorney General
One South Calvert Street
Baltimore, Maryland 21202
Assistant Attorney General, Civil Division

1975 to 1979
Frank, Bernstein, Conaway & Goldman (dissolved in 1992)
1300 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201
Associate, Litigation Department

1974 to 1975
The Honorable James R. Miller, Jr.
United States District Court for the District of Maryland
111 North Calvert Street
Baltimore, Maryland 21202
Law Clerk

1973
Occupational Safety and Health Review Commission

1825 K Street, N.W., Washington, D.C. 20006
(now 1120 20th Street, N.W., 9th Floor, Washington, D.C. 20036)
Summer Law Clerk

1971
Herold, Kastor & Gerald
40 Wall Street
New York, New York 10005
Administrative Assistant

Other affiliations

1995 to present
Goucher College
1021 Dulaney Valley Road
Towson, Maryland 21204
Member, Board of Trustees (1996 to present) (uncompensated)
Board Secretary (1999 to 2001) (uncompensated)

1994 to present
Library Company of the Baltimore Bar
618 Courthouse West
100 North Calvert Street
Baltimore, Maryland 21202
Board Member (uncompensated)

1998 to 2004
Roland Park Baseball Leagues, Inc.
4612 Roland Avenue
Baltimore, Maryland 21210
Board Member (uncompensated)

1987 to 2000
Baltimore Jewish Council
101 W. Mount Royal Avenue
Baltimore, Maryland 21201
Executive Committee and Board Member (1987 to 1996) (uncompensated)
Secretary (1994 to 1995) (uncompensated)
Second Vice-President (1993 to 1994) (uncompensated)
Trustee, Holocaust Memorial (approximately 1993 to 1996) (uncompensated)

1994 to 1996
Advocates for Children and Youth, Inc.
8 Market Place, 5th Floor
Baltimore, Maryland 21202
Board Member (uncompensated)

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

I have not served in the military, nor did I register for selective service.

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

Leadership in Law Award, 2008

ASTAR Science and Technology Fellow (Advanced Scientific and Technological Adjudicative Resource Judge), Oct. 2006

University of Maryland School of Law "Judges Award," 2006

Citation, Maryland Trial Lawyers Association, 2002

Circle of Excellence Award for Sustained Achievement, 2000

Maryland's Top 100 Women: 1996, 1998, 2000

Dorothy Beatty Memorial Award, 1998

Sustaining Life Fellow, American Bar Foundation (elected 1995)

Fellow, Maryland Bar Foundation (elected 1991)

Fellow, Baltimore City Bar Foundation (elected 2005)

Certificate of Appreciation from Lake Clifton-Eastern High School for Law-Related Education Program, 1996

Certificate of Recognition presented by District 4 Chapter of the National Association of Women Judges, 1994

Citation from the Bar Association of Baltimore City, 1994

Certificate of Appreciation from Georgetown University Law Center for Professional Achievement, 1993

Citation from the National Council of Juvenile and Family Court Judges and the National District Attorneys Association, 1993

Certificate of Appreciation from the Urban Services Agency for services rendered to the Youth Forum: 1992, 1991

Citation from the Women Legislators of Maryland, 1990

Certificate of Appreciation from the Maryland State Bar Association for participation in Law Related Education Program, 1990

Award from the Northwest Citizens Patrol, 1989

Award from the Fraternal Order of Correctional Associates, 1989

Acknowledgement in *The Feminist Papers: From Adams to de Beauvoir*, edited by Dr. Alice S. Rossi, 1988

AMERICAN CRIMINAL LAW REVIEW (at Georgetown): Editor, 1973-1974; Associate Editor, 1972-1973

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.

Advanced Scientific and Technological Adjudicative Resource (“ASTAR”) Judge/Fellow
Planning Committee (2006-2007) for National Judges’ Science School,
“Neuroscience & Bio-Behavioral Technologies,” Johns Hopkins University School of
Medicine (held in Fall 2007)

American Bar Association

American Bar Foundation

Sustaining Life Fellow

Baltimore City Bar Foundation

Fellow

Bar Association of Baltimore City

Judicial Administration Committee (approximately 1991 to 1994, 1996)

Special Committee on Fee Abuse (1988)

Circuit Court for Baltimore City

Civil Courts Committee

Juvenile and Family Law Committee

Chair, Sentencing Review Panel (1992 to 1993)

Committee to Revise the Local Rules of the U.S. District Court, District of Maryland

The Court of Appeals of Maryland Standing Committee on Rules of Practice and
Procedure

Chair, Appellate Rules Subcommittee (2008 to present)

Federal Bar Association, Maryland Chapter

Board of Governors (1987 to 1988)

Fourth Circuit Judicial Conference

J. Dudley Digges Inn of Court, Chapter XIII of American Inns of Court Foundation

Judge Norman P. Ramsey Lecture Committee

Lawyers’ Round Table Law Club

Maryland Alternative Dispute Resolution Commission, Central Maryland Regional

Advisory Board

Maryland Bar Foundation

Fellow

Maryland Judicial Conference

Legislative Subcommittee of the Executive Committee (approximately 1999 to 2000)

Committee on Juvenile Law (approximately 1993 to 1998)

Cast Member, “Trial of the Future” (presentation on technology) (1997)

The Maryland State Bar Association, Inc.

Monumental City Bar Association

National Association of Women Judges

Committee Member, NAWJ 25th Anniversary – Supreme Court Reception (2003)

Rule Day Law Club

United States Magistrate Merit Selection Panel, District of Maryland

University of Maryland School of Law, Judicial Clerkship Advisory Committee

The Women’s Bar Association of Maryland

The Women's Law Center of Maryland, Inc.
Wranglers Law Club
President (1995 to 1996)

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.

Maryland, 1974

There has been no lapse in membership.

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

Maryland, 1974

United States District Court for the District of Maryland, 1975

United States Court of Appeals for the Fourth Circuit, 1975

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.

Advocates for Children and Youth, Inc. (1994 to 1996)

The Associated Jewish Community Federation of Baltimore (1995 to 1996)

Homeland, Roland Park, Guilford Outreach Committee (1995 to 1996)

Baltimore Jewish Council (1987 to 2000)

Chair, World Jewry and International Human Rights Committee (1992 to 1993)

Chair, Holocaust Remembrance Committee (formerly Holocaust Activities Committee) (1988 to 1992)

Delegate-At-Large (1996 to 2000)

Baltimore Women's Forum (1998)

The Black-Jewish Forum of Baltimore (approximately 1989 to 1992)

Goucher College Trustee (1996 to present)

Chair, Goucher College Committee Celebrating 20 Years of Women's Studies (1995 to 1996)
Coldspring Swim Club (approximately 1979 to 1990)
Guilford [Neighborhood] Association, Inc. (1987 to present)
Hadassah
Life Member (1998 to present)
Library Company of the Baltimore Bar (1994 to present)
National Association for the Advancement of Colored People, Inc.
Life Partner (1998 to present)
Roland Park Baseball Leagues, Inc. (1998 to 2004)

From time to time in previous years, my husband and I supported various cultural institutions, and may have been considered as "members." The institutions included The Baltimore Museum of Art; The Baltimore Zoo; The Maryland Science Center; The National Aquarium; The Walters Art Gallery; The Smithsonian; The National Geographic Society; The Kennedy Center; and The Holocaust Museum. I do not recall the dates of membership.

- 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.

In 1998, I joined, for one year, the Baltimore Women's Forum, a women's professional and networking organization. Its sole function, to my knowledge, is to host luncheons at which prominent and accomplished persons, male and female, address the group on a variety of topics. To the best of my knowledge, no other organization listed above currently discriminates or previously discriminated on the basis of race, sex, religion, or national origin.

12. Published Writings and Public Statements:

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

Lawrence Rodowsky: A Man of Many Tastes and Talents, 60 MD. L. REV. 788 (2001)

Juvenile Court: The Guardian of Children, 27 MD. BAR J. 9 (1994)

Note, *The Right to Raise a Child*, 26 RES IPSA LOQUITUR: GEORGETOWN REVIEW OF LAW AND PUBLIC INTEREST 24 (Winter 1974)

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

I have searched my files and electronic databases in an effort to locate all reports, memoranda or policy statements that are responsive to this question. I have located the materials listed below, but it is possible there are a few that I have been unable to identify.

What You Need to Know About ASTAR – Advanced Science and Technology Adjudication Resource Project (Apr. 2008) (submitted to the Maryland State’s Attorney’s Association and the Maryland Criminal Defense Attorneys’ Association)

Report for Baltimore Jewish Council, as Chair of World Jewry and International Human Rights Committee (Dec. 2, 1992)

Report for Baltimore Jewish Council meeting, as Chair of World Jewry and International Human Rights Committee (Nov. 1992)

Action Alert for Baltimore Jewish Council, World Jewry and International Human Rights Committee (Summer 1992; no copy; it addressed concerns about ethnic cleansing in Bosnia–Herzegovina)

Report for Baltimore Jewish Council meeting, as Chair of World Jewry and International Human Rights Committee (1992)

Report for Baltimore Jewish Council meeting, as Chair of Holocaust Remembrance Committee (May 7, 1991)

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

None.

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

I have searched my files and electronic databases in an effort to locate information or materials related to all of my speaking engagements over the years. As with my response to Question 12(b), it is possible there are a few I have been unable to identify.

Orientation, Judicial Nominating Commissions: "The Role of the Appellate Court" (Sept. 19, 2007)

Panelist, "The ASTAR PROJECT – Science and Technology Education for Maryland's Judges," Maryland Defense Counsel, Inc., Baltimore (Nov. 14, 2006) (no prepared remarks; no notes)

Panelist, "Appellate Advocacy," Univ. of Balt. School of Law (June 29, 2005)

Panelist, Univ. of Balt. School of Law (June 9, 2004) (no notes; discussion about appellate advocacy, including brief writing and oral argument)

Panelist, "How Judges Calculate Money in Family Law Cases," Maryland Trial Lawyers Association (Apr. 2, 2004)

Moderator, panel discussion on the role of the courts, Goucher College Committee of Visitors (Apr. 10, 2003) (no prepared remarks; no notes)

Introduction of Judge James R. Miller, Jr., Lawyers' Round Table Law Club (Nov. 11, 2002)

Panelist, "The Importance of Oral Argument," Maryland Trial Lawyers Association (June 7, 2002)

Remarks to University of Maryland law students enrolled in Professor Christopher Brown's class on the Maryland appellate courts (Mar. 21, 2002; no notes)

"Terrorism and Executive Power: What Happened to Checks and Balances?," The Lawyers' Round Table Law Club (Feb. 25, 2002)

Introduction of Judge Diana G. Motz, Lawyers' Round Table Law Club (Mar. 19, 2001)

Panelist, "Appellate Advocacy," The Maryland Legal Services Partnership Conference (Jan. 21, 2000) (remarks have not been located)

Panelist, discussion on clerking, Univ. of Balt. School of Law (Oct. 25, 1999)

Remarks at the Retirement Dinner in honor of Judge Richard T. Rombro, The Johns Hopkins Club (Apr. 22, 1999)

Remarks, The Women's Law Center of Maryland, Inc. (Oct. 21, 1998)

Keynote Address, Hadassah Attorneys' Council (Oct. 20, 1998)

"Appellate Practice," Women's Bar Association (May 27, 1998)

Panelist, Attorney General's Appellate Advocacy Program (Nov. 13, 1997; no notes)

Remarks to combined meeting of National Association of Women Judges, Maryland Chapter, and Women Legislators of Maryland (Feb. 19, 1997)

"Physician Assisted Suicide," The Torch Club (Feb. 13, 1997)

Panelist, Attorney General's Appellate Brief Writing Program (Oct. 23, 1996; no notes)

Remarks to students at Goucher College (Mar. 27, 1996)

"Women and Minorities in the Judiciary," American Bar Association Mid Year Meeting, Torts and Insurance Practice Section (Feb. 2, 1996)

Remarks at Federal Bar Association luncheon honoring U.S. District Judges Andre M. Davis and Catherine C. Blake (Dec. 8, 1995)

“A View from the Appellate Bench,” National Association of Women Judges, Maryland Chapter (Nov. 15, 1995)

Panelist, Governor’s Third Conference on Child Abuse and Neglect (Apr. 28, 1995)

Remarks, Investiture of Master Patricia Brown, Circuit Court for Baltimore City (Jan. 11, 1995)

Remarks at Investiture Ceremony as Judge of the Maryland Court of Special Appeals (Oct. 3, 1994)

Speaker, “The Nuts and Bolts of a Personal Injury Automobile Case,” American Bar Association Annual Meeting, Torts & Insurance Practice Section, New Orleans, Louisiana (Aug. 9, 1994) (remarks have not been located)

Speaker, “Fourth Tuesdays with the Best in the Business” series, Commercial Real Estate Women of Baltimore, Inc. (June 28, 1994) (remarks have not been located; I cannot recall the topic)

Presenter, Week of Remembrance (Holocaust), Church of the Redeemer, Baltimore (Apr. 17, 1994) (no notes)

“Complexities Faced in the Release of NCR Patients Who Have Committed Very Violent Acts,” Medical Services of the Circuit Court for Baltimore City (Apr. 13, 1994) (remarks have not been located)

Introduction of Igor Merkoulenko, Odessa Task Force, Baltimore Jewish Council (May 3, 1993)

Speaker, Child in Need of Assistance Proceedings, American Academy of Pediatrics, Maryland Chapter, Committee on Substitute Care and Child Maltreatment (Apr. 1993) (remarks have not been located)

Remarks to Goucher College students enrolled in Professor Marianne Githens’ political science class (Apr. 1993) (no notes or remarks have been located; I believe that I discussed the role of the judiciary)

Moderator, “Family Violence and Restorative Justice,” 20th National Conference on Juvenile Justice (sponsored by National Council of Juvenile and Family Court Judges and National District Attorneys Association) Seattle, Washington (Mar. 1, 1993) (no notes)

“Just How Strong is an 800 Pound Gorilla – The Kaye, Scholer Fiasco,” The Rule Day Law Club (Feb. 8, 1993)

Remarks about Maryland’s Juvenile Court System, presented to lawyers representing children, Baltimore (Jan. 20, 1993) (no notes)

Remarks, Jewish Community Task Force on Child Abuse (Nov. 19, 1992)

Remarks, Yom Ha’Shoah Public Commemoration (May 3, 1992)

Remarks, Opening of “The Courage to Remember Exhibit,” Baltimore (Apr. 9, 1992)

Remarks, Yom Ha’Shoah Public Commemoration (Apr. 14, 1991)

“Can You Have It All? Women and the Legal Profession,” The Women’s Law Center of Maryland, Inc. (Nov. 6, 1991)

Introduction of Richard Horowicz, Northwestern High School Social Studies Head, Baltimore Jewish Council (Oct. 29, 1991; no notes)

Remarks, Baltimore Hebrew University (Apr. 7, 1991)
 Remarks, Baltimore Jewish Council meeting (Mar. 21, 1991)
 Remarks, Gan Yeladin (child care facility) (1991)
 Remarks, Baltimore Jewish Council program featuring Leon Wieseltier
 (Jan. 30, 1990)
 Remarks, Beth El Synagogue Men's Club (Sept. 24, 1989) (no notes; I cannot
 recall the topic)
 Remarks to synagogue group in Baltimore (Mother's Day, either 1989 or 1990)
 Remarks, Independent Republican Coalition, Baltimore (Sept. 12, 1989) (no
 notes; discussion of the legal system in Maryland)
 Remarks to new Maryland bar admittees on behalf of the Circuit Court for
 Baltimore City (July 13, 1989)
 Remarks, Yom Ha'Shoah Public Commemoration (Apr. 30, 1989)
 Discussion Coordinator, "The Quality of Law Practice in the 1990's: Home Life
 & Practice Pressure – What Price Professional Success?", Maryland State
 Bar Association, Columbia, Maryland (Mar. 1989) (no notes)
 Remarks at Investiture Ceremony as Judge of the Circuit Court for Baltimore City
 (Mar. 1, 1989)
 Remarks, Baltimore Jewish Council (Nov. 7, 1988) (no notes; dedication of
 Joseph Shepherd statue at Baltimore's Holocaust Memorial)
 Remarks, Orientation for New Board Members, Baltimore Jewish
 Council (Sept. 23, 1988)
 "The AIDS Crisis," Wranglers Law Club, Baltimore (1988)
 Remarks, Investiture Ceremony of the Honorable Catherine C. Blake as United
 States Magistrate Judge, U.S. Courthouse (Apr. 29, 1987)

Following my appointment to the Circuit Court for Baltimore City by Governor William D. Schaefer on February 2, 1989, I became a judicial candidate to retain my seat. During the twenty-month campaign, my two running mates and I (the incumbent judges) made frequent campaign appearances, at which we generally made brief, extemporaneous remarks about our judicial qualifications. No notes or copies of these remarks are available, other than as cited above. In addition, as a trial judge, I occasionally spoke to elementary, middle, and high school students in connection with Law Day events, mock trials, and moot court competitions. I do not know the dates, nor have I been able to locate copies of any remarks or notes. The topics concerned the role of the judiciary and an explanation of the trial process.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have searched my files and electronic databases in an effort to locate each time I have spoken on the record to a reporter, but it is possible that I have not been able to identify every interview. I possess some of the broadcast interviews listed

below (self-recorded VHS tapes) and transcripts of my remarks will be forthcoming.

Broadcast

WJZ-TV, interview about the ASTAR program (Oct. 26, 2005)
FOX 45-TV, interview at BWI Airport about being caught at the airport with my family during a blizzard (Mar 1994)
“Court Talk” radio program (Oct. 19, 1993) (call letters unknown)
FOX 45-TV, interview about juvenile court (Sept. 10, 1992)
WMAR-TV, interview about judicial primary election results (Sept. 12, 1990)
WEAA Radio, judicial election campaign appearance (Sept. 5, 1989)
WCBM Radio, judicial election campaign appearance (July 2, 1989)
WBAL-TV, interview about *United States v. John Anthony Walker, Jr. and Michael Lance Walker* (July 11, 1985)

Print

Karen Nitkin, *Ellen L. Hollander*, THE DAILY RECORD LEADERSHIP IN LAW 2008, Fall 2008, at 10.
Rich Shea, *Fatherland*, JOHNS HOPKINS MAGAZINE, Feb. 2008, at 44.
Ellen L. Hollander, THE WASHINGTON POST, Nov. 2, 2006.
Thomas L. McCally, Esq., Kelly M. Lippincott, Esq., and Laelia Banks, Esq., *Back to School: The ASTAR Project Educates Judges on Science and Technology*, CARR MALONEY P.C., LEGALLY SPEAKING, A QUARTERLY REPORT OF IMPORTANT LEGAL MATTERS, late 2006 or early 2007.
Peter Jensen, *Happy Campers; Deluxe camps and exotic travel programs for kids are flourishing, but there's a catch: Just look at what they cost*, THE BALTIMORE SUN, Apr. 13, 2003, at 1N.
Joe Surkiewicz, *Commentary: Md. governor criticized for not filling court vacancies*, THE DAILY RECORD, July 17, 2001.
Peter Geier, THE DAILY RECORD, Dec. 6, 2000, at 1C.
Maryland's Top 100 Women, Supplement to THE DAILY RECORD, May 2000, at 16, 51.
GOUCHER QUARTERLY, Winter 1999, at 25.
Elizabeth Large, *In praise of tradition, and holiday memories; Thanksgiving: From Coach Billick to Judge Hollander, Marylanders just love this day. Here's why*, THE BALTIMORE SUN, Nov. 21, 1999, at 1N.
Andrea F. Siegel, *Three women take the bench on historic day; They make up a panel to hear appellate cases*, THE BALTIMORE SUN, Sept. 3, 1998, at 2C; photo with quote on page 6C.
Maryland's Top 100 Women, Supplement to THE DAILY RECORD, Mar. 28, 1998, at 40.
Mary E. Medland, *Alpert Praised Upon Retirement For 'Real Sense of Humanity' Intermediate Appellate Court Jurist Counted Private Practice, Service In Legislature Among Laurels; Helped Create Md. Public Defenders*, THE

DAILY RECORD, Nov. 22, 1995, at 9.

Barbara Pash, *Appointment With Destiny: In her new state post, Ferrier Stillman hopes to help people on a broad scale*, BALTIMORE JEWISH TIMES, Mar. 17, 1995, at 40.

Lisa S. Goldberg, *Monumental Task: Jewish leaders say Baltimore's Holocaust Memorial needs a new design to convey its message*, BALTIMORE JEWISH TIMES, Sept. 30, 1994, at 30.

Sun Staff Writer, *Baltimore Judge Gets Promotion*, THE BALTIMORE SUN, Sept. 8, 1994, at 2C.

Mike Klingaman, *Jukebox collectors nostalgic for the 'clunk' of simpler era*, THE BALTIMORE SUN, Feb. 12, 1994, at 1D.

Erin Murphy, *Price of Success for Women Lawyers Examined at Seminar*, THE DAILY RECORD, Nov. 14, 1991, The Md. Lawyer Section, at 1, 12.

William Thompson, *Appointment of judge seen easing tensions*, THE EVENING SUN, Oct. 5, 1990, at A12.

Wiley Hall, *How to Judge City's Judges*, BALTIMORE SUN, Sept. 20, 1990.

M. Dion Thompson, *Baltimore Judges Race May Be Decided on Nov. 6*, BALTIMORE SUN, Sept. 13, 1990.

Jef Feeley, *Smith Forces Incumbent City Judges to Run in Nov. Election, Challenger Finished 3rd in Last Week's Dem. Primary*, THE DAILY RECORD, Sept. 17, 1990, at 9.

Tzvi Dole, *Candidates Show Little Disagreement on Issues*, THE BALTIMORE JEWISH TIMES, Sept. 7, 1990, at 26.

Patrick Gilbert, *Schaefer vows fight for three judges*, THE EVENING SUN, Aug. 6, 1990, at D1, D3.

Mary E. Medland, *Quality of life issues break law firms' gender barriers*, BALTIMORE BUSINESS JOURNAL, June 25 to July 1, 1990, at 6.

Jef Feeley, *Sitting Judges File for Election, Dismiss Claims About Improperly Recruiting Students*, THE DAILY RECORD, Apr. 4, 1990, at A5.

Amy J. Metler, *Citizens patrol makes Park Heights area safer*, THE BALTIMORE SUN, Mar. 11, 1990, at 8B.

Jef Feeley, *Smith Challenges Sitting City Circuit Court Judges, District Judge's Bid Sets Up Contested Election*, THE DAILY RECORD, Mar. 5, 1990, at 3.

Linell Smith, *Her destination was Auschwitz*, THE EVENING SUN, Sept. 1, 1989, at A1.

Marc D. Minkove, *Personality Profile, New Faces At The Circuit Court*, THE BARRISTER, Summer 1989, at 10-11.

Inda Schaenen, *Born To The Law - Ellen Hollander: New Judge of the Circuit Court*, BALTIMORE MESSENGER, May 10, 1989.

Mary Maushard and Kevin Thomas, *Career first vs. family first*, THE EVENING SUN, Mar. 15, 1989, at B1.

Nora Frenkiel, *The Mommy Track*, THE SUN, Mar. 14, 1989, at C1.

Jef Feeley, *Woman Named to City Court, Schaefer Taps Hollander and Rombro for Circuit*, THE DAILY RECORD, Feb. 3, 1989, at 6.

Jef Feeley, *Six Make Cut For Judgeship*, THE DAILY RECORD, Dec. 7, 1988, at A14.

Ann G. Sjoerdsma, *Part-Time Practitioners*, MARYLAND BAR JOURNAL, June 1986, at 19.

Michael Walker Granted Prison Transfer, THE ASSOCIATED PRESS, Aug. 23, 1985.

Patrick Breslin, *Michael Walker Wins Transfer From Maryland Jail To Federal Prison*, THE ASSOCIATED PRESS, Aug. 22, 1985.

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 the Maryland Court of Special Appeals by Governor William Donald Schaefer on September 2, 1994, and took the oath of office on October 3, 1994. (I immediately began sitting with the Court, by designation, pending administration of the oath.) I was confirmed by the Maryland Senate during the 1995 legislative session. In November 1996, I ran, unopposed, in a non-partisan, statewide retention election and was elected to a ten-year term. In November 2006, I was again elected to another ten-year term. The Court of Special Appeals, an appeals court of right, is the second highest court in Maryland's judicial system. The Court's thirteen judges hear oral arguments in Annapolis with respect to cases litigated in the state's circuit courts, orphans' courts, and the Maryland Tax Court. Unless otherwise provided by law, the Court has exclusive initial appellate jurisdiction over reviewable judgments, decrees, and orders of the circuit courts, orphans' courts, and the Maryland Tax Court. (The exceptions include death penalty cases and attorney disbarment proceedings). The Court's opinions are subject to review by Maryland's highest court, the Court of Appeals, by way of certiorari.

I was appointed to the Circuit Court for Baltimore City by Governor William Donald Schaefer on February 2, 1989, and took the oath of office on March 1, 1989. In November 1990, I was elected by the voters of Baltimore City to a fifteen-year term. Maryland's circuit courts are the state's trial courts of general jurisdiction, both civil and criminal, and are the only courts in the Maryland judicial system that conduct jury trials. They also hear appeals from administrative agencies and the State's district courts.

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

I am unable to answer this question with precision. However, based on my length of service as a trial judge (more than five and a half years), coupled with the high volume of cases handled by the Circuit Court for Baltimore City, I estimate that I have presided over the closing of thousands of cases, and hundreds that have gone to verdict or judgment based on a decision that I made.

- i. Of these, approximately what percent were:

jury trials:	50%;
bench trials:	50%

civil proceedings: 50%;
criminal proceedings: 50%

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

Please see attached list of appellate and trial court opinions.

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

Trial

1) *State v. Ricardo Burks*, Circuit Court for Baltimore City, Case No. 191162006, 07 (1991), *aff'd*, 96 Md. App. 173, *cert. denied*, 332 Md. 381 (1993). Ricardo Burks was charged with four homicides and related offenses. Three of the homicide victims were teenagers, and the State sought life without parole. Mr. Burks filed a pre-trial motion to suppress evidence, challenging the warrantless entry into the motel room where he held two hostages, and his custodial statement. Following a lengthy evidentiary hearing, I rendered an oral opinion denying the motion. The jury subsequently convicted Mr. Burks of two second-degree murders and related offenses. The case was affirmed on appeal.

The defense attorney was Bridget Shepherd, Esq., Assistant Public Defender, 201 St. Paul Place, Baltimore, MD 21202; 410-333-4900. The prosecutor was Rex Schultz Gordon, Esq., Office of the Attorney General, 19th Floor, 200 St. Paul Place, Baltimore, MD 21202; 410-576-6300.

2) *Joseph Rolnik v. Union Labor Life Ins. Co. & Sheppard & Enoch Pratt Hosp.*, Circuit Court for Baltimore City, Case No. 87-313071/CL735310. Joseph Rolnik and his daughter sued their insurance company because it denied payment of over \$97,000 in medical expenses incurred as a result of Ms. Rolnik's hospitalization for a mental illness. The plaintiffs alleged that the insurer violated the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1461. In turn, the hospital sued the Rolniks for unpaid medical expenses. Following a bench trial in 1991, which included substantial evidence as to the patient's mental illness, I issued a written opinion in favor of the plaintiffs, concluding that the hospitalization was medically necessary and that the insurer improperly denied benefits. I also determined that the plaintiffs were liable to the hospital.

Mark Mixer, Esq., Floor 9, 20 S. Charles Street, Baltimore, MD 21201-3220; 410-539-8415, represented the plaintiffs. Thomas Trezise, Esq., Convergent

Insurance Services, LLC, #295, 76 Cranbrook Road, Cockeysville, MD 21111; 410-472-1422, represented the hospital. Kenneth L. Thompson, Esq., DLA Piper US, LLP, 6225 Smith Ave., Baltimore, MD 21209-3600; 410-580-4272, represented the insurer.

3) *State v. Henry Howard*, Circuit Court for Baltimore City, Case No. 18222514 (1991). Henry Howard murdered four members of his family in 1982, when he was twenty-one years old. He was found not criminally responsible and was committed to a state mental institution. Ten years later, the Maryland Department of Health and Mental Hygiene sought Mr. Howard's conditional release, pursuant to the Health-General Article of the Maryland Code. The State's Attorney for Baltimore City opposed the request. Several psychiatrists and other witnesses testified at the hearing in 1991. In a written opinion, I concluded that the Department met the burden of proof for Mr. Howard's conditional release, with strict supervision.

Defense counsel was Hon. George Lipman (former Assistant Public Defender), Edward F. Borgerding Courthouse, 5800 Wabash Avenue, Baltimore, MD 21215-3330; 410-878-8107. The prosecutor was Edwin Wenck, Esq., Legal Aid Bureau of Maryland, 500 E. Lexington Street, Baltimore, MD 21202; 410-951-7726. Janet Klein Brown, Esq., Assistant Attorney General, 300 W. Preston Street, Suite 302, Baltimore, MD 21201-2308; 410-767-1865, represented the Department.

4) *Robert T. Manfuso v. Joseph A. DeFrancis*, Circuit Court for Baltimore City, Case No. 24-C-92-120052 (1992-1993). This specially assigned case involved a corporate dispute with respect to two Maryland racetracks. In a written opinion, I upheld the enforceability of a "Russian Roulette" buy-sell provision in the parties' Stockholders Agreement. The plaintiffs also sought interlocutory injunctive relief, to enjoin termination of severance payments under the parties' Stockholders Agreement. In an oral ruling, I denied the motion. The case eventually settled.

The Manfuso brothers were represented by Andrew Jay Graham, Esq., and James P. Ulwick, Esq., Kramon & Graham, PA, 1 South Street, Suite 2600, Baltimore, MD 21202; 410-752-6030, and Herbert Garten, Esq., Fedder and Garten Professional Association, 36 S. Charles Street, Suite 2300, Baltimore, MD 21201; 410-539-2800. The DeFrancis group was represented by James E. Gray, Esq., Venable, LLP, 750 E. Pratt Street, Suite 900, Baltimore, MD 21202-3157; 410-244-7400, and Linda S. Woolf, Esq., Goodell, Devries, Leech & Dann, LLP, Floor 20, 1 South Street, Baltimore, MD 21202; 410-783-4011. McGee Grigsby, Esq., Latham & Watkins, 555 11th Street, N.W., Washington, D.C. 20004; 202-637-2200, represented the corporate defendants.

5) *Cylburn Arboretum Ass'n, Inc. v. Mayor & City Council of Balt.*, Circuit Court for Baltimore City, Case No. 93-330046/CL173182 (1993 to 1994), *aff'd*, 106 Md. App. 183, *cert. denied*, 339 Md. 642 (1995). A developer sought to establish

a Planned Unit Development in an area abutting a public park in Baltimore. The Association challenged a decision of the Mayor and City Council, which approved the developer's application for a zoning change. In a written opinion, I concluded that the Association lacked standing and granted the motions to dismiss filed by the City and the developer. The opinion was affirmed on appeal.

Walter Finch, Esq., and Ruth Finch, Esq., represented the Association. I have been unable to obtain contact information for them. Burton Levin, Esq. (then Assistant City Solicitor), was counsel for Baltimore City, P.O. Box 782, 175 Main Street, Edwards, CO 81632; 970-926-3695. The developer was represented by Jeffrey H. Scherr, Esq., Kramon & Graham, PA, 1 South Street, Suite 2600, Baltimore, MD 21202; 410-752-6030.

6) *Francina Arrington v. Jose Rodriguez*, Circuit Court for Baltimore City, Case No. PD70-119070 (1989), *aff'd*, No. 1690, Sept. Term, 1990 (filed July 22, 1991). This case concerned the question of whether a father's due process rights were violated in connection with his purported consent to an enrolled paternity decree. In a written opinion, I concluded that the father's language barrier did not vitiate his consent to paternity. Therefore, I denied his Motion to Strike the Consent Paternity Decree. My opinion was affirmed on appeal.

Counsel for Mr. Rogriguez was Hon. Alfred Nance (now a judge, Circuit Court for Baltimore City), 111 North Calvert Street, Baltimore, MD 21202; 410-396-4020. Sondra H. Crain, Esq., 2509 Velvet Valley Way, Owings Mills, MD 21117; 410-484-4400, represented Ms. Arrington.

Appellate

7) *Christensen v. Philip Morris USA, Inc.*, 162 Md. App. 616 (2005), *aff'd in part, vacated in part*, 394 Md. 227 (2006). In a case of first impression in Maryland, I authored an opinion for the Court of Special Appeals holding that the pendency of a class action tolls the statute of limitations for putative class members who are not named as individual plaintiffs. The opinion also reversed the grant of summary judgment in favor of the one corporate defendant that was not sued in the class action, and remanded to the trial court for reconsideration in light of *Benjamin v. Union Carbide*, 162 Md. App. 173 (2005). The Court of Appeals affirmed as to the class action and also agreed with the reversal. But, having since affirmed *Benjamin*, 394 Md. 59 (2006), it vacated for reconsideration in light of its own decision in *Benjamin*.

The principal attorney for the appellants was Edward J. Lilly, Esq., Law Office of Peter G. Angelos, 100 N. Charles Street, Baltimore, MD 21201; 410-649-2000. Appellees were represented by Bruce D. Ryder, Esq., Thompson, Coburn LLP, One U.S. Bank Plaza, St. Louis, MO; 314-552-6102, and Kathleen McDonald, Esq., Kerr, McDonald LLP, 31 Light Street, Suite 400, Baltimore, MD 21202; 410-539-2900.

8) *Reese v. Dep't of Health & Mental Hygiene*, 177 Md. App. 102 (2007). I authored an opinion concluding that the due process rights of an intellectually disabled person were violated by a state statutory scheme that did not afford an opportunity to be heard with regard to the agency's denial of an application for admission to a state residential center.

Daniel Rabinowitz, Esq., argued for appellant, while at Sidley Austin, LLP, in Washington, D.C.; 202-736-8000. I am unable to obtain his current contact information. Nirali D. Patel, Esq., appeared on the brief for appellant, Willkie Farr and Gallagher LLP, 1875 K Street, N.W., Washington, D.C.; 202-303-1000. Kathleen Ellis, Esq., Assistant Attorney General, 300 W. Preston Street, Room 302, Baltimore, MD 21201; 410-767-1867, represented appellee.

9) *Brandon v. Molesworth*, 104 Md. App. 167 (1995), *aff'd in part, rev'd in part*, 341 Md. 621 (1996). In a case of first impression in Maryland, I wrote the Court's opinion determining that Maryland's Fair Employment Practices Act constituted a clear mandate of public policy prohibiting gender discrimination in employment, and recognizing a common law cause of action for wrongful discharge as to small employers not covered by the State's fair employment statute. The Court of Appeals affirmed. However, it disagreed that the trial court erred by failing to propound a jury instruction as to the "same actor" inference.

The case was argued for the appellants by E. Alexander Adams, Esq., Adams & Adams, 5300 Dorsey Hall Dr., Ellicott City, MD 21042; 410-992-1477. The case was argued for the appellee by Alan H. Legum, Esq., 275 West Street, Annapolis, MD 21401; 410-263-3001.

10) *Davis v. DiPino*, 121 Md. App. 28 (1998) (en banc), *aff'd in part, rev'd in part*, 354 Md. 18 (1999). Pursuant to 42 U.S.C. § 1983, the plaintiff alleged numerous federal and state constitutional claims and common law tort claims arising from his arrest for hindering and obstructing two police officers in the performance of their duties; that the Mayor and City Council of Ocean City were liable for the constitutional violations, based on respondeat superior; and that the Court Commissioner unlawfully issued an arrest warrant. In a seven-to-six decision, I wrote for the majority, vacating the judgments in favor of Officer DiPino on the federal and state constitutional claims; vacating the judgments in favor of Officer DiPino and Ocean City for malicious prosecution; affirming the judgments on other intentional tort claims; affirming another judgment in favor of Ocean City, based on lack of preservation; affirming the judgment for the Commissioner; and finding no error as to an evidentiary issue. With the exception of the ruling in favor of Ocean City, the Court of Appeals affirmed.

The appellant was represented by Peter Ayers Wimbrow, III, Esq., P.O. Box 56, Ocean City, MD 21842; 410-524-3440. Guy R. Ayres, III, Esq., argued for Officer DiPino and Ocean City, Suite 200, 6200 Coastal Highway, Ocean City,

MD 21842; 410-723-1400. Commissioner Turner was represented by Julia M. Freit, Esq., Assistant Attorney General, Office of the Attorney General, 200 St. Paul Place, Baltimore, MD 21202; 410-576-6300.

- 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) *French v. Hines*, 182 Md. App. 201 (2008). Appellant was represented by Karen J. Kruger, Esq., Senior Assistant County Attorney, Harford County Law Department, 220 S. Main Street, Bel Air, MD 21014; 410-638-3205. Michael P. Tanczyn, Esq., Suite 106, 606 Baltimore Avenue, Towson, MD 21204; 410-296-8823, argued for appellees.

2) *Barber v. Catholic Health Initiatives, Inc.*, 180 Md. App. 409, *cert. denied*, 406 Md. 192 (2008). Appellants were represented by Jeffrey S. Goldstein, Esq., Suite 322, 10320 Little Patuxent Parkway, Columbia, MD 21044; 410-884-6890. I believe that Angus Everton, Esq., Morgan Carlo Downs Everton PA, Executive Plaza IV, Suite 100, 11350 McCormick Road, Hunt Valley, MD 21031; 410-584-2800, argued for appellees. Appellees were also represented by Thomas Marriner, Esq., Wharton Levin Ehrmantraut & Klein, 104 West Street, P.O. Box 551, Annapolis, MD 21404; 410-263-5900.

3) *The Wellington Co, Inc. Profit Sharing Plan & Trust v. Shakiba*, 180 Md. App. 576 (2008). Appellant was represented by Richard Basile, Esq., Suite 416, 6305 Ivy Lane, Greenbelt, MD 20770; 301-441-4900. Brian S. Jablon, Esq., Wellens & Jablon, LLC, #C, 540 Baltimore Annapolis Blvd., Severna Park, MD 21146; 410-647-1493, argued for appellee.

4) *Md.-Nat'l Capital Park & Planning Comm'n v. Anderson*, 164 Md. App. 540 (2005), *aff'd*, 395 Md. 172 (2006). Appellant was represented by William C. Dickerson, Esq., 6611 Kenilworth Avenue, Riverdale, MD 20737; 301-454-1670. Michael L. Marshall, Esq., Schlachman, Belsky, Weiner, PA, Suite 1100, 300 E. Lombard Street, Baltimore, MD 21202; 410-685-2022, argued for the appellee.

5) *Owens v. State*, 170 Md. App. 35 (2006), *aff'd*, 399 Md. 388 (2007), *cert. denied*, 552 U.S. 1144 (2008). Peter F. Rose, Esq., Assistant Public Defender, Suite 1400, 6 St. Paul Street, Baltimore, MD 21202 410-767-2957, argued for the appellant. Mary Ann Ince, Esq., Assistant Attorney General, 200 St. Paul Street, Baltimore, MD 21202; 410-576-6970, argued for the State.

6) *Rios v. Montgomery County*, 157 Md. App. 462 (2004), *aff'd*, 386 Md. 104 (2005). The appellant was represented by Brian C. Johnson, Esq., Greenberg & Bederman LLP, 1111 Bonifant Street, Silver Spring, MD 20910; 301-589-2200. Karen L. Federman Henry, Esq., Office of the County Attorney, Executive Office

Building, 101 Monroe Street, Floor 3, Rockville, MD 20850; 240-777-6700, argued for the defense.

7) *Knapp v. Smethurst, Jr.*, 139 Md. App. 676 (2001). Appellants were represented by Cynthia Young, Esq., 1200 West Street, Annapolis, MD 21401; 410-269-7699. Raymond S. Smethurst, Jr., Esq., One Plaza East, 6th Floor, P.O. Box 4247, Salisbury, MD 21803; 410-749-0161, argued for appellees.

8) *Richman v. FWB Bank*, 122 Md. App. 110 (1998), *aff'd*, 354 Md. 472 (1999). Appellants were represented by Mark L. Schaffer, Esq., The Shaffer Law Firm, Suite 1100, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006; 202-223-3211. Thomas D. Murphy, Esq., Suite 2, Adams Law Center, 31 Wood Lane, Rockville, MD 20850; 301-424-0400, argued for the appellee.

9) *Univ. of Balt. v. Iz*, 123 Md. App. 135, *cert. denied*, 351 Md. 663 (1998). Dawna Cobb, Esq. (former Assistant Attorney General), University of Maryland School of Law, 500 W. Baltimore Street, Baltimore, MD 21201; 410-706-8385, argued for appellants. Peri Iz appeared without counsel. I do not have contact information for her.

10) *Hartford Accident & Indem. Co. v. Scarlett Harbor Assocs. Ltd. P'ship*, 109 Md. App. 217, *aff'd*, 346 Md. 122 (1996). The principal attorneys were as follows: Gregory Vangeison, Esq., 201 N. Charles Street, Suite 2000, Baltimore, MD 21201; 410-752-1630, argued for Hartford. Melvin J. Sykes, Esq., 120 E. Baltimore Street, Suite 1700, Baltimore, MD 21202; 410-962-1030, argued for Scarlett Place/Residential Condominium, Inc. Kenneth F. Spence, III, Esq., The Travelers Companies, Inc., 385 Washington Street, St. Paul, MN; 651-310-7911; argued for Scarlett Harbor and Merritt Operations. H. Patrick Donohue, Esq., 204 Monroe Street, Suite 101, Rockville, MD 20850; 301-251-0440, appeared for Security Masonry. Michael P. May, Esq., 7305 Harford Road, Baltimore, MD 21234; 410-444-7606, appeared for D'Leo and Meyers.

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

I am aware of three cases for which certiorari was requested to the United States Supreme Court. I am not aware of any case for which certiorari was granted by the Supreme Court.

Owens v. State, 170 Md. App. 35 (2006), *aff'd*, 399 Md. 388 (2007), *cert. denied*, 552 U.S. 1144 (2008)

Whittington v. State, 147 Md. App. 496 (2002), *cert. denied*, 373 Md. 408 (2003), *cert. denied*, 540 U.S. 851 (2003)

Kiley v. First Nat'l Bank of Md., 102 Md. App. 317, *cert. denied*, 338 Md. 116 (1995), *cert. denied*, 516 U.S. 866 (1995)

- 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.

Circuit Court for Baltimore City: During my tenure as a trial judge (1989 to 1994), I handled thousands of cases. I believe I was reversed approximately four times. The rulings in issue may have been oral or written, and are not contained in an electronic database. Nor do I recall the particular cases that culminated in unreported reversals. I have found one reported reversal: *In re Victor B.*, 336 Md. 85 (1994). In *Victor B.*, I ruled orally that the Maryland Rules of Criminal Procedure applied to a juvenile delinquency case. The Court of Appeals concluded that the criminal rules are not applicable because a juvenile delinquency proceeding is civil in nature.

Court of Special Appeals: In more than fifteen years on the Court of Special Appeals, an intermediate appeals court of right, I have written more than 1,400 full opinions, of which over 250 are reported. The Court's unpublished opinions do not appear in an electronic database. Moreover, I did not maintain records of reversals, nor am I aware of any judicial system that tracks such information. However, I have endeavored to ascertain the requested information by searching an electronic database for opinions of the Court of Appeals, to identify cases with names similar to those of my unreported opinions.

Reported Opinions

Ametek v. O'Connor, 126 Md. App. 109 (1999), *rev'd*, 364 Md. 143 (2001). My opinion for the Court of Special Appeals concluded that an employer's credit for payments made toward an employee's worker's compensation benefits should be calculated in terms of total money previously paid. The Court of Appeals concluded that, under the statute, the credit for previous payments is determined by weeks, not dollars.

Balt. County v. Wesley Chapel Bluemount Assoc., 110 Md. App. 585 (1996), *rev'd*, 347 Md. 125 (1997), *appeal after remand*, 180 Md. App. 409, *cert. denied*, 406 Md. 192 (2008). In an opinion that I authored for the Court, opponents of a proposed development unsuccessfully sought public consideration of the development plan by the local agency. In a six to one decision, the Court of Appeals reversed, holding that the State's Open Meeting Act applied to the consideration of development plans.

Barber v. Catholic Health Initiatives, Inc., 174 Md. App. 314, *vacated and remanded*, 400 Md. 396 (2007), *appeal after remand*, 180 Md. App. 409, *cert. denied*, 406 Md. 192 (2008). The plaintiffs brought survival and wrongful death claims. My opinion concluded that the trial court erred in granting the defense's motion to dismiss the suit because the plaintiffs' Certificate of Qualified Expert

did not list the names of all defendants in the caption. Without an opinion, and without addressing the merits, the Court of Appeals issued a per curiam order, vacating and remanding for consideration in light of a decision it had just issued in *Carroll v. Konits*, 400 Md. 167 (2007).

Bell v. State, 118 Md. App. 64 (1997), *rev'd and remanded*, 351 Md. 709 (1998). After the defendant waived his right to a jury trial, he claimed that his waiver was defective. My opinion concluded that a state rule required a specific in-court advisement as to jury unanimity as a prerequisite for a defendant's valid waiver of the right to a jury trial. The Court of Appeals disagreed.

Beretta U.S.A. Corp. v. Santos, 122 Md. App. 168 (1998), *rev'd*, 358 Md. 166 (2000). My opinion considered whether a charter county had the authority to enact a statute permitting a county human relations commission to award money damages for humiliation, upon a finding of employment discrimination. The Court of Appeals concluded that the trial court's judgment was not appealable.

Blitz v. Beth Isaac Adas Israel Congregation, 115 Md. App. 460 (1997), *rev'd*, 352 Md. 31 (1998). The prevailing party in a binding arbitration proceeding lodged an action to enforce the arbitration award and sought to recover reasonable attorney's fees under a state statute. My opinion concluded that the terms "costs" and "disbursements" under the statute did not include attorney's fees. The Court of Appeals disagreed.

Brandon, D.V.M. v. Molesworth, D.V.M., 104 Md. App. 167 (1995), *aff'd in part, rev'd in part*, 341 Md. 621 (1996). The Court of Appeals agreed with my opinion that Maryland's Fair Employment Practices Act constitutes a clear mandate of public policy prohibiting gender discrimination in employment, so as to support a common law cause of action for wrongful discharge as to small employers not covered by the statute. But, the Court of Appeals disagreed with my conclusion that the trial court erred by failing to propound a jury instruction as to the "same actor" inference.

Broadcast Equities, Inc. v. Montgomery County, 123 Md. App. 363 (1998), *vacated*, 360 Md. 438 (2000). This employment discrimination case involved, *inter alia*, the issue of a charter county's authority to award money damages for humiliation, contrary to a state statute. My opinion determined that the federal constitutional claims were not ripe. As to State law issues, however, it concluded that the case fell within an exception to the rule requiring exhaustion of administrative remedies. The Court of Appeals determined that the case did not fall within the exception.

Calhoun v. Eagan, 111 Md. App. 362 (1996), *rev'd*, 347 Md. 72 (1997). My opinion determined, as a matter of law, that the doctrine of parent-child immunity did not bar a wrongful death action filed on behalf of minor children against their father, who was convicted of manslaughter in the death of the children's mother.

My opinion reversed and remanded for a new trial, because the jury did not determine whether the father's conduct was intentional. The Court of Appeals concluded that, under the facts of this case, a new trial was not warranted. It reasoned, *sua sponte*, that judicial estoppel precluded the father from denying that his conduct was intentional.

Callaway v. MAMSI Life & Health Ins. Co., 145 Md. App. 567 (2002), *rev'd and remanded*, 375 Md. 261 (2003). My opinion determined that a life insurance company improperly withheld payment of accidental death benefits for an insured who died during an act of autoerotic asphyxiation. In a five to two decision, the Court of Appeals upheld the insurer's refusal to pay.

Christensen v. Philip Morris USA Inc., 162 Md. App. 616 (2005), *aff'd in part, vacated in part*, 394 Md. 227 (2006). My opinion held that the pendency of a class action tolls the statute of limitations for members of the putative class of plaintiffs who were not named as individual plaintiffs. The Court of Appeals affirmed. My opinion also reversed the grant of summary judgment in favor of one defendant that was not sued in the class action case, and remanded for reconsideration in light of a then recent decision, *Benjamin v. Union Carbide*, 162 Md. App. 173 (2005). The Court of Appeals agreed that summary judgment was improper. But, because it had since affirmed *Benjamin*, 394 Md. 59 (2006), it vacated and remanded for reconsideration in light of its own decision in *Benjamin*.

Claggett v. Md. Agric. Land Pres. Found., 182 Md. App. 346, *rev'd*, 412 Md. 45 (2009). A grantor filed a declaratory action, claiming he was not bound by a legislative five-year restriction on transferring land, enacted after he had secured a release from an easement to construct a personal dwelling. My opinion concluded that the landowner was not bound by the legislative change. The Court of Appeals disagreed, holding that the Deed of Easement and Preliminary Release did not reserve to the grantor the right to transfer, free of restrictions.

County Comm'rs of Queen Anne's County v. Soaring Vistas Props., Inc., 121 Md. App. 140 (1998), *rev'd and remanded*, 356 Md. 660 (1999). The Court of Appeals concluded that state law preempted the field of sewage sludge utilization, including sludge storage facilities. On that basis, it found invalid a county zoning ordinance that imposed a six-month moratorium on all sludge storage facilities, and reversed my opinion, which held to the contrary.

County Council of Prince George's County v. Brandywine Enters., Inc., 109 Md. App. 599 (1996), *vacated and remanded*, 350 Md. 339 (1998). On review of the zoning hearing examiner's approval of an application for a special exception, the local administrative agency failed to render a decision within the statutory time provided. My opinion concluded that the inaction resulted in a denial of the appeal from the zoning examiner's decision, and not a denial of the special exception application. The Court of Appeals disagreed.

Davis v. DiPino, 121 Md. App. 28 (1998) (*en banc*), *aff'd in part, vacated in part*, 354 Md. 18 (1999). The plaintiff alleged state and federal constitutional violations, as well as common law torts, arising out of his prosecution for hindering two police officers in the performance of their duties. The circuit court ruled against the plaintiff on all claims. On appeal, my opinion considered numerous legal issues against each defendant, and reversed the circuit court on many issues. The Court of Appeals affirmed all but one issue, regarding the finding of lack of preservation as to claims against Ocean City.

Facon v. State, 144 Md. App. 1 (2002), *rev'd*, 375 Md. 435 (2003). My opinion vacated one of the defendant's robbery sentences, but affirmed his other convictions. Although the defendant had been presented to a Court Commissioner within 24 hours of his arrival in Maryland, as required by Maryland's prompt presentment rule, the Court of Appeals concluded that the delay was solely for interrogation, in violation of the rule. Therefore, it reversed the defendant's convictions and remanded to the trial court.

Frederick Rd., Ltd. v. Brown & Sturm, 121 Md. App. 384 (1998), *rev'd and remanded*, 360 Md. 76 (2000). In this legal malpractice case, the plaintiffs sued their former attorneys in regard to tax advice as to a land transfer. My opinion concluded that the suit was barred by the statute of limitations. In a five to two decision, the Court of Appeals reversed.

Garg v. Garg, 163 Md. App. 546 (2005), *rev'd*, 393 Md. 225 (2006). In this custody dispute, the trial court declined to exercise jurisdiction because of a pending custody case in India. The Court of Appeals concluded that my opinion erred by addressing the trial court's decision deferring appointment of counsel for the child, and in concluding that the Uniform Child Custody Jurisdiction and Enforcement Act applied, rather than the Uniform Child Custody Jurisdiction Act.

Green v. State, 145 Md. App. 360 (2002), *rev'd*, 375 Md. 595 (2003). The defendant moved to suppress drugs found in his vehicle after a routine traffic stop, claiming that his Fourth Amendment rights were violated. My opinion concluded that the defendant did not consent to the search. In a five to two decision, the Court of Appeals determined that the defendant had voluntarily consented to the search and that his consent did not expire.

Hartlove v. Md. School For The Blind, 111 Md. App. 310 (1996), *vacated and remanded*, 344 Md. 720 (1997). The school, the residuary legatee of the testator's estate, sued the personal representative, alleging breach of fiduciary duty and other claims. My opinion upheld the jury's finding of breach of fiduciary duty. Without an opinion, and without reaching the merits, the Court of Appeals vacated and remanded for reconsideration in light an opinion it had recently decided, *Kann v. Kann*, 344 Md. 689 (1997).

In re Levon A., 124 Md. App. 103 (1998), *rev'd and remanded*, 361 Md. 626 (2000). My opinion concluded that a parent of a juvenile who committed the delinquent act of unauthorized use of an automobile may be liable for restitution for damage to the car. In a five to two decision, the Court of Appeals disagreed. It reasoned that the statute did not authorize restitution against the parent.

Mitchell v. State, 132 Md. App. 312 (2000), *rev'd and remanded*, 363 Md. 130 (2001). My opinion affirmed the defendant's conviction for conspiracy to commit second-degree murder, finding that such a crime exists in Maryland. The Court of Appeals disagreed and reversed.

Moore v. Moore, 144 Md. App. 288 (2002), *rev'd sub nom. Moore v. Jacobsen*, 373 Md. 185 (2003). Applying principles of contract and statutory construction, my opinion concluded that a husband's alimony obligation survived the wife's remarriage, based on the particular facts of this case. The Court of Appeals reversed. It determined that parties must explicitly agree, in writing, in order to avoid the statutory presumption that alimony terminates upon remarriage.

Nat'l Corp. for Hous. P'ship, Meadowood Townhouse, Inc. & Injured Workers' Ins. v. Keller, 119 Md. App. 566 (1998), *rev'd and remanded*, 353 Md. 171 (1999). In this workers' compensation case, the employee's adult child was financially dependent upon the employee when the employee died from a cause unrelated to work. My opinion concluded that the adult child was a "surviving dependent" and, as a result, was entitled to receive the disability benefits that would have been awarded to the employee but for her death. The Court of Appeals reversed, concluding that dependency is determined at the time of the accident, not when benefits are awarded.

Neal v. Prince George's County, 117 Md. App. 460, *vacated and remanded*, 348 Md. 329 (1997). The plaintiff filed a negligence action after she fell on an icy sidewalk. My opinion concluded that the trial court erred in granting summary judgment for the defendants, because it was for the jury to determine whether the plaintiff voluntarily assumed the risk of falling. Without an opinion, and without reaching the merits, the Court of Appeals vacated and remanded for reconsideration in light of a case it had recently decided, *ADMP'ship v. Martin*, 348 Md. 84 (1997).

Norville v. Anne Arundel County Bd. of Educ., 160 Md. App. 12 (2004), *vacated and remanded*, 390 Md. 93 (2005). The plaintiff sued a county school board alleging federal and state age discrimination claims. My opinion concluded that the school board is an arm of the State for purposes of sovereign immunity, but that Maryland law waived sovereign immunity for any claim of \$100,000 or less. The Court of Appeals did not reach that issue. It concluded, *sua sponte*, that suit was barred by *res judicata*, because the U.S. District Court had previously dismissed, with prejudice, the federal claims in a related case, after finding that the school board is a state agency with immunity under the Eleventh Amendment.

S. Mgmt. v. Taha, 137 Md. App. 697 (2001), *vacated and remanded*, 367 Md. 564 (2002), *appeal after remand*, 378 Md. 461 (2003). The plaintiff lodged a malicious prosecution suit against his former employer and two former co-workers. The jury found for the employees but against the employer. My opinion held that the verdict against the corporation could not stand because it was inconsistent with the jury's exoneration of the two employees. The Court of Appeals vacated the ruling, concluding that a final and appealable judgment had not been entered. After final judgments were entered, the Court of Appeals determined that the jury's verdict was irreconcilably inconsistent.

Whalen v. Mayor & City Council of Balt., 164 Md. App. 292 (2005), *rev'd and remanded*, 395 Md. 154 (2006). My opinion reversed the trial court's award of summary judgment for the City of Baltimore in a negligence suit filed by a blind pedestrian who fell into an uncovered utility hole. The Court of Appeals reversed, concluding that the City was entitled to governmental immunity.

Unreported Criminal Opinions

Andrews v. State, No. 1321, Sept. Term, 1999, *rev'd and remanded*, 372 Md. 1 (2002). The defendant appealed his conviction for killing his infant daughter by "Shaken Baby Syndrome," claiming the trial court erred in permitting the State's expert to use a doll to demonstrate the amount of force necessary to cause the child's injuries. My opinion affirmed. The Court of Appeals reversed, reasoning that "the differences between the doll and the victim were . . . substantially material to the determination of the amount of force necessary" to cause the baby's injuries. 372 Md. at 25.

Bolden v. State, No. 1629, Sept. Term, 1997, *rev'd and remanded*, 356 Md. 160 (1999). The trial court imposed three sentences totaling 97 years for three distributions of \$20 worth of cocaine. My opinion vacated one 40-year sentence, reasoning that it was part of the same transaction for which the trial court had imposed a sentence of 32 years, and held that the remaining sentence constituted cruel and unusual punishment. The State did not appeal the ruling as to the 40-year sentence. In a four to three decision, the Court of Appeals reversed as to the remaining sentences.

Cole v. State, No. 1151, Sept. Term, 2001, *rev'd and remanded*, 378 Md. 42 (2003). The defendant argued that the trial court improperly prohibited his expert from testifying about the State's laboratory tests, due to lack of a sufficient factual basis, because the State failed during discovery to provide information as to its laboratory procedures. My opinion affirmed. The Court of Appeals reversed, concluding that the Maryland Rules of Procedure required the State to provide some of the requested information.

Craft v. State, No. 201, Sept. Term, 1997, *rev'd and remanded sub nom. Dorsey v. State*, 356 Md. 324 (1999). The defendant was charged with contempt for failing to pay child support. The trial judge denied the defendant's request for a jury trial after it limited his punishment to 179 days in jail. It then found the defendant guilty of criminal contempt, imposed a sentence of 179 days, and reduced it to time served. My opinion affirmed. The Court of Appeals reversed, concluding that the defendant had a statutory right to a jury trial in a constructive criminal contempt prosecution, regardless of the length of sentence.

Haley v. State, No. 1079, Sept. Term, 2004, *rev'd and remanded*, 398 Md. 106 (2007). I authored an opinion concluding that the attorney-client privilege was not breached during a criminal defendant's cross-examination, because the information the defendant gave his lawyer was intended to be disclosed and therefore it was not confidential. The Court of Appeals disagreed.

Lee v. State, No. 1078, Sept. Term, 2005, *rev'd*, 405 Md. 148 (2008). Defendant appealed his convictions on several grounds, including a challenge to the State's summation. My opinion recognized that the prosecutor's remarks "came close to overstepping the bounds of legitimate argument," slip op. at 63, but affirmed the convictions. The Court of Appeals concluded that the prosecutor exceeded the permissible scope of closing argument.

Lewis v. State, No. 851, Sept. Term, 1999, *vacated*, 361 Md. 527 (2000). The defendant was convicted of possession of cocaine. On appeal, he complained that the trial court erred by allowing the prosecutor to argue facts that were not in evidence. My opinion affirmed the conviction. In a per curiam order, without an opinion, the Court of Appeals vacated and remanded for reconsideration in light of its then recent decision in *Skok v. State*, 361 Md. 52 (2000).

Lowery v. State, No. 2019, Sept. Term, 2003, *vacated and remanded*, 390 Md. 514 (2006). My opinion affirmed the trial court's sentence of five years without parole. In a per curiam order, without an opinion, the Court of Appeals vacated and remanded for reconsideration in light of its then recent decision in *Stanley v. State*, 390 Md. 175 (2005).

Smullen v. State, No. 1179, Sept. Term, 2001, *rev'd*, 380 Md. 233 (2004). In this patricide case, my opinion determined that the trial court erred in barring evidence as to Battered Child Syndrome and in failing to instruct the jury as to imperfect self-defense. The Court of Appeals unanimously agreed that Maryland's Battered Spouse Syndrome also applies to battered children. However, in a four to three decision, it concluded that the defense of imperfect self-defense was not generated.

Unreported Civil Opinions

Casey PMN, LLC v. Miller & Smith at Quercus, LLC, No. 1704, Sept. Term, 2007, *rev'd*, 412 Md. 230 (2010). My opinion concluded that the circuit court erred in dismissing appellant's suit regarding interpretation of a "Deferred Purchase Money Promissory Note." The Court of Appeals did not reach the merits. It concluded that there was no final, appealable judgment.

Cherry v. Md. Military Dep't, No. 1135, Sept. Term, 2002, *rev'd and remanded*, 382 Md. 117 (2004). My opinion reversed the circuit court, which had granted the State's motion to dismiss a suit by employees to recover overtime wages on the ground that a grievance review procedure was the exclusive remedy for such claims. The Court of Appeals reversed. It determined that the circuit court lacked jurisdiction because the plaintiffs failed to exhaust their administrative remedies.

G-C P'ship v. Schaefer, No. 1513, Sept. Term, 1998, *rev'd and remanded*, 358 Md. 485 (2000). My opinion recognized that the petitioner's appeal was premature because of lack of a final judgment, but a divided panel determined that the defect could be cured pursuant to Maryland Rule 8-602(e)(1). The Court of Appeals dismissed the appeal as premature.

Lititz Mut. Ins. Co. v. Bell, No. 293, Sept. Term, 1997, *rev'd*, 352 Md. 782 (1999). The insurer filed a declaratory action disputing any obligation to defend and indemnify its insureds and their son in a negligence suit, because the homeowner's insurance policy did not apply to an occurrence involving bodily injury "intended by the insured." My opinion upheld the trial court's denial of the insurer's summary judgment motion, concluding that there was a potentiality of coverage because the insured's son may not have been criminally responsible, and thus could not have formed the requisite intent. The Court of Appeals disagreed.

Miller v. Kirkpatrick, No. 1359, Sept. Term, 2001, *rev'd*, 377 Md. 335 (2003). My opinion held that the defendant fee owners, who were subject to an easement, were entitled to install fences along the right-of-way so long as they did not unreasonably interfere with use of plaintiffs' easement. The Court of Appeals concluded that the defendants could not unilaterally narrow the easement by installing fences.

Mullan v. Bd. of Physician Quality Assur., No. 2359, Sept. Term, 2001, *rev'd and remanded*, 381 Md. 157 (2004). The Maryland Board of Physician Quality Assurance summarily suspended Dr. Mullan's medical license, prior to a hearing, because he had treated patients while under the influence of alcohol. My opinion reversed the Board's finding that the summary suspension was an "emergency action" that was "imperatively required," within the meaning of the statute, because the Board waited several months before initiating such action. The Court of Appeals disagreed.

Smith v. Stein, No. 1855, Sept. Term, 1998, *rev'd and remanded*, 358 Md. 670, 671 (2000). The trial court granted summary judgment to the defendants, on the

ground that the plaintiff's amended suit was barred by limitations. My opinion reversed the trial court, concluding, based on the relation back doctrine, that the amended suit was timely filed. The Court of Appeals disagreed.

Walker v. Morgan State Univ., No. 579, Sept. Term, 2005, *rev'd*, 397 Md. 509 (2007). The plaintiff filed a negligence suit to recover damages for injuries she sustained when she slipped on an icy parking lot. My opinion held that the trial court erred in granting summary judgment based on assumption of the risk. The Court of Appeals reversed, concluding that the plaintiff assumed the risk as a matter of law.

- 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.

Approximately 17% of my appellate opinions have been designated by the Court for publication. Unpublished opinions may be available through Lexis or Westlaw. All opinions are filed with the Clerk of the Court, where they are publicly available. To my knowledge, they are stored in the State archives. As a circuit court judge, I issued oral rulings, generally on a daily basis, and also wrote many opinions. Those opinions are not contained in an electronic database, nor did I retain copies of them in a systematized way. I believe that most of them are maintained in the State archives, by court, case name, and case number.

- 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.

Allen v. State, 158 Md. App. 194 (2004), *aff'd*, 387 Md. 389 (2005)

Behrel v. State, 151 Md. App. 64, *cert. denied*, 376 Md. 546 (2003)

Braxton v. State, 123 Md. App. 599 (1998)

Davis v. DiPino, 121 Md. App. 28 (1998) (*en banc*), *aff'd in part, vacated in part*, 354 Md. 18 (1999)

Elliott v. State, 185 Md. App. 692 (2009)

Freeman v. State, 158 Md. App. 402 (2004)

French v. Hines, 182 Md. App. 201 (2008)

In re Adoption/Guardianship No. T00032005, 141 Md. App. 570 (2001)

In re Christopher T., 129 Md. App. 28 (1999)

In re Joshua David C., 116 Md. App. 580 (1997)

Knapp v. Smethurst, Jr., 139 Md. App. 676 (2001)

Norville v. Anne Arundel County Bd. of Educ., 160 Md. App. 12 (2004), *vacated and remanded*, 390 Md. 93 (2005)

Padilla v. State, 180 Md. App. 210, *cert. denied*, 405 Md. 507 (2008)

Powell v. State, 139 Md. App. 582, *cert. denied*, 366 Md. 248 (2001)

Reese v. Dep't of Health & Mental Hygiene, 177 Md. App. 102 (2007)

Rios v. Montgomery County, 157 Md. App. 462 (2004), *aff'd*, 386 Md. 104 (2005)

Samuels v. Tschechtelin, 135 Md. App. 483 (2000)

State v. Cabral, 159 Md. App. 354 (2004)
State v. Fernon, 133 Md. App. 41 (2000)
State v. Jones, 138 Md. App. 178 (2001), *aff'd*, 379 Md. 704 (2004)
Super. Ct. of Cal., County of Stanislaus, Family Support Div.,
o/b/o Jones v. Ricketts, 153 Md. App. 281 (2003)
Walker v. State, 125 Md. App. 48 (1999)
Ware v. State, 170 Md. App. 1, *cert. denied*, 396 Md. 13 (2006)
Whittington v. State, 147 Md. App. 496 (2002), *cert. denied*, 373 Md. 408 (2003),
cert. denied, 540 U.S. 851 (2003)

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

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

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

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

Throughout my judicial career, I have endeavored to follow Md. Rule 16-813, titled "Maryland Code of Judicial Conduct," including Canon 2, "Avoidance of Impropriety and the Appearance of Impropriety," and Canon 3, "Performance of Judicial Duties." I have also periodically supplied the Clerk of the Court of Special Appeals with a recusal list, which contains the names of attorneys with whom I have a close friendship; cases with those attorneys are not assigned to me. In addition, as each new appellate case is assigned to me, my administrative assistant and I review the names of the parties and the attorneys to assure that I do not have a financial conflict, a relationship that might impair my ability to remain

impartial, or a connection that might give rise to the appearance of impropriety. As a trial judge, I utilized similar safeguards to avoid any conflict of interest.

I do not maintain a list of cases for which I have recused. The following list was prepared based on my best recollection and some internal records that I located.

Maryland Court of Special Appeals

Polly Keyes v. Sheldon Lerman, M.D., __ Md. App. __, No. 2290, Sept. Term, 2008 (filed March 30, 2010). This case was presented to the Court at our monthly conference as part of our publication process. I recused, *sua sponte*, because of my friendship with one of the parties.

John Crane, Inc. v. John Linkus, Pers. Representative of the Estate of George J. Linkus, Sr., 190 Md. App. 217 (2010). This case was presented at our monthly conference as part of our publication process. I recused, *sua sponte*, because John Crane, Inc. is a former client.

Md. Dep't of State Police v. Md. State Conf. of NAACP Branches, 190 Md. App. 359 (2010) (en banc). I declined to participate in this case, *sua sponte*, because I am a Life Partner of the NAACP.

State v. Chris Balbontin, No. 2372, Sept. Term, 2008. I recused, *sua sponte*, because of my personal relationship with one of the attorneys.

Ty Vincent Stanley v. Wells Fargo Bank, N.A., No. 760, Sept. Term, 2008. I recused, *sua sponte*, because our mortgage is with Wells Fargo, and our stockbroker, a former law clerk, now works for Wells Fargo.

Syed Mirjafari v. Edward Cohn, No. 2977, Sept. Term, 2007. I recused, *sua sponte*, because the father of my son's friend was a party in the case.

Bond v. Messerman, 162 Md. App. 93 (2005). I declined to participate, *sua sponte*, because one of the parties was a neighbor.

Md. Dep't of Agric., Bd. of Veterinary Exam'rs v. Kim Hammond, No. 206, Sept. Term, 2005. I recused, *sua sponte*, because Dr. Hammond had been our veterinarian.

Acacia Mut. Life Ins. Co. v. BAA, PLC, No. 2402, Sept. Term, 2003. I participated in oral argument, without knowledge that a publicly traded mutual fund was one of many parties in the case. Unfortunately, the appellate briefs never identified all of the parties by name. Upon examining the record in connection with drafting the opinion, I discovered that this mutual fund was an appellant. Because my husband and I each held shares of this mutual fund (although not a disqualifying "Significant Financial Interest" under Md. Rule 16-813(j)(1) and Canon 3(D)(1)(c)), I notified our Chief Judge of the situation.

Thereafter, the Court issued an Order advising counsel that an unnamed panel member and spouse owned shares in the mutual fund. The parties elected reargument before a new panel.

Attorney Grievance Comm'n v. Bereano, 357 Md. 321 (2000). I was invited to sit with the Court of Appeals in this case. I declined to do so because I am acquainted with Mr. Bereano.

Bereano v. State Ethics Comm'n, 174 Md. App. 146 (2007), *rev'd*, 403 Md. 716 (2008). I declined to participate, *sua sponte*, because I am acquainted with Mr. Bereano.

William Bond v. William Slavin, No. 203, Sept. Term, 2003. I declined to sit, *sua sponte*, because both parties are former neighbors.

Digital Media Techs., Inc. v. Balt. Ravens Football Club, Inc., No. 101, Sept. Term, 2001. I recused, *sua sponte*, because my husband was attempting to do business with one of the parties.

Pantazes v. State, 141 Md. App. 422 (2001), *cert. denied*, 368 Md. 241 (2002). I recused, *sua sponte*, because one of the attorneys is a friend and former law partner. I subsequently added that lawyer's name to my conflict list.

Williams Constr. Co., Inc. v. State Highway Admin., No. 2305, Sept. Term, 2000. I recused, *sua sponte*, because one of the attorneys is a close friend. I subsequently added his name to the conflict list.

Carriage Hill Cabin John, Inc. v. Md. Health Res. Planning Comm'n, 125 Md. App. 183 (1999). Marriott Retirement Communities, Inc. was a party to this appeal. At the time, I held shares in Host Marriott and Marriott International in my IRA account. Although I did not hold a "Significant Financial Interest" under Md. Rule 16-813(j)(1) and Canon 3(D)(1)(c), I offered at oral argument to recuse. All counsel waived any potential conflict.

Anthony Triplin v. Alice Triplin, Court of Special Appeals, No. 5635, Sept. Term, 1998. I declined to participate in this case, *sua sponte*, because the parties are the parents of my son's friend.

Balt. Gas & Elec. Co. v. Commercial Union Ins. Co., 113 Md. App. 540 (1997). Because my son held shares in BGE (not a "Significant Financial Interest" under Md. Rule 16-813(j)(1) and Canon 3(D)(1)(c)), I offered at oral argument to recuse. All counsel waived any potential conflict. To the extent that I may have sat on any other BGE or Constellation Energy cases, I would have followed the same course of conduct.

Eugene Conti, Jr. v. Bd. of Appeals of the Dep't of Labor, Licensing & Regulation, No. 920, Sept. Term, 1998. The family of one of the attorneys in this case served as my host family when I was a college student. Therefore, I recused, *sua sponte*. I subsequently added his name to the Clerk's conflict list.

NationsBank v. State Dep't of Assessments & Taxation, No. 1244, Sept. Term, 1994. Because my husband was attempting to do business with NationsBank, I offered to recuse. All attorneys waived any potential conflict.

Bartholomee v. Casey, 103 Md. App. 34 (1994), *cert. denied*, 338 Md. 557 (1995). Scott Nevin, Esq., then with the law office of Saul E. Kerpelman & Associates, represented the plaintiffs/appellees. He had previously tried a lead paint case before me while I was on the circuit court. Although I do not recall the name of that case, I believe he prevailed. Nevertheless, he sought my recusal in the above appeal, claiming that I was biased against lead paint plaintiffs. Because the allegation was totally baseless, I declined to recuse. Mr. Nevin, Mr. Kerpelman, and others from that office subsequently argued other appeals before me and never requested recusal.

Circuit Court for Baltimore City

I have no specific recollection of any circuit court cases in which I recused, *sua sponte*, or for which I was asked to recuse. However, I am positive that I adhered to all ethical and legal requirements in assessing whether recusal was appropriate. To illustrate, I recall the case of *Donald Reuwer v. Carol & Sheldon Sandler*, Circuit Court for Baltimore City, CL125105, a non-jury case that I tried in 1992. I advised counsel, Paul Vettori, Esq., and Leonard Orman, Esq., of my intent to recuse, because Mr. Vettori and I had worked at the same law firm, and because the Sandlers lived in my neighborhood. However, all counsel and the parties waived any conflict, on the record.

15. **Public Office, Political Activities and Affiliations:**

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

I have not held public office, other than judicial offices. I have not had any unsuccessful candidacies for elective office. In 1993, I sought appointment to the Maryland Court of Special Appeals. Although I was nominated by the Appellate Judicial Nominating Commission, the Governor selected another nominee.

- 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.

“Keep Our Circuit Court Judges,” Committee to Elect Judges Hollander, Rombro, and Themelis – judicial candidate, Circuit Court for Baltimore City, Feb. 1989 to Nov. 1990. The Committee, composed almost entirely of volunteers, supported the candidacy of the incumbent circuit judges, who faced two challengers. As one of the incumbent judges, I attempted to insulate myself from any direct fundraising.

I was a volunteer for Stephen H. Sachs, Esq., when he successfully ran as the Democratic candidate for Attorney General of Maryland in 1978. In 1986, I volunteered when Mr. Sachs ran, unsuccessfully, in the Democratic primary for Governor. In 1960, as a youngster, I volunteered in the presidential campaign of John F. Kennedy.

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 August 1974 to August 1975, I clerked for Judge James R. Miller, Jr., United States District Court for the District of Maryland.

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

I never practiced alone.

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

1975 to 1979

Frank, Bernstein, Conaway & Goldman (dissolved in 1992)

1300 Mercantile Bank and Trust Building

2 Hopkins Plaza

Baltimore, Maryland 21201

Associate, Litigation Department

1979

Office of the Maryland Attorney General

One South Calvert Street

Baltimore, Maryland 21202
Assistant Attorney General, Civil Division

1979 to 1983
United States Attorney's Office, District of Maryland
U.S. Courthouse
101 W. Lombard Street
Baltimore, Maryland 21201
Assistant United States Attorney

1983 to 1989
Frank, Bernstein, Conaway & Goldman (dissolved in 1992)
300 East Lombard Street
Baltimore, Maryland 21202
Associate, 1983 to 1985
Partner, 1985 to 1989

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

I have never served as an arbitrator or a mediator.

b. Describe:

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

From 1975 to 1979, and again from 1983 to 1989, I practiced civil litigation at a large Baltimore law firm, including tort matters, contract and commercial disputes, and insurance cases. On occasion, I also represented the defense in criminal matters, both state and federal. On two occasions, I appeared in Maryland's appellate courts. In 1979, I worked as an Assistant Attorney General for the State of Maryland, handling cases in the Civil Division. As an Assistant United States Attorney from 1979 to 1983, I represented the United States in criminal cases, including mail fraud, bank robbery, tax evasion, conspiracy, rape, and embezzlement. I also sought indictments before federal grand juries, supervised criminal investigations by various federal agents, tried jury cases, and handled numerous evidentiary proceedings. In addition, I represented the interests of the Government in civil matters, such as the defense of medical malpractice cases under the Federal Tort Claims Act. I also participated in three appeals heard by the Fourth Circuit. I returned to private practice, at the same law firm, in 1983, and became a partner in 1985. I left the firm in 1989 when I was appointed to the trial bench.

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

In private practice, my typical clients included corporations, partnerships, small businesses, and individuals. As a federal prosecutor, I represented the United States and its agencies. In the Attorney General's Office, I represented the State of Maryland and its agencies.

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

My entire law practice was devoted to litigation, primarily at the trial level. In the private sector (1975 to 1979; 1983 to 1989), I represented the interests of individuals and business entities and appeared in court frequently. In my first six months of practice, for example, I participated in three civil jury trials. As an Assistant United States Attorney (1979 to 1983), I was in court extensively, in both criminal and civil matters, on behalf of the United States and its agencies. In addition to handling several jury trials, I handled numerous evidentiary proceedings and other matters, such as guilty pleas, discovery motions, sentencing hearings, and probation violation proceedings.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 40%
- 2. state courts of record: 59%
- 3. other courts: none
- 4. administrative agencies: 1%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 70%
- 2. criminal proceedings: 30%

- 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.

From 1975 to 1989, I had an active litigation practice and appeared in court regularly. I tried approximately 12 jury trials. I was lead counsel, sole counsel, or "second chair." In addition, I estimate that I tried about 20 non-jury cases to verdict. For cases in state district courts, I was usually sole counsel. I also estimate that I handled approximately 15 cases that were decided by motion.

- i. What percentage of these trials were:

- 1. jury: 37%

2. non-jury: 63%

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

I have not practiced before the 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) *United States v. John Anthony Walker, Jr. & Michael Lance Walker*, Criminal Nos. H-85-0309 and H-85-0532 (D. Md. 1985 to 1986); Chief Judge Alexander Harvey, II (retired). John Walker, Jr. and his son, Michael Walker, were indicted for delivering classified information to the Soviet Union. Charles Bernstein (now a retired state judge) and I were appointed by Chief Judge Harvey to represent Michael Walker. I prepared numerous motions and legal memoranda and participated in the factual investigation for the defense. On October 28, 1986, Michael Walker pled guilty to conspiracy to deliver national defense information to a foreign government, in violation of 18 U.S.C. § 794, and unlawfully obtaining, retaining or transmitting national defense information, in violation of 18 U.S.C. § 793. He was sentenced to a term of 25 years. Thereafter, I attended his debriefings by the Government.

Charles G. Bernstein, Esq., Law Offices of Peter G. Angelos, One Charles Center, 100 N. Charles Street, 22nd Floor, Baltimore, MD; 410-649-2000, was lead counsel for Michael Walker. The prosecutors were Michael Schatzow, Esq., Venable LLP, 750 E. Pratt Street, Suite 900, Baltimore, MD 21202; 410-244-7592, and Robert N. McDonald, Esq., Chief Counsel, Opinion, Advice, & Legislation Division, Office of the Attorney General, 200 St. Paul Place, Baltimore, MD 21202; 410-576-6327. The late Fred Warren Bennett, Esq. (then the Federal Public Defender for Maryland), represented John Walker, Jr.

2) *United States v. Lemuel Taylor*, Case No. K-81-0096 (D. Md. 1981); Judge Frank Kaufman (deceased). I was lead counsel in the Government's prosecution of Lemuel Taylor. He was charged with misappropriation of about \$40,000 from the bank accounts of intellectually disabled persons who were residents of an institution known as Forest Haven. The jury trial commenced in September 1981 and lasted approximately two weeks. The major points at issue were: (a) identification, by largely circumstantial evidence, of Mr. Taylor as the person who embezzled the monies, and (b) financial analysis of a multitude of records to establish what monies were taken, and from whom. Mr. Taylor was convicted and sentenced to a term of five years in prison.

Edward Norton, Esq., Senior Advisor, TPG Capital, L.P., 345 California Street, Suite 300, San Francisco, CA 94104; 415-743-5402, was co-counsel for the Government. Mr. Taylor was initially represented by Stanley Reed, Esq., Assistant Federal Public Defender, now at Lerch, Early & Brewer, Chartered, Suite 460, 3 Bethesda Metro Center, Bethesda, MD 20814-5330; 301-986-1330, and Thomas Hamilton, Esq., whose last known address is 3613 Stagecoach Terrace, Plano, TX 75023. They were succeeded by Joseph Gibson, Jr., Esq., Suite 210A, 6811 Kenilworth Avenue, Riverdale, MD 20737; 301-209-0453.

3) *United States v. Jay Dennis Gould*, Case No. M-82-00221 (D. Md. 1982); Judge James R. Miller, Jr. (retired). I represented the Government in the prosecution of Mr. Gould for bank robbery. Following a jury trial held in October 1982, Mr. Gould was convicted and sentenced to 10 years in prison. The case was significant because it was, to my knowledge, one of the first cases in federal court in which a defendant asserted a compulsive gambling disorder as a basis for an insanity plea, in reliance on the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders III. The trial court concluded that a pathological gambling disorder could not serve as the basis for an insanity defense to bank robbery. The Fourth Circuit affirmed. *See United States v. Gould*, 741 F.2d 45 (4th Cir. 1984). I did not participate in the appeal, as I had returned to private practice by that time.

My co-counsel was Larry A. Ceppos, Esq., Suite 101, 204 Monroe Street, Rockville, MD 20850; 301-251-0440. Jodie English, Esq. (then Assistant Federal Public Defender), address unknown, was the defense attorney.

4) *James S. Hebb, III v. Holly Lynn Walker*, Circuit Court for Baltimore County, Case No. 86CG320430/3; Judge John Fader, II (retired), *aff'd*, 73 Md. App. 655 (1988); Chief Judge Richard Gilbert (deceased). Fifteen-year-old David Tucker Hebb was killed in a car accident after the decedent and two friends left an unsupervised party hosted by our teenaged client, Robert Johnson, at which alcohol was available. Mr. Johnson did not know Mr. Hebb or his friends, nor were they invited to the party. The parents of the decedent brought suit in 1986 against Mr. Johnson and his parents, alleging negligence and negligent entrustment. They also sued the teenage driver and her mother. Although the

Johnsons had counsel through their homeowners' insurance policy, they retained our firm because the amount in controversy exceeded the limits of the policy. The trial court granted the Johnsons' motion for summary judgment, on the ground that Maryland does not recognize social host liability. The Court of Special Appeals affirmed. I assisted at both the trial and appellate levels, helping to prepare pleadings, investigating the facts, attending court hearings, and assisting in writing the appellate brief.

Allen L. Schwait (now a retired state judge); 410-396-8057, was lead counsel for the Johnsons. William Reynolds, Esq., University of Maryland School of Law, 500 W. Baltimore Street, Baltimore, MD 21201-1710; 410-706-7279, was appellate co-counsel for the Johnsons. The late Byron Berman, along with Irwin Weiss, Esq., Suite 302, 920 Providence Road, Baltimore, MD 21286; 410-821-0001, represented the Johnsons and their insurer. Harry Lord, Esq., DLA Piper US, LLP, 6225 Smith Avenue, Baltimore, MD 21209-3600; 410-580-3000, and John Kuchno, Esq., Kramon & Graham, PA, Suite 2600, One South Street, Baltimore, MD 21202-3201; 410-752-6030, were principal counsel for plaintiffs/appellants. The driver and her mother were represented by Raymond Mullady, Jr., Esq., Orrick, Herrington & Sutcliffe, Columbia Center, 1152 15th Street, N.W., Washington, D.C. 20005; 202-339-8400, and Frederick William Miller, Esq., Suite 104, 8 Reservoir Circle, Baltimore, MD 21208-6362; 410-484-8102.

5) *State of Md. Deposit Ins. Fund Corp., as Conservator for Old Court Savs. & Loan, Inc. v. Donald Berman*, Circuit Court for Baltimore City, Case No. 87112059/CL64567 (1987 to 1988); Judge Joseph H. H. Kaplan (retired). This case was an outgrowth of the Maryland savings and loan crisis in the mid 1980s. Our firm represented the Maryland Deposit Insurance Fund ("MDIF") as Conservator, and later as Receiver, for Old Court Savings & Loan, Inc. The case of *MDIF v. Berman* was one of the Old Court cases that I handled for the firm. MDIF alleged that Berman, the Chief Operating Officer of Jiff Island, Inc., fraudulently induced Old Court and two of its subsidiaries to make loans totaling almost \$2 million to Jiff Island, which Berman then used to obtain a substantial equity position in other entities. The case, which was settled favorably, was one of many initiated in an effort to recoup money for Maryland's taxpayers.

Lead counsel for MDIF was Shale D. Stiller, Esq., DLA Piper LLP, 6225 Smith Avenue, Baltimore, MD 21209; 410-580-4268. Peter H. Gunst, Esq., Astrachan Gunst & Thomas, P.C., 21st Floor, 217 E. Redwood Street, Baltimore, MD 21202; 410-783-3550, was co-counsel. The defense was represented by Thomas L. Crowe, Esq., 1622 World Trade Center, 401 E. Pratt Street, Baltimore, MD 21202; 410-685-9428.

6) *Tinkham v. Prudential Ins. Co. of Am.*, Case No. 6369, Circuit Court for Montgomery County (1987); Judge John F. McAuliffe (retired). Tinkham, a real estate broker, sued Prudential Insurance Company and James Vito to recover a

brokerage commission with respect to an unconsummated, multi-million dollar real estate transaction between the firm's client, Prudential, as seller, and Vito, as buyer. Tinkham asserted claims for breach of contract, conspiracy, and tortious interference with contract. The case was ultimately settled.

John J. Kenny, Esq., Kenny & Vettori, L.L.P., 502 Washington Avenue, Suite 720, Towson, MD 21204; 410-825-1050, and Robert B. Levin, Esq., Shapiro Sher Guinot & Sandler, P.A., 36 South Charles Street, Baltimore, MD 21201; 410-385-0202, were co-counsel for Prudential. Daniel L. Shea, Esq., Brault Graham, LLC, 101 South Washington Street, Rockville, MD 20850; 301-424-1060, represented Tinkham. Steven P. Hollman, Esq., Hogan & Hartson LLP, 555 13th Street, N.W., Washington, D.C. 20004; 202-637-5672, represented Vito.

7) *Fisher Scientific Co. v. Towson State Univ. & Curtin Matheson Scientific, Inc.*, Circuit Court for Baltimore County, In Equity, Case No. 93720 (1979); Judge Walter R. Haile (retired). I represented Curtin Matheson Scientific, Inc. ("CMS"). Fisher Scientific Company ("Fisher") and CMS were among the five leading laboratory supply companies in the United States and direct competitors in all 50 states. Fisher filed suit against Towson State University ("Towson") to compel disclosure of invoices issued by CMS under a laboratory supply contract with Maryland, pursuant to Maryland's Freedom of Information Act. Both Towson and CMS, Defendant-Intervenor, claimed that the information was exempt from disclosure because the invoices constituted confidential commercial or financial data. Following a non-jury trial in 1979, the court found for the defendants. The case was significant because it constituted an early interpretation of an important statute.

Fisher's attorney was D. Warren Donohue, Esq. (now a judge), Circuit Court for Montgomery County, 50 Maryland Avenue, #50, Rockville, MD 20850-2303; 301-217-3960. Towson was represented by William A. Kahn, Esq., 11216 Woodson Avenue, Kensington, MD 20895; 301-949-1753.

8) *United States v. Sys. Eng'g & Dev. Corp.* ("SEDC") (D. Md. 1988-1990); docket number and judge unknown. SEDC was a relatively small but significant company engaged in intelligence research and development on matters related to the security of the United States. It frequently was a sole source supplier. Beginning in 1988, SEDC was under federal criminal investigation for fraud in connection with various Government contracts. I was lead counsel during much of the grand jury investigation and had an active role, for more than a year, in strategy, preparation, and analysis. After I was appointed to the trial bench, SEDC pled guilty to a one count information charging it with filing a false claim. No corporate officers were charged personally, and SEDC was never barred from Government contracts.

The late Gary Jordan, Esq., First Assistant U.S. Attorney, represented the United States. My co-counsel was Peter H. Gunst, Esq., Astrachan Gunst & Thomas, P.C., 21st Floor, 217 E. Redwood Street, Baltimore, MD 21202; 410-783-3550.

9) *Buffalo Waterfront Assocs. Ltd. P'ship v. Equitable Bank, N.A.*, Circuit Court for Baltimore City, Case No. 87-288063/CE72486 (1987 to 1988); judge unknown. I represented the plaintiffs in connection with their efforts to develop a retail waterfront festival center in Buffalo, New York, known as Marina Marketplace. To satisfy financing requirements, Buffalo Waterfront Associates Ltd. was required to obtain an irrevocable letter of credit. We filed suit alleging, *inter alia*, that the defendants improperly called the letter of credit, and obtained an ex parte injunction barring payment. The case later settled.

My co-counsel was Martin B. Ellis, Esq., Shumaker Williams, P.C., 40 West Chesapeake Avenue, Suite 605, Towson, MD 21204; 410-825-5223. Buffalo Enterprise and related entities were represented by Charles E. Iliff, Jr., Esq., Iliff & Meredith, P.C., Patriot's Plaza, Suite 201-203, 8055 Ritchie Highway, Pasadena, MD 21122; 410-685-1166. Russell J. Pope, Esq., Pope & Hughes, 29 West Susquehanna Avenue, Towson, MD 21204; 410-494-7777, represented Equitable Bank.

10) *United States v. Bryant Miller*, 507 F. Supp. 1347 (D. Md. 1981); Judge James R. Miller, Jr. (retired). I was the prosecutor in this bank robbery case, which presented an interesting issue as to the legality of police conduct in effecting an investigatory stop of the defendant. Following an evidentiary hearing on the defendant's motion to suppress, the court denied the defense motion in a reported opinion:

The defense attorney was Stanley Reed, Esq., Lerch, Early & Brewer, Chartered, 3 Bethesda Metro Center, Suite 460, Bethesda, MD 20814; 301-986-1300.

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.)

My most significant legal activities involve my work as a state trial judge and appellate judge for over twenty-one years. In more than fifteen years as an appellate judge, I have authored over 1,400 full opinions covering a wide variety of issues, many of which were matters of first impression. Similarly, as a trial judge for over five years on Maryland's busiest circuit court, I handled thousands of cases. For one year, I also served as a juvenile court judge, pursuant to Md. Code, § 3-806 of the Courts and Judicial

Proceedings Article. In that capacity, I presided over cases involving child abuse and neglect, juvenile delinquency, and disintegrating families.

Since February 2008, I have been a member of the Court of Appeals of Maryland Standing Committee on Rules of Practice and Procedure (“Rules Committee”), by appointment of the Chief Judge of the Maryland judiciary. The Rules Committee crafts for consideration by the Court of Appeals proposed rules of procedure – civil, criminal, juvenile, appellate, and evidentiary – on matters ranging from death penalty cases to foreclosure proceedings. Proposed rule changes are often preceded by open hearings, at which interested members of the public and the Bar present their positions. In this capacity, I have helped to create court rules that are clear, balanced, and efficient.

In 2005, I was one of 25 Maryland judges (and one of only two Maryland appellate judges) chosen to participate in a pilot project known as ASTAR (Advanced Scientific and Technological Adjudicative Resource Judge). Over an 18-month period, I attended several multi-day courses on a variety of topics in bioscience and related fields. In 2006, upon completion of the National Judges’ Science School, I was certified as an ASTAR Fellow. To my knowledge, there are about 209 judges designated as ASTAR Fellows nationally, located in 38 states and territories. To retain my status as an ASTAR Fellow, I am required to participate in continuing science education courses. In 2006 and 2007, I was a member of the Planning Committee for a national multi-day program titled “Neuroscience & Bio-Behavioral Technologies,” held at the Johns Hopkins University School of Medicine in 2007.

I am especially proud of being one of the first, if not the first, “part time” partners at a large Baltimore law firm. This achievement helped to pave the way for other female attorneys who were trying to balance a demanding legal career with important parental responsibilities attendant to a young family.

I have never performed any lobbying activities for clients or organizations.

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

On several occasions, I was an instructor at the Judicial Institute of Maryland, and participated in teaching the following courses to Maryland judges: “Negligence (Proximate Causation),” Sept. 2008; “Actions Against Public Officials and Employees,” Sept. 2001; “Post Conviction Proceedings,” Oct. 1996; and “Appellate Review” (New Trial Judge Orientation), 1995 and 1996.

I was a panelist in two legal education programs sponsored by The Maryland Institute for Continuing Professional Education of Lawyers, Inc.: “The Inner Workings of the Maryland Courts of Appeal,” June 7, 2001; and “Hot Tips In Family Law,” Feb. 28, 1997.

As an attorney, I was a panelist at two seminars: "Confidentiality of Medical Records" (Sponsored by Lorman Business Center, Inc.), Nov. 1988; Post-Trial Practice (Sponsored by Law Seminars, Inc.), Sept. 1987.

For each of the courses listed above, I believe that course materials were distributed, but I did not prepare syllabi.

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

I have no deferred income arrangements or future benefits from previous business relationships, with the exception of my State judicial pension. I have a vested defined benefit under the Retirement System for Judges of the State of Maryland, for which I will be eligible when I retire from State judicial service. The annual pension payment is equal to two-thirds of the current annual salary for judges serving on the Maryland Court of Special Appeals.

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

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, if I am confirmed as a district judge.

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

See attached Financial Disclosure Report (AO-10).

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 and Schedules.

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.

There are a handful of attorneys with whom I am especially close. If they were to appear in a case assigned to me, I would recuse myself. In addition, as I have done for some twenty-one years as a Maryland judge, I would continue to remain vigilant to potential conflicts by examining each matter assigned to me to uncover promptly any potential conflict arising from a relationship with the litigants, or as a result of my financial holdings or those of my husband, or due to my husband's work in advertising and marketing.

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

I would resolve any potential conflict of interest by adhering to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States courts. I would recuse in any matter in which either my spouse or I hold a financial interest or have a sufficiently close connection with counsel or the parties (business or social). In the event of uncertainty, I would err on the side of disqualification.

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.

Since becoming a judge in 1989, I cannot engage in the practice of law, pro bono or otherwise. Similarly, as an attorney for the Government, I could not represent private persons. As a judge, however, I have participated in several law-related activities for students, such as conducting mock trials for school children and judging mock trial performances for high school students. I have also participated in moot court programs at the University of Maryland School of Law and the University of Baltimore School of Law. In addition, I have served as a panelist for various legal and judicial education programs.

In private practice, I occasionally handled matters without a fee. For example, without a fee, I successfully represented a client who sought to recover from the Client Security Trust Fund (now known as The Client Protection Fund of the Bar of Maryland). I estimate that, while in private practice, I devoted about 1% of my time to matters in which clients were not charged by the firm, or were charged at a reduced rate because of their financial status.

26. **Selection Process:**

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

In April 2009, I wrote to Senator Barbara Mikulski and Senator Benjamin Cardin, expressing my interest in nomination to the U.S. District Court with respect to an anticipated vacancy. Thereafter, I submitted a written application on June 30, 2009, along with detailed supporting materials. In the ensuing weeks, the applicants were considered by a merit selection committee composed of members of the Maryland Bar. My interview with the committee took place on August 24, 2009. Thereafter, I was one of the persons on the committee's "short list" of candidates submitted to the Senators. Senator Mikulski and Senator Cardin interviewed me in Washington, D.C. on November 18, 2009. Senator Mikulski telephoned me on December 10, 2009, to inform me that she and Senator Cardin would be recommending me to the President for nomination to the U.S. District Court.

Beginning on December 17, 2009, I have been in contact with pre-nomination officials at the Department of Justice. Lawyers from the Department of Justice and the White House Counsel's Office interviewed me at the Department of Justice on February 25, 2010. I was nominated on April 21, 2010.

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

No.

AFFIDAVIT

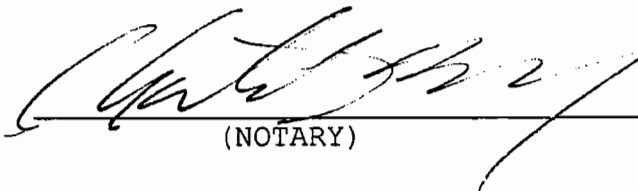
I, Ellen L. Hollander, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

4/19/10

(DATE)

Ellen L. Hollander

(NAME)



(NOTARY)

My Commission Expires 6-20-2013