

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Iain David Johnston

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

United States District Judge for the Northern District of Illinois

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

United States District Court
327 South Church Street
Room 6200
Rockford, Illinois 61101

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

1965; Chicago, Illinois

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

1988 – 1990, The John Marshall Law School; J.D. (*cum laude*), 1990

1987 – 1988, State University of New York at Buffalo; no degree

1983 – 1987, Rockford College; Bachelor of Science General Studies (*cum laude*), 1987

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.

2013 – present

United States District Court for the Northern District of Illinois

327 South Church Street
Rockford, Illinois 61101
United States Magistrate Judge

2010 – 2013
Northeast Illinois Regional Commuter Railroad Corporation (Metra)
547 West Jackson
Chicago, Illinois 60661
Board Counsel

2008 – 2013
Johnston Greene LLC
542 South Dearborn Street
Chicago, Illinois 60604
Partner

2005 – 2013
Illinois Drycleaners Environmental Response Trust Fund Council
1000 Tower Lane
Suite 140
Post Office Box 480
Bensenville, Illinois 60106
Administrative Law Judge

2006 – 2013
Illinois State Police
801 South Seventh Street
Springfield, Illinois 62703
Administrative Law Judge

2012, 2010, 2008, 1999, 1998, 1997, 1996
The John Marshall Law School (now UIC – John Marshall Law School)
315 South Plymouth Court
Chicago, Illinois 60604
Adjunct Professor

2003 – 2008
Holland & Knight LLC
131 South Dearborn Street
Chicago, Illinois 60603
Senior Counsel

2006
Illinois Department of Insurance
320 West Washington Street
Springfield, Illinois 62701

Administrative Law Judge

2003

Iain D. Johnston Attorney at Law
10 South Wacker Drive
Chicago, Illinois 60606
Solo Attorney

1999 – 2003

Alzheimer & Gray
10 South Wacker Drive
Chicago, Illinois 60606
Senior Associate, Partner

1998 – 1999

Waubensee Community College
Route 47 and Harter Road
Sugar Grove, Illinois 61480
General Counsel

1993 – 1998

Illinois Attorney General's Office
100 West Randolph Street
Chicago, Illinois 60601
Assistant Attorney General

1992 – 1993

Iain D. Johnston Attorney at Law
312 North Rockford Avenue
Rockford, Illinois 61101
Solo Attorney

1992

Honorable Philip G. Reinhard
United States District Court for the Northern District of Illinois
211 South Court Street
Rockford, Illinois 61101
Judicial Law Clerk

1990 – 1992

Honorable Philip G. Reinhard
Illinois Appellate Court, Second District
1639 North Alpine Road
Rockford, Illinois 61107
Judicial Law Clerk

1990
Honorable Thomas E. Hoffman
Circuit Court of Cook County
50 West Washington Street
Chicago, Illinois 60602
Law Clerk

1988 – 1990
The John Marshall Law School (now UIC – John Marshall Law School)
315 South Plymouth Court
Chicago, Illinois 60604
Research Assistant

Other Affiliations (uncompensated)

2014 – present
Rockford University
5050 East State Street
Rockford, Illinois 61108
Trustee

1991 – 1993
Hononegha Lions Soccer Club
Soccer Coach

1992
Boylan Catholic High School
4000 St. Francis Drive
Rockford, Illinois
Soccer Coach

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

I have not served in the military. I registered for the selective service after turning 18.

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

Illinois State Bar Association Young Lawyer of the Year (2002)

Illinois State Police Special Award (2000)

Rockford College Student-Athlete of the Year (1987)

NIIC All Scholastic Team (1985 – 1987)

Honors Scholarship (1983 – 1987)

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

American Bar Association (1991 – present)

Federal Bar Association (2013 – present)

P. Michael Mahoney (Rockford, Illinois) Chapter

President (2018)

Director (2013 – present)

Seventh Circuit Bar Association (2013 – present)

Illinois State Bar Association (1990 – present)

Individual Rights & Responsibilities Section Council (1993 – 2000)

Chair (1999), Vice Chair (1998), Secretary (1997)

Federal Civil Practice Section Council (2012 – present)

Chair (present), Vice Chair (2019)

Winnebago County Bar Association (1990 – 1992; 2013 – present)

Federalist Society (1995 – 1998)

Scottish Law Society, St. Andrews Society of Chicago (2006 – 2012)

Seventh Circuit Council on eDiscovery and Digital Information (formerly known as Seventh Circuit Electronic Discovery Pilot Program) (2014 – present)

Chair (2014 – present)

Seventh Circuit Federal Civil Pattern Jury Instructions Committee (2002 – present)

Federal Courts Law Review Board (2018 – present)

Duke University School of Law, Electronic Discovery Resource Manual Advisory Council (2018 – January 2020)

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.

Illinois, 1990

District of Columbia (1991)

In 2014, I resigned my membership in the District of Columbia bar after my appointment to be a United States Magistrate Judge.

There have been no lapses in membership.

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

Supreme Court of the United States, 2009

United States Court of Appeals for the Seventh Circuit, 1999

United States District Court for the Central District of Illinois, 1993

United States District Court for the Northern District of Illinois, 1993

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.

Chicago Marathon Pace Team (2005 – present)

Forest City Kickers (1990 – 1994)

Hononegha Lions Soccer Club (1991 – 1993)

Rockford Country Club (2014 – present)

Rockford University Board of Trustees (2013 – present)

- 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.

Before I became a member, membership in the Rockford Country Club was designated by the male member of the household. That designation process changed in 1990. That designation process and the change was explained by Judge Philip G. Reinhard in 1992 when he was questioned by then-Senator Paul Simon at the Senate Judiciary Committee hearing regarding Judge Reinhard's confirmation. As Judge Reinhard explained at his hearing, he was instrumental in changing that policy. At the time of joining and all times since I joined, the Rockford Country Club did not and does not discriminate on any basis.

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.

With Thomas Y. Allman, *What are the Consequences for Failing to Preserve ESI? My Friend Wants to Know*, The Circuit Rider, Spring 2019, at 57-62. Copy supplied.

Pattern Civil Jury Instructions for the Seventh Circuit, Fed. Civ. Prac. (Ill. State B. Ass'n, Springfield, Ill.), Dec. 2018, at 17:2. Copy supplied.

The Seventh Circuit Electronic Discovery Pilot Program Approaches Its Second Decade with a Renewed Commitment to Service, The Circuit Rider, Spring 2018, at 35-37. Copy supplied.

Has The Seventh Circuit Finally (Albeit Indirectly) Found that District Courts Should Instruct Juries that the Preponderance of the Evidence Standard Applies to Claims under Section 1983 Seeking Punitive Damages? Probably., Fed. Civ. Prac. (Ill. State B. Ass'n, Springfield, Ill.), Dec. 2017, at 16:2. Copy supplied.

The Effects of the December 1, 2015 Amendments from One Judge's Perspective, Fed. Civ. Prac. (Ill. State B. Ass'n, Springfield, Ill.), Sept. 2016, at 15:1. Copy supplied.

Every Picture Tells A Story: A Visual Guide to Evaluating Opinion Evidence in Social Security Appeals, The Circuit Rider, 2016, at 28-33. Copy supplied.

A Modest Proposal for a Better Rule 30(b)(6) Deposition, Fed. Civ. Prac. (Ill. State B. Ass'n, Springfield, Ill.), June 2015, at 13:4. Copy supplied.

Understanding the Treating Physician Rule in the Seventh Circuit: Good Luck!, The Circuit Rider, 2015, at 29-38. Copy supplied.

A Tribute to Mike Mahoney on His Retirement from the Bench, The Circuit Rider, 2014, at 68-69. Copy supplied.

With Mark Doherty, *Know the Answer to Federal Jurisdiction*, Fed. Civ. Prac. (Ill. State B. Ass'n, Springfield, Ill.), Sept. 2014, at 13:1. Copy supplied.

Apex Witnesses Claim They Are Too Big To Depose, 41 *Litigation* 41 (Fall 2014). Copy supplied.

With Heidi Steiner & Yana Karnaukhov, "*Bring Out Your Dead!*": *Do Freedom of Information Privacy Exemptions Survive Death?*, 47 *Ill. State B. Ass'n Loc. Gov't L. No. 2*, Oct. 2010. Copy supplied.

Candygram: Serving Complaints & Subpoenas on Local Governments, *Loc. Gov't L.* (Ill. State B. Ass'n, Springfield, Ill.), Mar. 2007, at 43:7. Copy supplied.

Racial Profiling: Lessons Retailers and Shopping Malls Should Learn from the Law Enforcement Experience (Part Two of a Two-Part Series), *L. J. Newsletters*, May 2006. Copy supplied.

Racial Profiling (Part One of a Two-Part Series), *L. J. Newsletters*, Apr. 2006. Copy supplied.

Sentencing, *Illinois Criminal Procedure*, Ch. 6, at 237-368 (4th ed. 2004). Copy supplied.

Survey of Seventh Circuit Decisions: Class Actions, 36 *J. Marshall L. Rev.* 837 (2003). Copy supplied.

Requirements for a Rule 56(f) Affidavit to Conduct Additional Discovery, *Federal Discovery News* (Thompson Reuters), Aug. 2000, at 14. Copy supplied.

With Jeremy Margolis & Darren Watts, *Proactive Defense Strategies Can Minimize Risk*, *The Police Chief*, July 2000, at 18-23. Copy supplied.

From the Past Chair, *Hum. Rts.* (Ill. State B. Ass'n, Springfield, Ill.), Aug. 1999, at 26:1. Copy supplied.

Presumptive Limit on Depositions: When 10 Are Not Enough, *Federal Discovery News* (Thompson Reuters), July 1999, at 18-19. Copy supplied.

From the Chair, *Hum. Rts.* (Ill. State B. Ass'n, Springfield, Ill.), May 1999, at 25:4. Copy supplied.

From the Chair, *Hum. Rts.* (Ill. State B. Ass'n, Springfield, Ill.), Feb. 1999, at 25:3. Copy supplied.

Basics on Employment Discrimination: Who Can Sue Whom for What, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Feb. 1999, at 25:3, 3-7 (republished in *The Corp. Law.* (Ill. State B. Ass'n, Springfield, Ill.), August 1999, at 37:1, 2-6). Copy supplied.

The Aftermath of McKennon's After-Acquired Evidence Rule, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Nov. 1998, at 25:2, 1-3. Copy supplied.

Serving Subpoenas by Certified Mail: Could You and/or Should You?, Federal Discovery News (Thompson Reuters), Nov. 1998, at 5. Copy supplied.

Summary Judgment Motions in the Northern District: The Importance of Local Rules 12M and 12N, 12 CBA Record 24 (April 1998). Copy supplied.

Pleading Facts in Indictments for Official Misconduct, Crim. Just. (Ill. State B. Ass'n, Springfield, Ill.), Apr. 1998, at 41:7. Copy supplied.

Dismissing Noncontract Claims Brought Pursuant to 42 U.S.C. Section 1981: An Innocent Mistake or Judicial Activism?, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Apr. 1998, at 24:4, 1-2. Copy supplied.

With Celia Guzaldo Gamrath, *The Law of Pretext Stops Since Whren v. United States*, 85 Ill. B.J. 488 (Oct. 1997). Copy supplied.

Alcoholism: A Sentencing Riddle Without An Answer, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), July 1997, at 24:1, 1-3. Copy supplied.

Adequate and Independent State Grounds: Jurisdiction, Politics and States' Rights, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Jan. 1997, at 23:2, 5-7. Copy supplied.

When Requests for Admission Come Late, Lawyers Have Options, Federal Discovery News (Thompson Reuters), Dec. 1996, at 3. Copy supplied.

Stare Decisis and Adarand Constructors v. Pena: Is the Constitution Written on an Etch-a-Sketch?, Const. L. & Liberty, (Ill. State B. Ass'n, Springfield, Ill.), June 1996, at 22:4, 1-4. Copy supplied.

Amended Rule 37 Requires Parties to Meet and Confer, Federal Discovery News (Thompson Reuters), May 1996, at 4. Copy supplied.

Filing Defamation Counterclaims in Sexual Harassment Cases: Could You and Should You?, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Feb. 1996, at 22:2. Copy supplied.

Pick the Right Time to Depose Opposing Counsel, Federal Discovery News (Thompson Reuters), Nov. 1995, at 3, 5. Copy supplied.

Judge Requires Approval Before Serving Discovery, Federal Discovery News (Thompson Reuters), July 1995, at 1, 6. Copy supplied.

The End of Notice Pleading in Federal Court?, Trial Briefs (Ill. State B. Ass'n, Springfield, Ill.), July 1995, at 41:1, 5-7. Copy supplied.

Requests To Admit Used to Circumvent Presumptive Limit on Interrogatories, Federal Discovery News (Thompson Reuters), Mar. 1995, at 1, 6. Copy supplied.

Independent Causes of Action for Spoliation of Evidence, Litig. Committee Newsl. (A.B.A., Columbus Ohio), Fall 1994, at 1, 10-12. Copy supplied.

Federal Courts' Authority to Impose Sanctions for Prelitigation or Pre-Order Spoliation of Evidence, 156 F.R.D. 313 (1994). Copy supplied.

From Terry Stop to Probable Cause: The Plain Feel Exception, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Dec. 1993, at 2-5. Copy supplied.

With Robert G. Johnston, *Contention Interrogatories in Federal Court*, 148 F.R.D. 441 (1993). Copy supplied.

The Unconstitutionality of the Item Veto, Const. L. & Liberty (Ill. State B. Ass'n, Springfield, Ill.), Feb. 1993, at 19:3, 1-5. Copy supplied.

The Interview, The Lawyer (Winnebago County B. Ass'n, Rockford, Ill.), Spring 1993. Copy supplied.

Rulings Have Guttled Law Allowing Substance Abuse Treatment, Chicago Daily Law Bulletin, Nov. 16, 1992, at 5, 16. Copy supplied.

Problems in Imposing Extended-Term Sentences Under Section 5-5-3.2(3)(2) of the Unified Code of Corrections, 25 J. Marshall L. Rev. 491-526 (Spring 1992). Copy supplied.

With Robert G. Johnston, *The Vagaries of Rule 103(b) Revisited*, 21 Loy. U. Chi. L.J. 713 (Spring 1991). Copy supplied.

With Robert G. Johnston, *The Vagaries of Rule 103(b)*, 21 Loy. U. Chi. L.J. 813 (Spring 1990). Copy supplied.

With Robert G. Johnston, *Voluntary Dismissals in Illinois*, 9 N. Ill. U. L. Rev. 515 (1989). Copy supplied.

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

During my time on the Illinois State Bar Association's Federal Civil Practice Section Council, we requested that the association comment on two proposed amendments to the Federal Rules of Civil Procedure.

In early 2019, when I was Vice Chair of the Section Council, the Section Council requested that the association comment on the proposed amendments to Federal Rule of Civil Procedure 30(b)(6). A copy of the comment is supplied.

In 2019, during my tenure as Chair of the Section Council, the Section Council requested that the association comment on the proposed amendments to Federal Rule of Civil Procedure 7.1. A copy of the proposed comment is supplied.

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

I made statements to the Evanston City Council in closed session relating to settling a case in which I represented the city. The closed session minutes have since been made public by the city. Copy supplied.

I also made statements to the Metra Board as board counsel during board meetings from 2010 to 2013. Minutes supplied.

On December 14, 2012, as board counsel, I also made statements to the Metra Board that were publicly reported by the media. Article supplied.

- 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.

November 7, 2019: Speaker, Questions for the Judges, Federal Bar Association, Rockford, Illinois. Chief Judge Pallmeyer, Magistrate Judge Lisa Jensen and I

answered questions from members of the local bar. I have no notes, transcript, or recording. The address of the P. Michael Mahoney Chapter of the Federal Bar Association is 327 South Church Street, Rockford, Illinois, 61101.

August 20, 2019: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

August 13, 2019: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

July 30, 2019: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

June 21, 2019: Panel Member, Evaluating 2015 Rule 26 Discovery-Proportionality Amendments, Have Amendment Facilitated or Impeded Use of Technology to Address Discovery Burdens?, Duke University Bolch Judicial Institute, Washington, District of Columbia. I spoke about the amendments to the Federal Rules of Civil Procedure and their effect on using technology in civil discovery. I have no notes, transcript, or recording. The address of Duke University School of Law is 210 Science Drive, Durham, North Carolina, 27708.

May 16, 2019: Panel Member, Judicial Perspective, EDRM – Duke Law, 2019 Workshop, Durham, North Carolina. I spoke about my perspective on a variety of electronically stored information topics. I have no notes, transcript, or recording. The address of Duke University School of Law is 210 Science Drive, Durham, North Carolina, 27708.

May 3-4, 2019: Panel Member, Judicial Roundtable and Privilege Logging and Review, The Sedona Conference, Charlotte, North Carolina. I spoke about issues relating to reviewing discovery responses for privilege and logging those documents pursuant to the Federal Rules of Civil Procedure. I have no notes, transcript, or recording. The address for the Sedona Conference is 301 East Bethany Home Road, Suite C-297, Phoenix, Arizona, 85012.

May 1, 2019: Speaker, The Impact of *Rodriguez v. United States* on Prolonged Detentions, United States Department of Highway Enforcement, Las Vegas, Nevada. Video supplied.

February 27, 2019: Panel Member, Update on Mandatory Initial Discovery Pilot Program and Judges Panel, Innovation in E-Discovery, Sandpiper Partners, Chicago, Illinois. I spoke about the status of the court's mandatory initial discovery pilot program and the survey results of that program, as well as my perspective on electronically stored information. I have no notes, transcript, or recording. The address for Sandpiper Partners is 855 Valley Road, Suite 209, Clifton, New Jersey, 07013.

February 22, 2019: Speaker, Using Technology at Trial: A Judge's Perspective, Illinois State Bar Association, Chicago, Illinois. Video supplied.

January 24, 2019: Speaker, Questions for the Judge, Rockford Christian School, Rockford, Illinois. I answered questions from the students. I have no notes, transcript, or recording. The address of the Rockford Christian School is 220 Hemlock Lane, Rockford, Illinois, 61107.

August 14, 2018: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

July 24, 2018: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

June 29, 2018: Speaker, Prisoner Rights Project, Federal Bar Association, Rockford, Illinois. I spoke about the creation and purpose of the prisoner rights project. A short partial video clip is available at <https://twitter.com/kristenzambo/status/1012802669789040646?lang=en>.

May 18, 2018: Panel Member, Judicial Perspective: Reasonableness, Proportionality, and Sanctions, American Bar Association, Chicago, Illinois. I spoke about the process for determining reasonableness and proportionality in discovery requests and responses and sanctions for failing to comply with the rules or preserve evidence. I have no notes, transcript, or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, Illinois, 60654.

May 16, 2018: Speaker, Talk to a Federal Judge Day, Eastview Elementary School, Algonquin, Illinois. PowerPoint supplied.

April 24, 2018: Speaker, Questions for the Judge, Rockford East High School, Rockford, Illinois. I answered questions from the students participating in this program. I have no notes, transcript, or recording. The address of the Rockford Public School District 205 is 501 Seventh Street, Rockford, Illinois, 61104.

April 19, 2018: Speaker, Questions for the Judge, Rockford East High School, Rockford, Illinois. I answered questions from the students participating in this program. I have no notes, transcript, or recording. The address of the Rockford Public School District 205 is 501 Seventh Street, Rockford, Illinois, 61104.

March 16, 2018: Speaker, Naturalization Ceremony, U.S. District Court for the Northern District of Illinois, Rockford, Illinois. Notes supplied. The same notes were used for Naturalization Ceremonies on April 22, 2016 and December 6, 2013.

March 13, 2018: Speaker, Questions for the Judge, Rockford Christian School, Rockford, Illinois. I answered questions from the students. I have no notes, transcript, or recording. The address of the Rockford Christian School is 220 Hemlock Lane, Rockford, Illinois, 61107.

March 8, 2018: Speaker, Questions for the Judge, Rockford Christian School, Rockford, Illinois. I answered questions from the students. I have no notes, transcript, or recording. The address of the Rockford Christian School is 220 Hemlock Lane, Rockford, Illinois, 61107.

February 8, 2018: Panel Member, The Rules' Amendments: Emerging Hot Spots After Two Years of Practice Including Case Study of Sanctions, Innovation in E-Discovery, Sandpiper Partner, Chicago, Illinois. I spoke about the effects of the amendments to the Federal Rules of Civil Procedure on electronic discovery. I have no notes, transcript, or recording. The address for Sandpiper Partners is 855 Valley Road, Suite 209, Clifton, New Jersey, 07013.

November 2, 2017: Panel Member, Sanctions Under Amended Rule 37(e): Is the Law Fulfilling the Amendments' Intent?, Seventh Circuit Electronic Discovery Pilot Program, Chicago, Illinois. Audio available at <https://www.ediscoverycouncil.com/content/sanctions-under-amended-frcp-37e-law-fulfilling-amendments-intent>.

September 11, 2017: Speaker, The Role of the Federal Courts in Our Constitutional System, Rockford University, Rockford, Illinois. PowerPoint supplied.

September 7, 2017: Panel Member, When, How, In What Type of Cases, and Under What Circumstances Should TAR Be Used? Duke Law Center for Judicial Studies, Arlington, Virginia. I spoke about the best uses of technology assisted review in civil discovery. I have no notes, transcript, or recording. The address

for Duke University School of Law is 210 Science Drive, Durham, North Carolina, 27708.

August 8, 2017: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

July 25, 2017: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

July 18, 2017: Speaker, Questions for the Judge, Rockford Youth Police Academy, Rockford, Illinois. I answered questions from the students participating in this summer program. I have no notes, transcript, or recording. The address of the Rockford Youth Police Academy is 1410 Broadway, Rockford, Illinois, 61104.

June 15, 2017: Speaker, E-Discovery in Criminal Cases – It's Not Coming Soon, It's Already Here, Federal Defender's Office for the Northern District of Illinois, Rockford, Illinois. Along with Magistrate Judge Nan Nolan (retired), I spoke about electronic discovery's role in federal criminal cases. I have no notes, transcript, or recording. The address for the Federal Defenders Office is 55 East Monroe Street, Suite 2800, Chicago, Illinois, 60603.

May 11, 2017: Panel Member, Taking the Wheels Off the Tricycle: FRCP Amendments on Year Later, American Bar Association, Chicago, Illinois. I spoke about the effects of the amendments to the Federal Rules of Civil Procedure. I have no notes, transcript, or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, Illinois, 60654.

May 10, 2017: Panel Member, Conducting the Settlement Conference, What Not To Do in a Settlement Conference, Enforcing Settlement Agreements in Federal Court, Illinois State Bar Association, Chicago, Illinois. PowerPoint supplied.

February 13, 2017: Moderator, Mediation Program, U.S. District Court for the Northern District of Illinois and Resolution Systems Institute, Rockford, Illinois. Along with Susan M. Yates, I moderated a discussion of mediation topics with judges and mediators. I have no notes, transcript, or recording. The address for Resolution Systems Institute is 11 East Adams Street, Suite 500, Chicago, Illinois, 60603.

October 26, 2016: Panel Member, Federal Rule of Civil Procedure 56: Summary Judgment – A Refresher, Illinois State Bar Association, Chicago, Illinois. Video supplied.

September 28, 2016: Speaker, Settlement Conferences, Federal Bar Association, Rockford, Illinois. Magistrate Judge P. Michael Mahoney (retired) and I spoke about settlement conference issues. I have no notes, transcript, or recording. The address for the Federal Bar Association is 327 South Church Street, Rockford, Illinois, 61101.

May 26, 2016: Speaker, Electronically Stored Information, Winnebago County Bar Association, Rockford, Illinois. PowerPoint supplied.

April 22, 2016: Speaker, Naturalization Ceremony, United States District Court for the Northern District of Illinois, Rockford, Illinois. Substantially similar notes supplied for March 16, 2018, event. The notes are simply revised to include minor details at each event.

February 19, 2016: Speaker, Federal Civil Practice, Federal Bar Association, Rockford, Illinois. PowerPoint supplied.

June 25, 2015: Speaker, The Impact of *Rodriguez v. United States* on Prolonged Detentions, Federal Defenders Office of the Northern District of Illinois, Rockford, Illinois. PowerPoint supplied.

May 27, 2015: Speaker, 21st Century Policing: A Judicial Perspective, United States Department of Highway Enforcement, Chandler, Arizona. I answered questions from those in attendance about best police practices balancing rights of citizens and effective law enforcement in conjunction with community trust. I have no notes, transcript, or recording. The address for the United States Department of Highway Enforcement is 1200 New Jersey Avenue, Southeast, Washington, District of Columbia, 20590.

May 15, 2015: Speaker, When to Keep Your Mouth Shut and When to Speak Up, Winnebago County State's Attorney's Office, Rockford, Illinois. PowerPoint supplied.

May 6, 2015: Panel Member, Conducting the Settlement Conference, Illinois State Bar Association, Chicago, Illinois. I spoke on best practices in settlement conferences. I have no notes, transcript, or recording. The address for the Illinois State Bar Association is 20 South Clark Street, Chicago, Illinois, 60603.

February 16, 2015: Keynote Speaker, Local Government Issues in Federal Court, Illinois Local Government Lawyers Association, Naperville, Illinois. I was the luncheon speaker at the conference and spoke about local government issues that arise in federal court. I have no notes, transcript, or recording. The address for

the Illinois Local Government Lawyers Association is 148 North Third Street, DeKalb, Illinois, 60115.

December 5, 2014: Panel Member, A View from the Bench, Illinois Institute for Continuing Legal Education, Chicago, Illinois. I spoke about local government issues in federal court. I have no notes, transcript, or recording. The address for the Illinois Institute for Continuing Legal Education is 3161 West White Oaks Drive, Springfield, Illinois, 62704.

May 7, 2014: Panel Member, Post-Discovery Issues, Illinois State Bar Association, Chicago, Illinois. I spoke about motions for summary judgment and final pretrial orders. I have no notes, transcript, or recording. The address for the Illinois State Bar Association is 20 South Clark Street, Chicago, Illinois, 60603.

December 6, 2013: Speaker, Naturalization Ceremony, United States District Court for the Northern District of Illinois, Rockford, Illinois. Substantially similar notes supplied for March 16, 2018, event. The notes are simply revised to include minor details at each event.

June 14, 2013: Speaker, The Induction, Investiture and Installation of Iain D. Johnston as United States Magistrate Judge, United States District Court for the Northern District of Illinois. Transcript provided.

April 12, 2012: Speaker, When To Keep Your Mouth Shut: Police Credibility – Social Media and Other Internet Challenges, United States Department of Highway Enforcement, Las Vegas, Nevada. PowerPoint supplied.

September 12, 2011: Speaker, Scandal! Crisis Management for Lawyers, Johnston Greene LLC, Chicago, Illinois. PowerPoint supplied.

May 11, 2011: Speaker, Three Things a Lawyer Told Me About Race and Law Enforcement, United States Department of Highway Enforcement, Las Vegas, Nevada. PowerPoint supplied.

October 1, 2008: Speaker, The First Amendment, Whistleblowing and Your Police Agency, Northwestern University Center for Public Safety, Evanston, Illinois. PowerPoint supplied.

April 15—17, 2008: Speaker, Search and Seizure, Evanston Police Department, Evanston, Illinois. PowerPoint supplied.

October 23 – 25, 2006: Co-Speaker, Retention and Retrieval Under New Federal Court Requirements, Illinois Bankers Association, Oak Brook, Bloomington, Fairview Heights, Illinois. PowerPoint supplied.

July 19—20, 2005: Co-Speaker, Put the Document Down, Step Away from the Shredder, and Nobody Gets Hurt, Navigant Consulting, Inc., Chicago, Illinois. PowerPoint supplied.

September 19, 2000: Panel Member, Northwestern University Center for Public Safety, Rosemont, Illinois. I spoke about racial profiling issues affecting law enforcement. I have no notes, transcript, or recording. The address of Northwestern University Center for Public Safety is 1801 Maple Avenue, Evanston, Illinois, 60208.

February 15, 2000: Speaker, Legal Issues for Drug Interdiction Officers, High Intensity Drug Trafficking Areas, Palos Hills, Illinois. I spoke about Fourth Amendment issues related to drug interdiction. I have no notes, transcript, or recording. The address for the Chicago HIDTA office is 69 West Washington Street, Number 400, Chicago, Illinois, 60602.

September 22, 1999: Speaker, Racial Profiling, Ohio Attorney General's Office, Columbus, Ohio. I spoke on best practices law enforcement departments could implement to prevent racial profiling. I have no notes, transcript, or recording. The address for the Ohio Attorney General is 30 East Broad Street, 14th Floor, Columbus, Ohio, 43215.

September 11, 1997: Speaker, Legal Issues for the Drug Interdiction Officer, Drug Interdiction Assistance Program, United States Department of Transportation, Orlando, Florida. I spoke about Fourth and Fourteenth Amendment issues involved in drug interdiction. I have no notes, transcript, or recording. The address for the United States Department of Transportation is 1200 New Jersey Avenue, Southeast, Washington, District of Columbia, 20590.

September 12, 1996: Speaker, Legal Issues for the Drug Interdiction Officer, Drug Interdiction Assistance Program, United States Department of Transportation, Cleveland, Ohio. I spoke about Fourth and Fourteenth Amendment issues involved in drug interdiction. I have no notes, transcript, or recording. The address for the United States Department of Transportation is 1200 New Jersey Avenue, Southeast, Washington, District of Columbia, 20590.

- 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.

Court Information Release, U.S. Dist. Court N. Dist. Ill., NIU Law's Prisoners' Rights Project Awarded Grant as Program Assisting Incarcerated Plaintiffs Enters Second School Year, Julie Hodek, Pub. Info. Officer (Aug. 20, 2019). Copy supplied.

Jordyn Reiland, *NIU Law Students Take Inmate Cases in New School Program*, Chi. Daily L. Bull., July 30, 2018. Copy supplied.

Bob Goldsborough, *Robert Johnston, Teacher and Mentor at John Marshall Law School, Dies*, Chi. Trib., July 27, 2018. Copy supplied.

Kristen Zambo, *Prisoners' Rights Project Coming to Rockford*, Rockford Reg. Star, June 30, 2018. Copy supplied.

Patricia Manson, *Late John Marshall Dean Johnston Was Advocate for Equality, Justice*, Chi. Daily L. Bull., June 26, 2018. Copy supplied.

Sarah Wolf, *Notable Graduates Show How University Affected Their Lives*, Rockford Reg. Star, Aug. 13, 2017, at 14-15. Copy supplied.

Patricia Mason, *Johnston Joins Bench*, Chi. Daily L. Bull., June 17, 2013. Copy supplied.

Richard Wronski, *Critics: Metra Board's Hiring Plan a Bid*, Chi. Trib., Dec. 15, 2012, at 7.

Paul Milhizer, *ISBA Provides Free Online CLE Next Year*, Chi. Daily L. Bull., Sept. 13, 2012. Copy supplied.

Should Metro Cops Wear Body-Mounted Cameras, Nev. Pub. Radio, May 4, 2012. Audio available at <https://knpr.org/knpr/2012-05/should-metro-cops-wear-body-mounted-cameras>.

Patricia Manson, *Judge Rules Rape Victim Has No Claim Against Police Officer*, Chi. Daily L. Bull., Mar. 30, 2012. Copy supplied.

Eric Peterson, *Schaumburg Gets Settlement After Decade-Long Delay*, Daily Herald, Aug. 13, 2009. Copy supplied.

Bob Seidenberg, *Lawsuit Alleges False Arrest of Restaurateur's Son*, Evanston Rev., Sept. 18, 2008. Copy supplied.

John Flynn Rooney, *Ruling in Favor of Ex-Cop Who Claimed Retaliation Reversed*, Chi. Daily L. Bull., May 23, 2008, at 3, 24. Copy supplied.

Kate McCann, *Wireless Companies Calling Collect*, Daily Southtown, Nov. 17, 2005. Copy supplied.

Jeff Gard, *Lawsuit Fallout: \$17 Mil*, Northwest Herald, Sept. 18, 2005, at 1, 20. Copy supplied.

Jim Paul, *State Cop Wins \$673,000 from Ex-Supervisors*, Chi. Sun Times, Apr. 29, 2005, at 11. Copy supplied.

Carlos Sadovi & Hal Dardick, *Jury Agrees Trooper Was Punished for Investigation*, Chi. Trib., Apr. 29, 2005, at 1. Copy supplied.

Mick Zawislak, *Police Give Up Lawsuit So They Can Buy New Crown Victorias*, Daily Herald, Feb. 15, 2005. Copy supplied.

Ameet Sachdev, *Insurance Conflicts Hot Topic: Issues Not Limited*, Chi. Trib., Oct. 28, 2004, at 1. Copy supplied.

J. Marshall L. Sch., *Academic Programs at the John Marshall Law School 15* (2003). Copy supplied.

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

In 2013, I was appointed by the district judges of the United States District Court for the Northern District of Illinois to be the magistrate judge for the Western Division. This court has jurisdiction over all federal civil and criminal matters for the northwest portion of Illinois, comprised of about a dozen counties.

Before being appointed as a magistrate judge, from 2005 to 2013, I served as an administrative law judge for three state agencies: the Illinois State Police, the Illinois Drycleaners Environmental Response Trust Fund Council, and the Illinois Department of Insurance. For the State Police, I heard appeals in two types of cases: Sex Offender Registration cases and Firearm Owners Identification Card cases. I heard 40 cases for the State Police. For the Trust Fund Council, I heard appeals involving licensing as well as pollution insurance coverage under the Council's insurance program. I heard 14 of these cases. For the Department of Insurance, I heard a single matter, which involved a demutualization of a mutual insurance company. All of these matters were governed by the Illinois Administrative Procedures Act and the Illinois Administrative Review Law. Consequently, for all my decisions, I was required to make explicit findings of fact and conclusions of law and enter a final administrative decision subject to administrative review in circuit court.

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

As a magistrate judge, I have handled nearly 1,000 civil and criminal cases. Of those, I have presided over five cases that have gone to verdict. As an administrative law judge, I presided over 55 cases.

- i. Of these, approximately what percent were:

jury trials:	5%
bench trials:	95% [total 100%]
civil proceedings:	100%
criminal proceedings:	0% [total 100%]

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

A list of citations to all my opinions as of February 10, 2020 is provided.

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

1. *City of Rockford v. Mallinckrodt ARD, Inc.*, No. 17 CV 50107, 326 F.R.D. 489 (N.D. Ill. 2018)

This is an antitrust case brought by a municipality against one of the largest pharmaceutical companies in the world. The city contends that defendants are engaged in anti-competitive behavior in the selling of acthar, which is a drug used to treat infants' seizures. This complex case involves a significant amount of electronically stored information, which is addressed in the order I wrote about the protocol. The case is currently pending and was recently reassigned to the initial calendar of a new judge.

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Counsel for United Biosource Corporation:

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2. *LAJIM, LLC v. General Electric*, No. 13 CV 50348, 2015 U.S. Dist. LEXIS 169753 (N.D. Ill. Dec. 18, 2015); 2016 U.S. Dist. LEXIS 19183 (N.D. Ill. Feb. 17, 2016); 2016 U.S. Dist. LEXIS 137448 (N.D. Ill. Oct. 4, 2016); 2017 U.S. Dist. LEXIS 144704 (N.D. Ill. Sep. 7, 2017) *aff'd* 917 F.3d 933 (7th Cir. 2019).

This was an environmental case to which the parties consented to a magistrate judge's jurisdiction. Plaintiff's complaint was based on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and various state-law claims. I ruled on cross motions for summary judgment and held a permanent injunction hearing. I entered judgment in favor of defendant. The judgment was affirmed on appeal.

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Counsel for defendant:

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Joseph Vallort
Chilton Yambert Porter
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3. *Johnson, et al. v. City of Rockford*, No. 15 CV 50064, consolidated with *Anderson v. City of Rockford*, No. 15 CV 50065, 2018 WL 1508482 (N.D. Ill. Mar. 27, 2018), 2016 U.S. Dist. LEXIS 182433 (N.D. Ill. 2016), 2016 U.S. Dist. LEXIS 22690 (N.D. Ill. Feb. 5, 2016) *aff'd in part rev'd in part, remanded* 932 F.3d 494 (7th Cir. 2019)

These two consolidated cases allege that plaintiffs were wrongfully convicted of murdering a ten-year old boy. Among other things, plaintiffs claim that exculpatory information was withheld in violation of *Brady*. Judge Kapala granted defendants' summary judgment motions, but the Seventh Circuit Court of Appeals remanded the case. The case is currently pending before Judge Thomas Durkin and me. The case is in settlement negotiations.

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Counsel for Remaining Defendants:

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4. *DR Distributors, LLC v. 21 Century Smoking, Inc.*, No. 12 CV 50324, 2017 U.S. Dist. LEXIS 50338 (N.D. Ill. Mar. 7, 2017), 2016 U.S. Dist. LEXIS 99930 (N.D. Ill. Aug. 1, 2016), 2015 U.S. Dist. LEXIS 167343 (N.D. Ill. Dec. 15, 2015), 2015 U.S. Dist. LEXIS 115974 (N.D. Ill. Sep. 1, 2015), 2014 U.S. Dist. LEXIS 162666 (N.D. Ill. Nov. 20, 2014)

This is a trademark case involving e-cigarettes. One party is 21 Century Smoke, and the other party is 21st Century Smoking. I just concluded a five-day evidentiary hearing on a motion for sanctions for failing to preserve and produce electronically stored information. The case is pending before me, awaiting ruling on the motion for sanctions.

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Counsel for Peter Stamatis:

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5. *Fraternité Notre Dame v. County of McHenry*, No. 15 CV 50312

This is a Religious Land Use and Institutionalized Persons Act (RELUIPA) case filed by an order of nuns seeking to operate a school, brewery, and cannery. The county denied the necessary approvals. Plaintiff claims its religious rights were violated by that denial. I held a public meeting on a consent decree. A final ruling has not been issued.

Counsel for plaintiff:

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Counsel for defendant:

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Jana Blake Dickson
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6. *United States v. Floyd Brown*, No. 19 CR 50016

Defendant is charged with murdering a sheriff's deputy who was assigned to the fugitive task force. The government is seeking the death penalty. The case is currently pending before District Judge Matthew Kennelly.

Counsel for the United States:

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Counsel for defendant:

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7. *McCullough v. Hanley*, No. 17 CV 50116, 2019 U.S. Dist. LEXIS 135225 (N.D. Ill. Aug. 12, 2019)

In 2012, plaintiff was convicted of murdering Maria Ridulph, who was killed in 1957. He was sentenced to life imprisonment. Following the election of a new State's Attorney, the charges were dismissed and the conviction vacated. Plaintiff claims, among other things, that evidence was fabricated to convict him and that exculpatory evidence was not disclosed in violation of *Brady*. The case is pending. A settlement conference is currently scheduled.

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Counsel for DeKalb County defendants:

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Counsel for Seattle defendants:

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Counsel for Illinois State Police defendants:

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8. *M.O. v. Hononegah Community High School District 207*, No. 18 CV 50260

Plaintiff is a high school student. During the nationwide protests regarding the Stoneman Douglas High School shooting, plaintiff organized and participated in a competing protest to voice her views in favor of Second Amendment rights. Plaintiff claims that she and others with similar views were segregated and treated differently from the pro-gun control protestors in violation of her First Amendment rights. The case is currently pending.

Counsel for plaintiff:

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Counsel for defendant:

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9. *United States v. Woodford*, No. 15 CR 50035-2, 2016 U.S. Dist. LEXIS 154640 (N.D. Ill. Sep. 28, 2016)

This was a Hobbs Act case involving two defendants that repeatedly robbed gas stations in Rockford, Illinois. I ruled on the motion to suppress the identifications as being unduly suggestive. I denied the motion, and the district judge adopted my report and recommendation. Defendant pleaded guilty, and the case is terminated.

Counsel for the United States:

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Counsel for defendant:

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10. *United States v. Behr Iron & Steel Corp.*, No 16 CR 50015.

This was a prosecution of a company because of a horrific death of one of its employees. A guilty plea was entered to violating the Occupational Health and Safety Act. I sentenced the company to the statutory maximum term of five years' probation and ordered restitution in the amount requested of \$350,000. No appeal was filed, and the case is terminated.

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Counsel for Defendant:

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

1. *McCullough v. Hanley, et al.*, No. 17 CV 50116, 2019 U.S. Dist. LEXIS 135225 (N.D. Ill. Aug. 12, 2019)

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2. *Laudicina v. City of Crystal Lake, et al.*, 328 F.R.D. 510 (N.D. Ill. 2018)

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3. *City of Rockford v. Mallinckrodt ARD, Inc., et al.*, 326 F.R.D. 489 (N.D. Ill. 2018)

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Counsel for United Biosource Corporation:

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4. *Lund v. City of Rockford, et al.*, No. 17 CV 50035, 2017 U.S. Dist. 196202 (N.D. Ill. Nov. 29, 2017), *summary judgment granted* 2019 U.S. Dist. LEXIS 68459 (N.D. Ill. Apr. 23, 2019)

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5. *LAJIM, LLC v. General Electric*, No. 13 CV 50348, 2017 U.S. Dist. LEXIS 144704 (N.D. Ill. Sep. 7, 2017); *aff'd* 917 F. 3d 933 (7th Cir. 2019) *cert. denied* 205 L. Ed. 2d 44, 2019 U.S. LEXIS 5782 (U.S. Oct. 7, 2019)

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6. *Snider v. Danfoss, LLC*, No. 15 CV 4748, 2017 U.S. Dist. LEXIS 107591 (N.D. Ill. July 12, 2017) *adopted* 2017 U.S. Dist. LEXIS 120190 (N.D. Ill. 2017), *summary judgment granted* 2018 U.S. Dist. LEXIS 13990 (N.D. Ill. Jan. 29, 2018)

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7. *United States v. Woodford*, No. 15 CR 50035-2, 2016 U.S. Dist. LEXIS 154640 (N.D. Ill. Sep. 28, 2016) *adopted* 2016 U.S. Dist. LEXIS 144659 (N.D. Ill. Oct. 19, 2016)

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8. *In re United States Application*, No. 15 M 0021, 2015 U.S. Dist. LEXIS 151811 (N.D. Ill. Nov. 9, 2015)

Counsel for the United States:

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9. *Duran v. Colvin*, No. 13 CV 50316, 2015 U.S. Dist. LEXIS 101352 (N.D. Ill. July 14, 2015)

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10. *McCann v. Cullinan, et al.*, No. 11 CV 50125, 2015 U.S. Dist. LEXIS 91362 (N.D. Ill. July 14, 2015) *aff'd* 909 F.3d 881 (7th Cir. 2018)

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

Certiorari was requested in the following three cases.

Bailey v. Worthington Cylinder Corporation, Inc., No. 16 CV 7548 (N.D. Ill.), cert. filed Nov. 26, 2019, cert. denied Jan. 27, 2020 (U.S. 19-681).

Gakuba v. Neese, No. 17 CV 50337 (N.D. Ill.), cert. filed Nov. 7, 2019, cert. denied Jan. 13, 2020 (U.S. 19-6543).

LAJIM, LLC et. al. v. General Electric Company, 13 CV 50348 (N.D. Ill.), cert. filed June 21, 2019; cert. denied Oct. 7, 2019 (U.S. 18-1564).

- 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.

I am unaware of any instances when a decision was affirmed with significant criticism of my substantive or procedural rulings.

Boykin v. Sandholm, et al., No. 18-1154, 2020 U.S. App. LEXIS 2068 (7th Cir. Jan. 23, 2020). A prisoner brought this suit against correctional staff and medical personnel. Defendants asserted the affirmative defense of failure to exhaust administrative remedies under the Prisoner Litigation Reform Act. I held a hearing as required by the Seventh Circuit under *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008) and found that plaintiff had not filed a grievance and, therefore, failed to exhaust his administrative remedies. The district court upheld my

decision. Plaintiff appealed. On appeal, defense counsel discovered a previously unproduced grievance showing that plaintiff had, in fact, filed a grievance. Defense counsel notified the Seventh Circuit of the discovery. Because of the discovery of this new and dispositive evidence, the Seventh Circuit reversed and remanded.

Nat'l Inst. of Family & Life Advoc., et al., No. 16 CV 50310 consolidated with *Schroeder, et al., v. Schneider*, No. 17 CV 4663 (N.D. Ill. Apr. 22, 2019). In these consolidated cases, plaintiffs had filed summary judgment motions, relying upon their own affidavits. By agreement, the cases were stayed pending a potentially dispositive decision in a different case by the Supreme Court. After the Supreme Court ruled, plaintiffs sought to lift the stay and brief the summary judgment motions. Defendants sought to depose the affiants before filing a response, as fact discovery was still open. I allowed defendants to depose those witnesses. Plaintiffs objected. The district judge sustained the objections to allow defendants to file a Rule 56(d) affidavit. Copies of the orders are provided.

Nicholl v. Allen, et al., No. 16 CV 50151 (N.D. Ill. Jan. 25, 2019). A prisoner brought this suit against correctional staff and medical personnel. Defendants asserted the affirmative defense of failure to exhaust administrative remedies under the Prisoner Litigation Reform Act. I held a hearing as required by the Seventh Circuit under *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008). I found that plaintiff had not exhausted his administrative remedies as to some of his claims but had exhausted his administrative remedies to other claims. Defendants objected. In the briefing of the objections, defendants for the first time presented new evidence addressing some of plaintiff's claims. Because of this newly discovered and presented evidence, the district judge "return[ed]" the case to me to consider this new evidence. A copy of the order is provided.

Iconic Energy LLC v. Solar Permit Services, Inc., No. 18 CV 50020 (N.D. Ill. June 4, 2018). Defendant was served with the summons and complaint and failed to appear. Plaintiff filed a motion for a default order, which I granted. Plaintiff then filed a motion for default judgement, which I struck for failing to provide proper notice to defendant. Eventually, plaintiff filed a renewed motion for default judgment, which I granted. Defendant, which had yet to appear, had fourteen days to object. On the thirteenth day, defendant objected, submitting evidence and arguments not presented to me. Following briefing, the district judge found that "defendant has provided the court with an explanation for why it did not appear until the eleventh hour" and held that in light of this new information "a default judgment against defendant would be inappropriate." A copy of the order is provided.

Treadwell v. Sheriff of McHenry County, et al., No. 13 CV 50077 (N.D. Ill. Nov. 17, 2015). I entered an order establishing a briefing schedule on summary judgment motions. Because both sides were moving for summary judgment, I required simultaneous cross motions and simultaneous response briefs. Plaintiff

objected because he wanted to file a reply brief in addition. The district judge sustained the objection and allowed for reply briefs but found no clear error. A copy of the order is provided.

McCann v. Ogle County, et al., No. 11 CV 50125 (N.D. Ill. Aug. 24, 2015). Plaintiff sought to voluntarily dismiss certain claims. Defendants objected. As to certain medical personnel defendants, I allowed plaintiff to dismiss those claims conditioned upon payment of fees and costs if plaintiff were to refile the case. I specifically asked these defendants if they had an objection to that ruling. They told me that they did not. These defendants, nevertheless, objected to the agreed order. No party notified the district judge that these defendants had agreed to this order. The district judge sustained the objection and required plaintiff to voluntarily dismiss the claims with prejudice and pay fees and costs incurred to that point. A copy of the order is provided.

Walseth v. Colvin, No. 13 CV 50022 (N.D. Ill. Apr. 2, 2015). I granted the government's motion for summary judgment in this Social Security appeal. Plaintiff objected. During the appeal process, plaintiff obtained new counsel who, according to the district court judge, "raised a series of arguments that had not been raised in the original motions or responses to summary judgment." The district judge declined to apply waiver and found that because of these new arguments, summary judgment in favor of the government was erroneous and granted plaintiff's motion for summary judgment. A copy of the order is provided.

Nash v. Colvin, No. 15 CV 50019 (N.D. Ill. Mar. 3, 2015). I recommended that plaintiff's case be dismissed for failing to pay a filing fee and for failing to prosecute. I additionally gave plaintiff a warning before I made the recommendation. After I made the recommendation, plaintiff objected. In the objection, plaintiff's counsel informed the district judge that "due to errors in handing the case at plaintiff's attorney's office, the deadline had been missed, but that plaintiff stands ready to pay the filing fee." Plaintiff's counsel also apologized. Defendant took no position on the objection. Because of the explanation and apology, the district court sustained the objection. A copy of the order is provided.

- 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.

Nearly all my substantive legal decisions are available on Lexis or Westlaw. These decisions reflect substantive legal analysis. Those decisions that are not captured by Lexis or Westlaw are contained in the docket available to the public on CM/ECF. If I rule from the bench on a motion, a docket entry reflecting that decision is entered on the docket.

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

In re United States Application, No. 15 M 0021, 2015 U.S. Dist. LEXIS 151811 (N.D. Ill. Nov. 9, 2015)

United States v. Woodford, No. 15 CR 50035-2, 2016 U.S. Dist. LEXIS 154640 (N.D. Ill. Sep. 28, 2016)

- 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 never 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.

My court's clerk's office uses an automated electronic recusal system that monitors cases assigned to me to identify cases involving either Disney (because my wife owns Disney stock) or Rockford University (because I am a Trustee). The system would prevent me from being assigned to cases involving either party. Additionally, I review the docket sheet of all cases once I have an initial assignment and review it for possible conflicts, most notably friends and former legal partners. I recuse myself in any case in which I have a significantly close relationship to a party or attorney. The following is a list of cases in which I have recused myself or that a party has sought to recuse me.

In *Bahr v. City of Rockford*, 17 CV 50091, I recused myself. Plaintiff alleged that a command staff member of the Rockford Police Department had sexually harassed her and others, including women not employed by the City or the Police Department. At the initial status hearing, the City informed me that after receiving the complaint, the City's Law Department investigated and determined that the allegations were founded. The command staff member was allowed to retire. Plaintiff filed suit for the sexual harassment. I learned that one of the victims of the sexual harassment who was interviewed and found to be credible was a friend of mine. I felt compelled to recuse myself from the case under the circumstances because I was not convinced that I could be entirely fair to the City. The prudent decision was to recuse myself under 28 U.S.C. §455(a) because I reasonably questioned my own impartiality.

In *Precision Governors, LLC v. Leap Power Solutions, LLC*, 16 CV 50242, I recused myself. The plaintiff in that case was represented by my successor law firm. Although I had no financial interest in the outcome of the case, I remain in close contact with my former partner and colleagues. Accordingly, I recused myself under 28 U.S.C. §455(a) as my impartiality might reasonably be questioned.

In *Backes v. Exelon Corp.*, 18 CV 4710, I recused myself under 28 U.S.C. §455(a) because my former partner represented a party.

In *Metropulos v. Wasserman*, 14 CV 50025, I recused myself. Defendant in that case was represented by a very close friend of over twenty years. We had worked together at the Illinois Attorney General's Office, and when we each started our own respective firms, we shared office space. Additionally, I have stayed in contact with him since becoming a judge, and on occasion, we run together. I recused myself pursuant to 28 U.S.C. §455(a) because, under these circumstances, my impartiality might reasonably be questioned.

In *Bailey v. Bernzomatic*, 16 CV 7548, which involves an allegedly defective product, plaintiff's counsel filed a recusal motion under 28 U.S.C. §455(b)(2). I denied the motion. Plaintiff's counsel argued that in a separate case filed years before an attorney in the Los Angeles office of Holland & Knight filed an appearance. That case also involved allegations that the product was defective and burned a consumer, similar to the allegations in the case before me. I denied the motion for two reasons. First, when the attorney from the Los Angeles office of Holland & Knight filed her appearance, I was no longer associated with that firm. Second, the "matter" was not the same as that term has been interpreted. I confirmed my understanding of this term by not only researching the issue myself, but also by contacting the Seventh Circuit's ethics representative, Judge Virginia Kendall.

In *PCM v. BelGioiso Cheese, Inc.*, 16 CV 50076, defendant sought to recuse me because I was allegedly biased against non-local counsel. Defendant withdrew

the motion and then refiled it. Because the motion was not set for presentment, pursuant to standard operating procedure, the motion was struck. Thereafter, I granted defendant's motion to bar plaintiff's opinion testimony. The parties ultimately settled the case. The motion was never refiled.

15. Public Office, Political Activities and Affiliations:

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

None.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held office in a political party or campaign. In 1990, I was a volunteer for Congresswoman Lynn Martin in her campaign for the United States Senate. I stuffed envelopes and manned the phone lines, and occasionally, would greet people who came to the campaign headquarters.

16. Legal Career: Answer each part separately.

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

I was a clerk to the Honorable Philip G. Reinhard. From about August 1990 to February 1992, I clerked for Judge Reinhard in the Illinois Appellate Court, Second District. From early February 1992 to September 1992, I clerked for Judge Reinhard in the United States District Court for the Northern District of Illinois.

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

I briefly practiced alone twice. From September 1992 to May 1993, I practiced at 312 North Rockford Avenue, Rockford, Illinois. From July 2003 to August 2003, I practiced at 10 South Wacker Drive, Chicago, Illinois, 60603.

- 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.

1992 – 1993

Iain D. Johnston Attorney at Law
312 North Rockford Avenue
Rockford, Illinois 61101
Solo Attorney

1993 – 1998

Illinois Attorney General's Office
100 West Randolph Street
Chicago, Illinois 60601
Assistant Attorney General

1996, 1997, 1998, 1999, 2008, 2010, 2012

The John Marshall Law School (now UIC – John Marshall Law School)
315 South Plymouth Court
Chicago, Illinois 60604
Adjunct Professor

1998 – 1999

Waubensee Community College
Route 47 and Harter Road
Sugar Grove, Illinois 61480
General Counsel

1999 – 2003

Alzheimer & Gray
10 South Wacker Drive
Chicago, Illinois 60606
Senior Associate, Partner

2003

Iain D. Johnston Attorney at Law
10 South Wacker Drive
Chicago, Illinois 60606
Solo Attorney

2003 – 2008

Holland & Knight LLC
131 South Dearborn Street
Chicago, Illinois 60603
Senior Counsel

2005 – 2013
Illinois Drycleaners Environmental Response Trust Fund Council
1000 Tower Lane
Suite 140
Post Office Box 480
Bensenville, Illinois 60106
Administrative Law Judge

2006
Illinois Department of Insurance
320 West Washington Street
Springfield, Illinois 62701
Administrative Law Judge

2006 – 2013
Illinois State Police
801 South Seventh Street
Springfield, Illinois 62703
Administrative Law Judge

2008 – 2013
Johnston Greene LLC
542 South Dearborn Street
Chicago, Illinois 60604
Partner

2010 – 2013
Northeast Illinois Regional Commuter Railroad Corporation (Metra)
547 West Jackson
Chicago, Illinois 60661
Board Counsel

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

I have not served as a mediator or arbitrator.

b. Describe:

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

After my clerkship, I went to work for the Illinois Attorney General's Office for over five years. I represented Illinois officials and agencies in

civil litigation, ranging from civil rights to employment to administrative review. I was promoted to Unit Supervisor of the Civil Prosecutions Unit, which brought enforcement actions on behalf of Illinois officials and agencies. As an assistant attorney general, I tried cases in federal district court, state court, the Illinois court of claims and the civil service commission. During this time, I only represented Illinois employees and entities, and all my work was litigation.

After that, for about a year, I was the general counsel to a community college. Most of my work focused on counseling and management as well as reviewing and negotiating contracts and writing policies. I also supervised outside counsel and handled a few litigation matters.

In 1999, I joined Altheimer & Gray, which was a large international law firm. My practice was almost exclusively litigation. I represented large corporations in commercial litigation as well as Illinois and several local governments in a variety of matters, including employment and civil rights litigation. In 2003, Altheimer & Gray went bankrupt. At the time, it was the largest law firm to ever go bankrupt.

Following Altheimer & Gray, in 2003, I joined Holland & Knight, another large international law firm. My practice continued to focus on litigation, but I became more involved in counseling clients, both public and private. Again, I handled large commercial litigation matters and continued to represent Illinois and several local government entities. I also began to work on more land use and zoning cases. At Holland & Knight, I tried land use, employment and civil rights matters to verdict.

In 2008, with a former partner from Altheimer & Gray, I started my own law firm. My practice continued to focus on litigation, but again, I became even more involved in counseling private and government clients. Specifically, during this time, I became the board counsel to Metra and the litigation counsel for Pete's Fresh Market. Nevertheless, I tried four federal jury trials during this time frame. The counseling work was in addition to, not in lieu of, my litigation work. As partner and co-founder of a small business I was also involved in the day-to-day operation of the law firm.

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

As an assistant attorney general, all my clients were Illinois officials or agencies. In private practice, I continued to represent Illinois officials and agencies but also represented corporations, small businesses, shareholders, investors, local governments and individuals. Most of my work was defense, but I also represented many plaintiffs.

- 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.

The vast majority of my practice has been litigation. I appeared in court very frequently, often multiple times a week. In the time immediately before being appointed as magistrate judge, I did some more counseling but that work did not limit the frequency in which I appeared in court.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 60% |
| 2. state courts of record: | 30% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 98% |
| 2. criminal proceedings: | 2% |

- 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.

To the best of my recollection, I tried 25 cases to verdict. In five of those cases, I was sole counsel; in fifteen of those cases, I was chief counsel; and in five of those cases, I was associate counsel.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 40% |
| 2. non-jury: | 60% |

- 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.

My practice before the Supreme Court of the United States is limited to two matters. In *City of Evanston v. Franklin*, No. 04-856, I filed a petition for a writ of certiorari and a reply brief. In *Callahan v. Fermon*, No. 08-720, I filed a brief in opposition to a petition for a writ of certiorari. Copies are supplied.

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. *Callahan v. Fermon, et. al.*, 526 F.3d 1040 (7th Cir. 2008)

Plaintiff alleged he was terminated for speaking out about an investigation into a double homicide. I was appointed to represent one of the three defendants less than a month before the trial date. My client was found not liable. The other two were found liable and assessed punitive damages. I then represented these two defendants on appeal. The United States Court of Appeals for the Seventh Circuit reversed and remanded. The dates of my representation were 2005 to 2008.

Courts and Presiding Judges: United States District Court for the Central District of Illinois, Hon. Harold Baker;
United States Court of Appeals for the Seventh Circuit, Hon. Frank H. Easterbrook, Kenneth Francis Ripple, and Ilana Rovner

Opposing Counsel:

John Baker
Baker, Baker & Krajewski
415 South Seventh Street
Springfield, Illinois 62701
(217) 522-3445

2. *Milwaukee Safeguard v. Selcke*, 324 Ill. App. 3d 344 (1st Dist. 2001)
Nationwide v. Shapo, 328 Ill. App. 3d 1028 (4th Dist. 2002)
(These privilege tax cases are related.)

Plaintiffs were foreign insurance companies seeking to recover privilege taxes. I represented defendant. In *Milwaukee Safeguard*, we successfully raised the pass-on defense. In *Nationwide*, we prevailed on all the claims, including a claim of "bait and switch." The dates of my representation were 2000 to 2002.

Courts and Presiding Judges: Circuit Court of Cook County, Hon. Alexander White;
Illinois Appellate Court, First District, Hon. William Cousins, Jr., Robert P. Cahill, and Joseph Gordon
Circuit Court of Sangamon County, Hon. Thomas Appelton;

Illinois Appellate Court, Fourth District, Hon. James A. Knecht, Robert W. Cook, and Robert J. Steigmann

Opposing Counsel:

Mary Kay Martire
McDermott Will & Emery
227 West Monroe Street
Suite 4700
Chicago, Illinois 60606
(312) 984-2096

3. *Sun Life Assurance Co. v. Manna*, 368 Ill. App. 3d 591 (1st Dist. 2006), 227 Ill. 2d 128 (2007)

Plaintiff was an alien insurance company that challenged Illinois' retaliatory tax as violating the Foreign Commerce Clause, among other federal and state constitutional provisions. I represented defendant. The tax was upheld in the circuit court, the appellate court and the Illinois Supreme Court. The dates of my representation were 2005 to 2007.

Courts and Presiding Judges: Circuit Court of Cook County, Hon. Anthony Young; Illinois Appellate Court, First District, Hon. Themis N. Karnezis, Mary Jane Theis, and Allan Greiman

Opposing Counsel:

Mary Kay Martire
McDermott Will & Emery
227 West Monroe Street
Suite 4700
Chicago, Illinois 60606
(312) 984-2096

4. *Steidl v. City of Paris, et al.*, 494 F.3d 623 (7th Cir. 2007)
Whitlock v. Brueggemann, 682 F.3d 567 (7th Cir. 2012)
(These cases were consolidated.)

Both plaintiffs were convicted of a double murder. After both were released based upon ineffective assistance of counsel, they sued multiple defendants alleging that exculpatory evidence was not disclosed. I represented the Illinois State Police defendants. Both cases settled. The dates of my representation were 2005 to 2012.

Courts and Presiding Judges: United States District Court for the Central District of Illinois, Hon. Harold Baker;
United States Court of Appeals for the Seventh Circuit, Hon. Diane P. Wood, Joel M. Flaum, Michael S. Kanne, and Terrence T. Evans.

Opposing Counsel:

Flint Taylor
People's Law Office
1180 North Milwaukee
Chicago, Illinois 60622
(312) 235-0070

Ronald Balson
Stone Pogrund & Korey
1 East Wacker Drive
Suite 2610
Chicago, Illinois 60601
(312) 782-3636

5. *Chavez v. Illinois State Police, et al.*, 251 F. 3d 612 (7th Cir. 2001)

Plaintiffs alleged that the Illinois State Police maintained a systematic practice of racially profiling motorists. I represented defendants. Summary judgment was granted in favor of defendants and affirmed on appeal. The dates of my representation were 1994 to 2001.

Courts and Presiding Judges: United States District Court for the Northern District of Illinois, Hon. Blanche Manning;
United States Court of Appeals for the Seventh Circuit, Hon. Michael S. Kanne, William J. Bauer, and Joel M. Flaum

Opposing Counsel:

Jonathan Baum
Katten Muchin
525 West Monroe Street
Chicago, Illinois 60601
(312) 201-9740

6. *Hernandez v. County of DuPage, et al.*, No. 96 CV 8030 (N.D. Ill.)

Plaintiffs alleged that they were wrongfully convicted of a murder and that exculpatory evidence was not produced. With co-counsel, I represented one of the plaintiffs. All three cases settled. The dates of my representation were 1996 to 2001.

Court and Presiding Judge: United States District Court for the Northern District of Illinois, Hon. William Hibbler

Opposing Counsel:

James G. Sotos
The Sotos Firm
141 West Jackson

Suite 1240A
Chicago, Illinois 60604
(630) 735-3300

Terry Ekl
Ekl, Williams & Provenzale
901 Warrenville
Lisle, Illinois 60532
(630) 654-0045

7. *Nevel v. Schaumburg*, 297 F.3d 673 (7th Cir. 2002)

Plaintiff challenged a historic landmark designation by the Village and, among other things, alleged that the Village violated his rights under a “class of one” theory. There were two parallel cases, one in state court and one in federal court. In federal court, summary judgment was granted in favor of defendants. In state court, after a lengthy trial and judgment, the parties settled those claims. I was defense counsel. The dates of my representation were from 1999 to 2002.

Courts and Presiding Judges: United States District Court for the Northern District of Illinois, Hon. Matthew Kennelly;
United States Court of Appeals for the Seventh Circuit, Hon. Harlington Wood, Jr., William Bauer, and Daniel A. Manion;
Circuit Court of Cook County, Hon. Stephen Schiller

Opposing Counsel:

Mitchell Bryan
Williams Bax & Saltzman
121 West Wacker Drive
Suite 3700
Chicago, Illinois 60601
(312) 372-3311

8. *PrimeCo v. Illinois Commerce Commission*, 196 Ill. 2d 70 (2001)
Spratt v. City of Wheaton
(These cases are related.)

In these related cases, Illinois’ Infrastructure Maintenance Fee was challenged on several constitutional grounds, including Illinois’ uniformity clause. After the fee was declared unconstitutional, customers of the telecommunications companies sought refunds. I was co-class counsel for a defendants’ class in *PrimeCo*. The *Spratt* litigation involved municipalities that opted out of the class. I represented defendants. Both matters settled. The dates of my representation were from 2000 to 2006.

Courts and Presiding Judges: Circuit Court of Cook County, Hon. Patrick McGann;
Eighteenth Judicial Circuit (DuPage County), Hon. Hollis Webster

Opposing Counsel in PrimeCo:

Caesar Tabet
Tabet DiVito & Rothstein
209 South LaSalle Street
Chicago, Illinois 60604
(312) 762-9450

Opposing Counsel in Spratt:

Larry Drury
100 North LaSalle Street
Suite 2200
Chicago, Illinois 60602
(312) 346-7950

9. *2526 West Cermak LLC v. Jetco*, 06 CH 7516

I represented plaintiff, which sought declaratory and injunctive relief to release a letter of credit relating to a restrictive covenant on real property. The restrictive covenant prohibited the use of the real property for a grocery store. The City of Chicago retroactively prohibited these types of restrictive covenants as they create "food deserts." Plaintiff prevented the release of the funds held by the letter of credit, a decision upheld by the Illinois Appellate Court. The dates of my representation were from 2006 to 2010.

Court and Presiding Judge: Circuit Court of Cook County, Hon. LeRoy Martin

Opposing Counsel:

John Piegore
Sanchez Daniels & Hoffman
333 West Wacker Drive
Suite 500
Chicago, Illinois 60606
(312) 641-1555

10. *Hutchison v. City of Evanston, et al.*, 09 CH 4810

Plaintiff alleged that a City of Evanston police officer used excessive force in effectuating his arrest following a foot chase. I represented defendants. After about a week-long trial, the jury returned a verdict in favor of defendants. The dates of my representation were from 2009 to 2011.

Court and Presiding Judge: United States District Court for the Northern District of Illinois, Hon. William Hibbler

Opposing Counsel:

Louis Meyer

Daniel Kiss
Meyer & Kiss
53 West Jackson
Suite 1735
Chicago, Illinois 60604
(312) 765-0100

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 that did not involve litigation can be categorized into three groups: (a) law enforcement training and reviewing; (b) corporate counseling; and (c) government counseling.

Throughout my career before becoming a United States Magistrate Judge, I was involved in training and reviewing various law enforcement agencies. For example, I worked with the Evanston Police Department to revise its General Orders. The revisions required officers to possess reasonable, articulable suspicion before asking a person for consent to search. The purpose of the revision to General Orders and new policy was to address the community's concern that officers were disproportionately seeking consent to search from various minority populations. After creating the orders, I then trained all department personnel on the reason for the change and how to implement the change. Additionally, I have presented to various law enforcement officers and agencies on a wide range of topics. A main theme at these presentations was to inform law enforcement officers of their duties to act in not only a constitutional manner, but also in a manner that instills community trust and confidence. As a former HIDTA director once put it, I was there to deliver the "tough love." My presentations often focused on the intersection of race and law enforcement practices, as well as the use of law enforcement tools and techniques, including new technologies. A recurring point that I raise regarding new technology is that agencies must develop reasonable policies to prevent the improper use of those technologies. Additionally, I reviewed and revised General Orders and policies for several law enforcement agencies throughout Illinois.

Beginning in about 2005, I began representing Pete's Fresh Market in commercial litigation. (Pete's Fresh Market is a small – but growing – grocery chain in Chicago.) Soon, I became involved in nearly all aspects of advising Pete's, including labor and employment, commercial, intellectual property, and land use and zoning matters. However, corporate matters were performed by a different attorney. During this time frame, some of its competitors fled various markets, leaving "food deserts" in the wake. Pete's saw this as an opportunity to expand into those markets. Since that time, Pete's

also expanded into upscale markets as well, establishing its flexibility in meeting customers' demands.

Before my appointment, I also was involved in counseling governmental bodies. For example, for a brief period, I was the general counsel to Waubensee Community College, where I also served as the college's lobbyist. I also worked closely with the Village of Schaumburg and the Village of Arlington Heights and was on call as-needed to discuss various issues with those municipalities, including Freedom of Information Act and Open Meetings Act issues. I also attended village board meetings on an as-needed basis. Further, I drafted ordinances for the Village of Schaumburg on a variety of issues, including employment and land use matters. Moreover, from 2010 to 2013, I was counsel to the Board of Directors for Metra, after its executive director was accused of misconduct and committed suicide. In that role, I provided general governmental counseling on a wide range of legal issues. I also coordinated Metra's response to the investigations of the former executive director by the Federal Bureau of Investigation and the United States Department of Transportation Inspector General's Office.

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

I have taught four courses at The John Marshall Law School (now UIC – John Marshall Law School). During the spring semester of 2012, I taught Deposition Practicum, which teaches students the law and practice of depositions in civil cases. During the spring semester of 2010, I taught Pretrial Practice in Civil Litigation, which provides an in-depth explanation and analysis of civil pretrial litigation, including pleadings, discovery, privilege issues, dispositive motions, protective orders, and pretrial orders. During the spring semester of 2008, I taught Public Law Litigation, which focuses on the law of 42 U.S.C. Section 1983 and jurisdictional issues. Additionally, during the spring semesters of 1996 through 1999, I assisted a professor teaching Cross Curriculum II, which was basically an advanced civil procedure and writing class, often using Illinois bar essay questions as a focus. Syllabi supplied.

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

None.

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

I plan on continuing to be a member of the Rockford University Board of Trustees. I intend to recuse myself on any matter involving Rockford University.

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

When my nomination is formally transmitted to the Senate, I will file my mandated Financial Disclosure Report and supply a copy to this Committee.

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

Please see the attached financial net worth statement.

24. **Potential Conflicts of Interest:**

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

I have a few potential conflicts of interest, two of which are unlikely to occur. First, my wife was gifted common stock in Disney when she was a child, and she still owns that stock. So, as matter of judicial ethics, I am barred from hearing any cases involving Disney. Those types of cases are unlikely in Rockford, Illinois. Second, I am on the Board of Trustees for Rockford University, so I would be conflicted out of any case involving the university in the unlikely event it is sued in federal court. The Clerk's office has this information so that I would be automatically removed from any case if it were assigned to me. Third, I have several close friends who are attorneys, including former partners. On the rare occasion that they have a case in the Western Division, I recuse myself.

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

On an ongoing basis, I carefully review the Code of Conduct for United States Judges, as well as 28 U.S.C. Section 455. Additionally, the United States Court of Appeals for the Seventh Circuit rotates judges to respond to questions regarding conflicts of interest. In the past, I have contacted those judges and would do so in the future if needed. Moreover, the Administrative Office of the United States Courts also provides counsel on potential conflict of interest issues. I have used those services in the past and, if needed, will in the future.

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.

Currently, as a magistrate judge, I cannot engage in pro bono legal work. But as the President of the P. Michael Mahoney (Rockford, Illinois) Chapter of the Federal Bar Association, along with Judge Thomas Lynch and other members of the Chapter, we have begun an outreach program to the Rockford Public Schools. We are currently meeting with the RPS administration to have judges and attorneys visit schools to emphasize civics and civility. I have also addressed the seventh-grade class at Eastview Elementary School in Algonquin, Illinois. Additionally, students routinely visit the courthouse to view proceedings. Although I cannot engage in pro bono legal work to serve the disadvantaged, I continue to donate to various charities that support the disadvantaged, including organizations that provide legal services for disadvantaged individuals. For example, I contribute to the Native Hawaiian Legal Services Corporation and the Indiana Bar Foundation. Additionally, I have contributed to the Chicago Football Classic, which provides need-based scholarships for students to attend Historically Black Colleges and Universities. And I am an annual contributor to Christmas in the Wards, which provides gifts, including laptops, for disadvantaged Chicago children. Occasionally, I attend the shopping trip for this event. Moreover, my brother and I funded a scholarship in my mother's name for the Bohemian Lawyers' Association of Chicago. The scholarship was provided to law students from the Chicago area.

When I was in private practice, in about 2012, I developed a guideline for *pro se* litigants appearing before the Illinois Drycleaners Environmental Response Trust Fund Council. These guidelines were in English. But because of the large number of Korean drycleaners, I asked the Korean American Bar Association to help me translate the guideline into Korean. The president of the KABA at that time kindly agreed to help with that project. As a result, all notices sent out by the Council were translated into Korean.

In 2009, I represented a young woman on a pro bono basis. She had been sexually assaulted in a hotel room by an employee. Because of her limited funds and nature of her claim, I represented her pro bono. In doing so, I obtained a favorable settlement on her behalf. Although her father instructed her to provide some of the settlement to me, I contributed those funds for a charitable purpose.

In 2006 through 2007, I worked with clients of the Center for Elder and Disability Law (CDEL). On a pro bono basis, I represented a client that was referred to me by CDEL. The client was an elderly, African-American gentleman who suffered from asthma. He claimed he was improperly discharged by his employer based upon his age, race and disability. After some litigation and much negotiation, we successfully reached a very

favorable settlement on behalf of the client. I spent approximately 65 hours on this matter. I also reviewed case determinations for CDEL to evaluate whether an applicant possessed a claim that could be handled by a pro bono attorney. Additionally, CDEL referred a client to me to represent in a mediation before the Equal Employment Opportunity Commission. I spent about 100 hours on those other CDEL matters

When I was in public practice, at that time, I was prohibited from engaging in pro bono legal work.

26. Selection Process:

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

In late April of 2019, I was contacted by a representative from Congressman Adam Kinzinger's office, asking if I would be interested in interviewing for the position of district judge. Shortly thereafter, I interviewed with Congressman Kinzinger at his Rockford office. In early May, I was contacted by an official from the White House Counsel's Office to schedule an interview. Shortly thereafter, at the Eisenhower Executive Office Building, I was interviewed by two officials from the Office of Legal Policy at the Department of Justice and two officials from the White House Counsel's Office. In mid-September, a representative of Senator Richard Durbin's office contacted me about interviewing with Senator Durbin and Senator Duckworth's selection commission and completing a questionnaire in advance of the meeting with the commission. After I completed the questionnaire, I interviewed with the selection commission in mid-September in Chicago. I do not know if the commission recommended me. On October 7, Senator Durbin interviewed me in Rockford. On October 17, Senator Tammy Duckworth interviewed me via Skype. I was in Rockford, Illinois, and Senator Duckworth was in the District of Columbia. In late December, I was contacted by an official from the White House Counsel's Office, informing me that a background investigation would be conducted of me for the district judge position. Since that time, I have been in contact on and off with officials from the Office of Legal Policy at the Department of Justice and the White House Counsel's Office.

- 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.