

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Business Card	[Business Card]	1	N.D.	b6;
002	Letter	[Letter] - To: Tim Flanigan	1	07/13/2001	b6;
003	Letter	[Letter] - To: Alberto Gonzales - From: Tom Ridge	1	07/12/2001	b6;
004	Application	Personal Data Questionnaire [22 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	22	02/07/2001	b6;
005	Application	Personal Data Questionnaire [30 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	30	03/30/2001	b6;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

Pennsylvania Judicial Candidates [3]

FRC ID:

9123

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

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Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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006	Application	Personal Data Questionnaire [25 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	25	N.D.	b6;
007	Letter	[Letter] [with Attachments] - To: Brett Kavanaugh	35	06/15/2001	b6;

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SUPERSEDED

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OA Num.:

342

NARA Num.:

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FOIA IDs and Segments:

2018-0016-P

2017-0345-F

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FEDERAL JUDICIAL NOMINATING COMMISSION
PERSONAL DATA QUESTIONNAIRE FOR LAWYER APPLICANTS

- 1 Full name and Social Security Number.

Terrence F. McVerry

(b)(6)

2. Office and home addresses, zip codes, firm name, telephone numbers, fax numbers and e-mail addresses.

Office: Allegheny County Law Department
300 Fort Pitt Commons
445 Fort Pitt Blvd.
Pittsburgh, PA 15219
Phone: (412) 350-1120
Fax: (412) 350-1174
E-Mail: tmcverry@county.allegheny.pa.us

Home: 46 Ordale Boulevard

(b)(6)

3. Date and place of birth.

(b)(6)

Pittsburgh, PA

4. If a naturalized citizen, give date and place of naturalization.

No.

5. Family status:

- (a) Are you married? If so, state the date of marriage and your spouse's full name (including maiden name).

Yes

Married: August 13, 1966

Spouse: Judith Marie McVerry (nee Kausek)

- (b) Have you been divorced? If so, state the date, the number of the case, and the court.

No.

- (c) Names of your children, with age, address and present occupation of each.

Erin Kathleen Crowley (31)

(b)(6)

English teacher
Acquinas High School

Bryan James McVerry (30)

(b)(6)

Physician/Research Fellow
University of Chicago Hospitals

Bridget Anne McVerry (27)

(b)(6)

Graduate student
Northwestern University
Kellogg School of Business and Management

6. Have you had military service? If so:

- (a) Give dates, branch of service, rank or rate, serial number and present date.

August, 1968 – April, 1969

United States Army and Reserves, E-2, #E170-34-7777, Honorable Discharge

April, 1969 – October, 1976

Pennsylvania Air National Guard, Captain, #170-34-7777, Honorable Discharge

- (b) Have you ever been rejected or released from any of the armed services for reasons other than honorable? If so, give details.

No.

7. List each college and law school you attended, including the dates of attendance, the degrees awarded, and, if you left any institution without receiving a degree, the reason for leaving. List any scholastic honors.

Duquesne University
Pittsburgh, PA
September, 1961 – June, 1965
Bachelor of Arts

Duquesne University School of Law
Pittsburgh, PA
September, 1965 – June, 1968
Juris Doctor

8. List all courts in which you have been admitted to practice, with dates of admission.

November 19, 1968	Superior Court of Pennsylvania, Court of Common Pleas of Allegheny County, Pennsylvania, and the United States District Court for the Western District of Pennsylvania
March 25, 1969	Supreme Court of Pennsylvania
November 8, 1995	United States Court of Appeals for the Third Circuit
1970 – 2001	Admission Pro Hac Vice Court of Common Pleas of Beaver County, PA Court of Common Pleas of Butler County, PA Court of Common Pleas of Cambria County, PA Court of Common Pleas of Clarion County, PA Court of Common Pleas of Crawford County, PA Court of Common Pleas of Erie County, PA Court of Common Pleas of Fayette County, PA Court of Common Pleas of Lawrence County, PA Court of Common Pleas of Mercer County, PA Court of Common Pleas of Somerset County, PA Court of Common Pleas of Venango County, PA Court of Common Pleas of Washington County, PA Court of Common Pleas of Westmoreland County, PA

9. List chronologically your law practice and experience after your graduation from law school, including the firm names, dates and location.

1969 – 1970

Eddy & Osterman

Associate Attorney

Address: Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

1969 – 1973

Office of the District Attorney of Allegheny County

Assistant District Attorney (Prosecutor)

Address: 300 Courthouse
436 Grant Street
Pittsburgh, PA 15219

1970 – 1972

Mansmann, Beggy, McVerry & Baxter (defunct)

Attorney/Partner

Address: 1810 Law & Finance Building
Pittsburgh, PA 15219

1972 – 1988

McVerry, Baxter & Cindrich

McVerry, Baxter, Cindrich & Mansmann (1974)

Attorney/Partner

Address: 1000 Lawyers Building
Pittsburgh, PA 15219

Gondleman, Baxter, McVerry & Mansmann (1978)

Attorney/Shareholder

Address: 6th Floor, Porter Building
Pittsburgh, PA 15219

Gondleman, Baxter, McVerry, Mansmann & Cindrich (1981)

Gondleman, Baxter, McVerry, Mulvihill & Smith (1981)

Gondleman, Baxter, McVerry, Smith, Yatch & Trimm (1983)

Attorney/Shareholder

Address: 718 Fifth Avenue
Pittsburgh, PA 15219

Firm name changes and/or reorganizations in 1974, 1978, 1981 and 1983.

Firm dissolved in 1988.

1988 – 1989

Tucker Arensburg

Attorney/Of Counsel

Address: PNB Building
Wood Street
Pittsburgh, PA 15222

1989 – 1998

Grogan, Graffam, McGinley & Lucchino, P.C.

Attorney/Shareholder

Address: 22nd Floor
Three Gateway Center
Pittsburgh, PA 15222

1998 (May) – 2000 (January)

Judge – Court of Common Pleas of Allegheny County

Adult Family Division

Address: 822 City County Building
414 Grant Street
Pittsburgh, PA 15219

2000 (January) – Present

Allegheny County Law Department

County Solicitor/Department Director

Address: 300 Fort Pitt Commons
445 Fort Pitt Boulevard
Pittsburgh, PA 15219

10. Describe the general character of your practice dividing it into periods with dates, if its character has changed over the years, and any type of specialization.

1969 – 1973 My practice concentration was criminal law as an Assistant District Attorney prosecuting general criminal cases for a year and thereafter, primarily jury trials of major felonies and homicides. I tried hundreds of bench and jury trials over these years. Occasionally I had appellate court argument opportunities and enjoyed these argument experiences. I also engaged in private general practice on a part-time basis during these years.

1973 – 1989 I was engaged in a broad based general civil practice including representation of individuals in personal injury and contract litigation, real estate, family related matters including divorce, custody, support and equitable distribution of marital property, estate planning and administration and small business and professional corporations.

1979 – 1990 I was a member of the Pennsylvania House of Representatives and my practice was more heavily concentrated and specialized in family law and estate matters along with ongoing business clients. I maintained an active practice during the period of my legislative service.

1989 – 1998 I specialized in civil litigation trial practice with concentration in the representation of doctors, hospitals and other healthcare providers in the defense of professional negligence/medical malpractice lawsuits throughout western Pennsylvania. My representation would commence with notice of the claim and continue through ultimate resolution either by voluntary discontinuance, non prosequitur, summary judgment, negotiated settlement, jury trial to verdict and appeal.

1998 (May) – 2000 (January) I was a Judge of the Court of Common Pleas of Allegheny County assigned to the adult Family Division.

2000 – Present As Allegheny County Solicitor, I am the Director of the Law Department comprised of 36 attorneys. I and my staff are responsible for legal advice and representation of all facets of county government including the County Executive, the administration and all of its departments, County Council and the Court of Common Pleas. We provide a broad array of legal services in many fields of law including, but not limited to, general municipal, contracts, labor relations, civil and employment litigation, property reassessment and tax appeals, eminent domain, social service agencies and facilities, elections, purchasing, public works construction, grants and federal programs, etc.

11. With respect to the last five years:

- (a) How frequently did you appear in court?

1990 – 1998 I appeared in court on a regular basis as my concentration was exclusively civil litigation trial practice. Motions court presentations occurred weekly and complete jury trials were presented approximately four times per year. Preparation of civil matters for trial was continuous with efforts to obtain pretrial resolution through discontinuance, settlement or summary judgment always ongoing.

1998 (May) – 2000 (January) As a Judge, I appeared in court virtually everyday to hear and decide motions, arguments or trials.

2000- Present As County Solicitor, I appear in Court on a reasonably regular basis on a number of civil lawsuits which have arisen over structural and substantive changes in the government which have resulted from our new Home Rule form of government.

However, my court appearances are significantly less than during my years of private litigation practice.

(b) What percentage of these appearances were in:

1. Federal courts.
10%
2. State courts of record.
85%
3. Other courts.
5%

(c) What percentage of your litigation was:

1. Civil.
100%
2. Criminal.
0%

(d) State the number of cases in courts of record you tried to verdict of judgment (rather than settled), indicating whether you were the sole counsel, chief counsel or associate counsel.

1990 – 1998 As sole counsel, I represented healthcare providers in approximately four civil jury trials to verdict per year during this period.

1998 (May) – 2000 (January) As a Judge in the Court of Common Pleas, I presided over and decided the verdict in approximately fifty (50) bench trials.

2000 (January) – Present Since being Director of the Law Department, I have not tried any cases to verdict.

(e) What percentage of these trials were:

1. Jury
As counsel: 90%
As Judge: 0%
2. Non-jury
As counsel: 10%
As Judge: 100%

12. Describe five of the most significant litigated matters, which you personally handled and give the citations, if the cases were reported. Give a brief summary of the case and its significance. Identify your client, the nature of your participation, and the final disposition of the case. Also state the name of the judge and the name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

1. In re Estate of Fay Earhart Dobson, a/k/a Fay E. Dobson

Appeal of Mary Virginia Dobson, Sarah Jane Troy and the
Catholic-Negro American Mission Board
(PA, 417 A2d 138-1980)

This action arose through objections to an Executor's valuation and redemption sale of stock to a closely held corporation which the decedent had bequeathed by will to her four daughters and a charity. Our office represented the charity and two daughters who objected and sought a surcharge against the executor. The executor was the attorney for the estate and married to one of the decedent's four daughters who was also an attorney and an individual shareholder of the closely held subchapter S corporation to which the stock had been redeemed.

The assets of the corporation consisted primarily of real estate which was readily appraisable to establish a value for the corporation's stock. However, the executor did not have the real estate appraised, and in valuing the stock for estate purposes, he theorized its sale and inappropriately deducted hypothetical capital gains tax and the decedent's cost basis. We objected and proved through a real estate appraisal and certified public accountant that the stock was grossly undervalued. However, the trial court sustained the discretionary valuation of the stock by the executor and refused to surcharge him.

On appeal, the Pennsylvania Supreme Court reversed the lower court with respect to the executor's valuation methodology and remanded the case for calculation of a new value of the stock and assessment of a surcharge.

After remand and protracted proceedings before a different lower court judge, the stock value was recalculated correctly and a surcharge was assessed against the executor. Unfortunately, the surcharge was never collected as the executor filed for bankruptcy and later died without assets.

a) The date of representation;

1977 – 1983 Four days of trial in January and February, 1978

March 6, 1980 Appeal argued before the Supreme Court of Pennsylvania

b) The name of the court and the name of the judge or judges before whom the case was litigated;

In the Court of Common Pleas of Allegheny County (Orphans Division) before Judge Hugh Boyle (deceased) without a jury.

Supreme Court of Pennsylvania – Court en banc

Argued before:

The Honorable Michael J. Eagen, Chief Justice

The Honorable Henry X. O'Brien, Justice

The Honorable Samuel J. Roberts, Justice

The Honorable Robert N.C. Nix, Justice

The Honorable Rolf Larson, Justice

The Honorable John P. Flaherty, Justice

The Honorable Bruce Kaufmann, Justice

- c) The individual name, addresses and telephone numbers of co-counsel and of principal counsel for each of the other parties.

My clients: Mary Virginia Dobson, Sarah Jane Troy and the
Catholic-Negro American Mission Board.

Trial co-counsel – Hon. Robert J. Cindrich
U.S.P.O and Courthouse
Pittsburgh, PA 15219
(412) 208-7370

Appeal co-counsel - Jane Dale Ressler, Esquire (deceased)

Executor: Abraham Fishkin, Esquire (deceased)
Counsel for Executor: Alice Dobson Fishkin, Esquire
(retired – address unknown)
Clyde P. Baily, Esquire (deceased)

2. Commonwealth of Pennsylvania v. Ronald O'Shea

Defendant, Ronald O'Shea, was charged with murder, voluntary and involuntary manslaughter in the death of Thomas Washington who had been found dead in his apartment bedroom by police following an anonymous telephone call. The victim was naked and exhibited cuts, bruises and burns indicative of a severe beating and/or sexual torture. He had been left in a hog-tied position with his neck tied to his feet and hands behind his back with neckties.

As the prosecutor, I was able to present evidence of a homosexual relationship between the white defendant and black victim, proof of the pair having been together that evening, proof of the victim having engaged in homosexual activity proximate to the time of death, fingerprints of the defendant in the bedroom, blood of the victim on the Defendant's clothes and inconsistencies in the defendant's statements regarding his whereabouts that evening. Also, forensic testimony established that the victim suffocated slowly due to the manner in which he was tied.

The jury deliberated approximately fifteen minutes and returned a verdict of guilty of murder in the first degree. However, after the penalty phase of the trial, the jury deliberated between a life or death sentence for eleven hours before returning a verdict of life imprisonment. Although I prosecuted many murder trials, this was the only capital case during my tenure as an assistant district attorney in which the Commonwealth sought a sentence of death.

- a) The date of representation;

1972
Trial – 4 days

- b) The name of the court and the name of the judge or judges before whom the case was litigated;

The Court of Common Pleas of Allegheny County, Pennsylvania
Criminal Division Indictment Nos. 101 and 102 January 1972

Judge Albert Fiok (deceased)

- c) The individual name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

My client:
Commonwealth of Pennsylvania

No co-counsel

Counsel for Defendant:

Michael Levine, Esquire
633 N.E. 167th Street – Suite 501
N. Miami Beach, FL 33162
(305) 653-3800

3. Commonwealth of Pennsylvania v. Charles Kozakiewicz, et al.

In this action, I defended one of three prison guard officers from the Pennsylvania State Correctional Institution at Pittsburgh who were each charged with the crime of Official Oppression under the Abuse of Office Chapter of the Pennsylvania Crimes Code. At the time this was believed to be a prosecution of first impression in the state.

The complainant was a law student who was serving as a legal intern for inmates at the prison. A rank and file prison guard reported to the sergeant of the guard (my client) and the captain of the guard that he saw the complainant pass something in silver paper to an inmate through a chainlink fence and that he suspected it to be narcotics. Another guard confirmed this account. Upon complainant's next visit to the prison, the defendant guard officers subjected him to a strip search before permitting entry to the facility. No contraband was found.

Complainant instituted charges against the guard officers on the basis that in their official capacity, they had knowingly subjected him to an illegal strip search. The defense contended that reasonable reliance on credible information justified the search. The nine day jury trial ended with a verdict of not guilty for all Defendants.

a) The date of representation;

1974
Trial – 9 days

b) The name of the court and the name of the judge or judges before whom the case was litigated;

The Court of Common Pleas of Allegheny County, Pennsylvania
Criminal Division Indictment: Official Oppression

Judge Livingstone Johnson
7th Floor City-County Building
Pittsburgh, PA 15219
(412) 350-5266

c) The individual name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

My client:

Defendant, Charles Kozakiewicz

Counsel for two co-Defendants:

A. Bryan Campbell, Esquire
1700 Grant Building
Pittsburgh, PA 15219
(412) 642-7667

James Wymard, Esquire
220 Grant Street
Pittsburgh, PA 15219
(412) 281-6225

Counsel for Commonwealth of Pennsylvania:
Lawrence N. Claus, Esquire
Manor Complex – Fifth Floor
Pittsburgh, PA 15219
(412) 565-3575

4. James Dawson v. Forbes Health System, Elliot Weinstock, M.D., Metropolitan Anesthesia Associates and James R. Browning, M.D.

Plaintiff underwent an outpatient arthroscopic surgical procedure on his knee at Forbes Health System on February 8, 1988. The procedure was performed under general anesthesia and our client, Dr. Elliott Weinstock was the attending anesthesiologist. Upon awakening in the post-anesthesia recovery room, plaintiff complained of a gritty sandy-like feeling in his eyes and a physician irrigated his eyes with a balanced salt solution, but the feeling persisted.

An ophthalmology consult was ordered and defendant, Dr. Browning, examined the patient's eyes, diagnosed a condition of exposure keratitis (inflammation of the cornea sometimes called dry-eye syndrome) and prescribed a sulfa ointment to ease the symptoms. The patient was allergic to sulfa.

Plaintiff sued all of the defendants alleging that his condition was the result of inappropriate anesthesia procedure by failing to lubricate the eyes prior to surgery and failure to have them taped shut during surgery. He also claimed negligent application of a sulfa ointment to which he was allergic. Essentially, plaintiff's legal theory was based upon the testimony of his expert witness that there was "inadequate covering of the cornea during surgery" and there could have been no other cause.

Dr. Weinstock and numerous medical witnesses testified in specific detail to the appropriate eye care rendered to the patient prior to, during and after surgery which was confirmed by hospital records. The appropriate standard of medical care and treatment were also confirmed through the testimony of the expert witnesses of the defendants who also opined as to possible alternate causes to the development of exposure keratitis.

The jury returned a verdict in favor of all defendants.

a) The date of representation;

1990 - 1994
Trial - May 23-27, 1994

b) The name of the court and the name of the judge or judges before whom the case was litigated;

The Court of Common Pleas of Allegheny County, Pennsylvania
No. GD 90-02998

Judge Joseph M. James
7th Floor City-County Building
Pittsburgh, PA 15219
(412) 350-5598

- c) The individual name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

My clients:

Defendants, Elliott Weinstock, M.D. and Metropolitan
Anesthesia Associates

No co-counsel

Counsel for Plaintiff:

William R. Caroselli, Esquire
312 Boulevard of the Allies - 8th Floor
Pittsburgh, PA 15222
(412) 391-9860

Counsel for Defendant Forbes Health System:

Gilbert S. Solomon, Esquire
USX Tower
Pittsburgh, PA 15219
(412) 391-9600

Counsel for Defendant James R. Browning, M.D.:

David B. White, Esquire
Burns, White & Hickton
2400 Fifth Avenue Place
Pittsburgh, PA 15222
(412) 394-2503

5. Richard Owens v. Gary L. Smith, M.D., Jonathan Hottenstein, M.D. and Sewickley Valley Hospital

My client, Dr. Hottenstein, an orthopedic surgeon, performed an outpatient arthroscopic lateral retinacular release on the left knee of plaintiff at Sewickley Valley Hospital on September 14, 1988. There were no surgical complications. On September 17, 1988, the patient returned to the hospital emergency room complaining of fever, pain, swelling and discharge from the leg wound. Dr. Gary Smith, a partner of Dr. Hottenstein, examined the patient, drained a hematoma, took a culture to check for infection and prescribed Keflex, an antibiotic as a protective step. The culture was sent to the hospital laboratory and a report two days later was positive for staphylococcus infection. However, the laboratory result was neither called to Drs. Smith or Hottenstein or sent to their office through the hospital standard mail box delivery protocol.

Plaintiff next saw Dr. Hottenstein at his previously scheduled post-operative office visit on September 27, 1988, at which time he was in significant pain with swelling and no ability to move the knee. The patient had not been taking the Keflex as prescribed. Infection was suspected and the patient was immediately admitted to the hospital for debridement surgery. After a lengthy inpatient stay for treatment of the infection, plaintiff was discharged, but he had sustained permanent damage to his knee and was treated thereafter by several different specialists including a rheumatologist.

Plaintiff contended that the medical care and treatment rendered by the defendants was negligently performed in failing to diagnose and timely treat the infection which developed post-surgically. I defended the doctors by establishing that the arthroscopic surgery performed by Dr. Hottenstein was done properly and well within the applicable standard of medical care and that development of a post-operative infection is a risk of any surgery and plaintiff was aware and accepted the risk. The court granted a compulsory nonsuit in favor of Dr. Hottenstein at the close of plaintiff's case.

My defense of Dr. Smith was that he acted properly in testing the patient for infection and prescribing an interim antibiotic. Also, it was reasonable for him to expect to be notified by the hospital of the laboratory test results so that appropriate medical treatment could be initiated. Further, plaintiff did not take the prescribed medication or follow-up as his condition worsened. The jury returned a defense verdict in favor of Dr. Smith.

However, the jury did return a verdict in favor of plaintiff in the amount of \$275,000 against the hospital for its failure to transmit the laboratory results to the doctors.

- a) The date of representation;

1990 – 1993

Trial - May 26, 27, 28, June 1, 2, 3 and 4, 1993

- b) The name of the court and the name of the judge or judges before whom the case was litigated;

Court of Common Pleas of Allegheny County, Pennsylvania
No. GD 90-15836

Judge Maurice Louik (retired)
address unknown

- c) The individual name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

My clients:

Defendants, Gary Smith, M.D. and
Jonathan Hottenstein, M.D.

No co-counsel

Counsel for Plaintiff:

Richard Catalano, Esquire
445 Fort Pitt Boulevard
Pittsburgh, PA 15219
(412) 391-6363

Counsel for Defendant Sewickley Valley Hospital:

George M. Weis, Esquire (retired)
1117 Foxcroft Lane
Pittsburgh, PA 15237
(412) 364-7723

13. Have you ever held judicial office? If so, give details.

Yes. From May, 1998 to January, 2000, I was a Judge of the Court of Common Pleas of Allegheny County, Pennsylvania. In April, 1998, I was nominated for appointment to a vacancy on the Court by Governor Tom Ridge. After unanimous confirmation by the Pennsylvania Senate in May, 1998, I served until January 2, 2000. I was unsuccessful in the general election in November, 1999.

I was assigned to the Adult Family Division of the Court, the jurisdiction of which includes the following types of matters which are all adjudicated by the judge without a jury:

- Divorce
- Rights of visitation, partial and full custody of children
- Determination of real and personal property status as marital or nonmarital and valuation of same
- Equitable division and distribution of marital property
- Determination of rights to alimony pendente lite, alimony (amount and duration), counsel fees and expenses
- Contested paternity
- Disputed date of separation
- Exceptions to child and spousal support recommendations of Hearing Officers
- Applications for Protection from Abuse
- Civil and criminal contempt for failure to pay or comply with support orders
- Delinquency and dependency of children in Juvenile Court

During my tenure as a judge, I presided over and decided the verdict in approximately fifty (50) bench trials.

Copies of a representative sampling of written opinions will be provided upon request.

14. Have you ever run for public office other than judicial office? If so, give details.

Yes

1978 – 1990	Elected member of the Pennsylvania House of Representatives for six (6) two (2) year terms (42 nd Legislative District).
1974	Lost primary election for nomination to the office of District Justice of the Peace.

15. Have you ever been engaged in any occupation, business or profession other than the practice of law? If so, give, details.

Yes

1984 – 1992	Sterling Title Strip Graphics, Inc. 2100 E. Ohio Street Pittsburgh, PA 15212 Officer/Director of a small printing company (no active involvement in the operations of the business)
1978 – 1990	Pennsylvania House of Representatives Main Capitol Building Harrisburg, PA 17120 Member (42 nd Legislative District)
1966 – 1968	Eddy & Osterman Manor Complex 564 Forbes Avenue Pittsburgh, PA 15219 Law clerk

1965 (summer)	Mosites Construction Co. 4839 Campbells Run Road Robinson Township, PA Laborer - construction
1964 - 1966	Hills Tavern Lawrence, PA Bartender
1961 - 1965	Mac Coal Company Sturgeon, PA Laborer - strip coal mine
1960 - 1962	Giant Eagle McMurray, PA Clerk/stockboy
1953 - 1960	Hills Confectionery Store Lawrence, PA Clerk/sodajerk

16. Are you now an officer, director, partner, or otherwise engaged in the management of any business enterprise other than a law firm?

No

(a) If so, give details, including the name of the enterprise, the nature of the business, the title or description of your position, the nature of your duties and the term of your service.

Not applicable

(b) Would you resign such positions and withdraw from any participation in the management of any such enterprise if you are nominated and confirmed? If not, give reason.

Not applicable

17. Have you ever been convicted of violating any federal law or regulation, state law or regulation, county or municipal law, regulation or ordinance? If so, give details. Do not include traffic violations for which a fine of \$200.00 or less was imposed.

No

18. Have you ever failed to file a Federal Income Tax Return, as required?

No

Are you now or were you during any of the past five years delinquent in the filing of your Federal Income Tax Returns or the payment of your federal income tax obligations? If so, please give particulars.

No

19. Have you ever have been sued by a client, give details.

Yes. See Attachment A.

20. If there has ever been a claim made against you or your insurer alleging malpractice, give details.

No such claim.

21. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give the particulars. Do not list proceedings in which you were merely a guardian ad litem or stakeholder. Include all legal proceedings in which you were a party in interest, a material witness, were named as co-conspirator or co-respondent, and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness.

No

22. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give particulars.

No

- 23.

(b)(6)

(b)(6)

24. List all bar associations, professional societies and committees of which you are a member and give the titles and dates of any offices, which you have held in such group.

Allegheny County Bar Association
1969 – Present Served on Public Service Committee, Legislative Committee
and Funding of Legal Services for Indigents Committee (Co-Chair).

Pennsylvania Bar Association
1970 – Present Served on Legislative and Governmental Affairs Committee

American Bar Association
1975 – 1985

Pennsylvania Commission on Sentencing
1981 – 1988

Allegheny County Charter Drafting Committee
1997 - 1998

Pennsylvania Conference of State Trial Judges
1998 – 2000

25. List all organizations other than bar associations or professional associations or professional societies of which you are or have been a member, including civic, charitable, religious, educational, social and fraternal organizations. Do any of said organizations in which you have been a member during the last three years discriminate because of race, color, creed or national origin?

Civic Organizations:	United Mental Health, Inc. Board Member	1983 – 1989
	Music for Mt. Lebanon Board Member	1982 – 1988, 1998 – Present
	Performing Arts for Children Board Member	1981 – 1988
	Mt. Lebanon Civic League Board Member	1970's
Service Organizations:	Neighborhood Legal Services Association Board Member	1987 – 1995
	Treasurer	1994 – 1995
	Duquesne University Alumni Association Board of Governors	1970's
	Duquesne University Law Alumni Association	1970 - Present
	Mt. Lebanon School District P.T.A.	1980's
	Ancient Order of Hibernians South Hills Division #1	1999 - Present
Religious Affiliation:	St. Anne Catholic Church Pre Cana and Homebound Eucharistic Minister Programs	1972 - Present

26. List any honors, prizes, awards or other forms of recognition, which you have received other than those mentioned in answers to the foregoing questions.

1999	Allegheny County Bar Association Judiciary Committee	Rated Highly Recommended To Hold Judicial Office
1999	Allegheny County Bar Association Family Law Section	Special Recognition Award as a Family Division Judge
1999	League of Women Voters of Allegheny County	Good Government Award as a member of Allegheny County Charter Drafting Committee
1989	Martindale Hubbell	AV rating
1988	Neighborhood Legal Services Assoc.	Special Advocacy Award

27. State any other information that may reflect positively or adversely on you, or that you believe should be disclosed or that may come to light in connection with consideration of you for nomination for the federal judiciary.

In my campaign for election to the Court of Common Pleas in 1999, I signed and sent a campaign committee letter to all members of the Allegheny County Bar Association in which it was requested that they not only vote for me, but also urge others to do so. It later came to my attention that this request to lawyers for public support as signed by me and not my committee may have been in contravention of Canon 7(B)(2) of the Pennsylvania Code of Judicial Conduct. My campaign committee immediately (prior to election day) sent a clarification/retraction notice to all recipients of the correspondence. I self reported this incident to the Pennsylvania Judicial Conduct Board and after conducting an inquiry, the Board determined that there was no basis for further action. Accordingly, the complaint was dismissed with notice by correspondence dated June 14, 2000.

28. Why do you wish to become a Federal Judge?

After 31 years of practice in all divisions of the Court of Common Pleas, Federal District Court and Appellate Courts, my legal experience is broad and diverse in general civil and specialized litigation practice. As a PA State Representative for 12 years, I have a true appreciation for the lawmaking process and the separation of powers doctrine, not to mention working with an array of people to accomplish solutions. I have 57 years of life experience from humble beginnings. My wife and I have worked together to raise three children who are well educated, responsible and productive citizens in their own right. I also have actual on the job training and time in grade as a Judge in the Court of Common Pleas for 18 months. I believe that my personal, professional and public service background qualifies me to fairly deliberate the variety of issues which confront a federal district court judge. I have long aspired to culminate the experiences of my career by serving as a judge and I was fortunate to have been afforded the opportunity to serve in that capacity on the Court of Common Pleas. I would truly appreciate the opportunity to continue my dedicated commitment to public service as a judge without having to again seek such a position through the election process.

29. Do you authorize the Commission to make inquiries, obtain information and review records of Federal, State and local government agencies and any legal or judicial enforcement agencies, including the United States Department of Justice, pertaining to matters relevant to your being considered as an appointee to judicial office?

Yes

30. (a) Are there any unsatisfied judgments against you? If so, list giving all pertinent details.

No

- (b) Are you in default in the performance or discharge of any duty or obligation imposed upon you by any governmental agency or decrees or order of any court, including, but not restricted to, support orders and decrees?

No

- (c) Have you ever made an assignment for the benefit of creditors? Has a petition in bankruptcy ever been filed by or against you? If so, give full particulars.

No

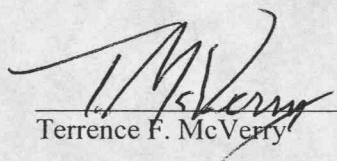
31. If you have published any legal books or articles, list them, giving the citations and dates.

No

32. List any public addresses or speeches of a professional nature, including date and the audience.

Having run for public office and served as a public official, I have spoken many times on various subjects before numerous groups. My talks have been primarily related to legislative matters, law topics, the Allegheny County Home Rule Charter and professional or public service experiences. I've not delivered any truly formal public addresses or speeches of professional import.

Date and sign your name at the conclusion of your answers.


Terrence F. McVerry

February 7, 2001

19. Have you ever have been sued by a client, give details.

I have been sued twice in my thirty-one (31) years of practicing law and on both occasions, I did not previously know the claimant(s) and had no personal involvement whatsoever in any of the underlying legal representation which preceded initiation of the lawsuits. On both occasions, I and a number of other shareholder attorneys in our firm at the time were named as individual defendants in the lawsuits solely on the basis that my/our name(s) appeared in the firm name and not because I/we had any involvement in the underlying facts of the matters. Each time the firm was a professional corporation and not a partnership.

In both instances the lawsuits were terminated in manners favorable to me by the granting of Summary Judgment in one case and the sustaining of Preliminary Objections and dismissal of the Complaint in the other which action was affirmed by the Superior Court of Pennsylvania on appeal.

The initial suit in which I was named was filed in Crawford County, Pennsylvania, by the Pittsburgh law firm of Eckert, Seamans, Cherin & Mellot ("ESCM") in September, 1987 against the North & South Shenango Joint Municipal Authority ("Authority"). It sought recovery of attorney fees which were allegedly due for representation of the authority in the early stages of claims against certain contractors and suppliers involved in the construction of a defective sewer system. The Authority joined as additional defendants their former solicitors, Adams, Shoemaker & McSorley ("ASM"), and the named members of the firm in which I was a shareholder, Gondelman, Baxter, McVerry, Smith, Yatch & Trimm. Our firm, in the person of attorney Fred E. Baxter, Jr., was successor counsel to the Authority after ESCM and represented it through successful resolution, compromise and settlement of its lawsuits against the contractors and suppliers for the defective sewer system. This case essentially arose from a fee dispute. It was then captioned as follows:

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA

Peter C. Baggerman, et al., t/d/b/a
Eckert Seamans Cherin & Mellott,

No. 1987-830

Plaintiffs

vs.

North and South Shenango Joint Municipal
Authority

Defendant

vs.

John V. Adams, Jr., Edward G. Shoemaker, and David P. McSorley,
t/d/b/a Adams, Shoemaker & McSorley,

Additional Defendants

vs.

Harold Gondelman, Fred E. Baxter, Jr., Terrence F. McVerry, William
S. Smith, Lawrence W. Yatch and Thomas Trimm, t/d/b/a Gondelman,
Baxter, McVerry, Smith, Yatch & Trimm

Additional Defendants

ATTACHMENT A

Over ensuing years, ESCM was granted a summary judgment against the Authority which was sustained by the Superior Court and paid by the Authority. ASM filed counterclaims against the Authority and ultimately settled after additional payment from the Authority. Thereafter, ESCM and ASM were no longer parties and the case became recaptioned:

NORTH AND SOUTH SHENANGO JOINT
MUNICIPAL AUTHORITY,
PLAINTIFF

A.D. No. 1987- 830

vs.

HAROLD GONDELMAN, FRED E. BAXTER, JR., TERRENCE F. McVERRY, WILLIAM S. SMITH, LAWRENCE W. YATCH and THOMAS W. TRIMM, individually, and t/d/b/a GONDELMAN, BAXTER, McVERRY, SMITH, YATCH & TRIMM, a partnership, Its successors and assigns and/or GONDELMAN, BAXTER, McVERRY, SMITH, YATCH & TRIMM, its successors and assigns

DEFENDANTS

On March 21, 1996, the court granted summary judgment to me and all other individually named defendants except Mr. Baxter. Thereafter the Court dismissed our former professional corporation as a defendant and the caption of the action was again restyled by Order of Court to:

NORTH AND SOUTH SHENANGO
JOINT MUNICIPAL AUTHORITY

A.D. 1987 - 830

vs.

FRED E. BAXTER, JR.

Accordingly, I am no longer a party to this lawsuit. Copies of the relevant Memorandum Opinions and Orders of Senior Judge P. Richard Thomas are of record in the proceedings in the office of the Prothonotary of Crawford County in Meadville, Pennsylvania.

The second lawsuit in which I was named as a defendant was initiated by plaintiffs Carol and Larry Johnson in 1993. It was captioned:

CAROL JOHNSON and LARRY JOHNSON

IN THE COURT OF COMMON
PLEAS OF ALLEGHENY COUNTY

V.

HAROLD GONDELMAN, FRED E.
BAXTER, JR., WILLIAM S. SMITH,
THOMAS W. TRIMM, LAWRENCE YATCH,
TERRENCE F. McVERRY, AND GONDELMAN,
BAXTER, McVERRY, MULVIHILL, SMITH,
YATCH and TRIMM.

No. GD 93-048

ATTACHMENT A

The plaintiffs had been the clients of the senior shareholder of our professional corporation at the time, Harold Gondelman. Although no other attorneys/shareholders in the firm had involvement in the representation of the Johnsons, all attorneys in the firm name were included as named defendants in the suit. The case involved the alleged failure to timely pursue a legally complex personal injury claim on behalf of plaintiffs even though a number of suits had been filed on behalf of plaintiffs in Federal Court here and in New York, but each case was dismissed by the court.

Plaintiffs' Complaint and First Amended Complaint were the subject of Preliminary Objections on behalf of all defendants which objections were sustained by the Common Pleas Court and the Complaint was dismissed. Upon appeal to the Superior Court of Pennsylvania, the lower court decision was affirmed in favor of all defendants. No requests for reargument or allocatur were filed. Copies of the Opinions of Judge Friedman of the Court of Common Pleas and the Judgment and Memorandum of the Superior Court from March 24, 1994 are of record in the proceedings.

ATTACHMENT A

DUANE MORRIS
ATTORNEYS AT LAW

PHILADELPHIA
NEW YORK
LONDON
CHICAGO
WASHINGTON, DC
SAN FRANCISCO
BOSTON
ATLANTA
MIAMI
WILMINGTON
HARRISBURG
MALVERN
CHERRY HILL
NEWARK
WESTCHESTER
PRINCETON
PALM BEACH
ALLENTOWN
HOUSTON
BANGOR

GENE E.K. PRATTER
DIRECT DIAL: 215.979.1170
E-MAIL: gpratter@duanemorris.com

www.duanemorris.com

June 15, 2001

VIA FEDEX

Brett Kavanaugh, Esquire
Associate Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

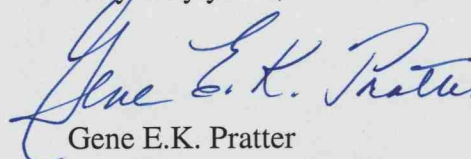
Dear Mr. Kavanaugh:

Thank you for your phone call. As I indicated, I am very interested in being considered for a position on the Federal Bench here in the Eastern District of Pennsylvania. As you requested, and in anticipation of meeting with you, Judge Gonzales, and a representative from the Justice Department, I enclose a copy of my most recent submission to the Federal Judicial Nominating Commission, along with a copy of a current CV that we use here at our firm.

I will plan to arrive at the Southwest Gate of the White House prior to our 6:00 p.m. meeting on Tuesday, June 19.

Thank you very much for this opportunity, and I look forward to speaking with you.

Very truly yours,


Gene E.K. Pratter

Enclosures

Letter to My Daughter

DUANE MORRIS
ATTORNEYS AT LAW

PHILADELPHIA
NEW YORK
LONDON
CHICAGO
WASHINGTON, DC
SAN FRANCISCO
BOSTON
ATLANTA
MIAMI
WILMINGTON
HARRISBURG
MALVERN
CHERRY HILL
NEWARK
WESTCHESTER
PRINCETON
PALM BEACH
ALLENTOWN
HOUSTON
BANGOR

DIRECT DIAL: 215.979.1170
E-MAIL: gpratter@duanemorris.com

www.duanemorris.com



GENE E. K. PRATTER

EDUCATION

University of Pennsylvania Law School, J.D., 1975

Stanford University, A.B., 1971

PROFESSIONAL CAREER

Duane, Morris & Heckscher LLP

General Counsel, 1999-present

Partners Board, 1999-present

Partner, 1983-present

Associate, 1975-1983

AREAS OF PROFESSIONAL CONCENTRATION

Alternate Dispute Resolution

Commercial and Real Estate Litigation

Employment Contract Litigation

Insurance Coverage Litigation

DUANE, MORRIS & HECKSCHER LLP

ONE LIBERTY PLACE PHILADELPHIA, PA 19103-7396

PHONE: 215.979.1000 FAX: 215.979.1020

Professional and Business Ethics Counseling and Litigation

Professional Liability Litigation

Accountants

Actuaries

Architects

Attorneys

Brokers

Engineers

Fiduciaries

Insurance Professionals

Management Consultants

Title Insurers

RICO Litigation

Securities Litigation

Reinsurance Litigation

ADMITTED TO PRACTICE

United States Court of Appeals for the Third Circuit

United States District Court for the Eastern District of Pennsylvania

Supreme Court of Pennsylvania

MEMBERSHIPS IN PROFESSIONAL SOCIETIES

American Bar Association

Section of Litigation

Co-Chair, Ethics and Professional Responsibility Committee, 1994-1998

Co-Chair, Task Force on the Independent Lawyer, 1995-present

Commission on Women in the Profession

Tort and Insurance Practice Section

Business Law Section

Center for Professional Responsibility

Pennsylvania Bar Association

Civil Litigation Section

Education Law Section

Mentor, State Civil Committee

Philadelphia Bar Association

Professional Responsibility Committee

Chair, Professional Guidance Committee

Committee on Women in the Profession

Defense Research Institute

Pennsylvania Defense Institute

Philadelphia Bar Foundation

University of Pennsylvania Law School Inn of the American Inns of Court

St. Thomas More Society

Federalist Society

PUBLICATIONS

"Ethical and Legal Adventures for the Lawyer-Venture Capitalist," "Pennsylvania Bar Institute's "Private Equity and Venture Capital Financing," Philadelphia, Pennsylvania, May 17, 2001

"Advanced Legal Ethics and the Internet - Professional and Ethical Challenges of Electronic Communications," Advance Ethics Course at PBI Technology Institute, Philadelphia, Pennsylvania, February 4, 2000

"A Letter To My Daughter," *The Philadelphia Lawyer*, Philadelphia Bar Association's Quarterly Magazine, Vol. 62, Spring 1999

"Commercial Litigation Reference Book Provides Guide to Busy Practitioner," *The Legal Intelligencer*, May 17, 1999

"Bankruptcy Court Application of Ethics Rules and Standards of Conduct," *Bankruptcy Litigation*, American Bar Association's Bankruptcy and Insolvency Committee newsletter, October 1995

"Professional Ethics in the Bankruptcy Context," *Bankruptcy Litigation*, American Bar Association's Bankruptcy and Insolvency Committee newsletter, October 1994

"Design Engineers' Responsibilities During Construction," *Journal of Construction Engineering*, Vol. 112, No. 3, September 1986

"Accountants' Professional Liability," *Society of Chartered Property and Casualty Underwriters Monograph*, Fall 1983

PROFESSIONAL ACTIVITIES AND HONORS

Presenter, "Ethics: Using the Internet to Market Your Practice," PBI Technology Institute, Philadelphia, Pennsylvania, February 22, 2001

Presenter, "Loss Prevention on Mediation of Lawyer Negligence Claims," Annual General Meeting of A.L.A.S., June 22-23, 2000

Speaker, "Lawyer Investing In and With Clients," American Bar Association Center for Professionalism Annual Meeting, New Orleans, Louisiana, May 31-June 2, 2000

Speaker, "Developing a Law Firm Web Site," Advance Ethics Course at Pennsylvania Bar Institute Technology Institute, Philadelphia, Pennsylvania, February 4, 2000

Panelist, "Advanced Legal Ethics and the Internet -- Professional and Ethical Challenges of Electronic Communications, Philadelphia, Pennsylvania, February 4, 2000

Panel Chairman, "Transact 1999: Technology Transforms Transactions, Professional and Ethical Challenges of Electronic Communications," Pennsylvania Defense Institute, Philadelphia, Pennsylvania, September 30, 1999

Moderator, panel discussion regarding ethical and liability issues relating to lawyers investing in and with clients, American Bar Association Annual Meeting, Atlanta, GA, August 9, 1999

Panelist and Presenter, "Accountants' Liability/Malpractice," PICPA Foundation for Education and Research program, Forensic Litigation Services conference, Valley Forge, Pennsylvania, October 30, 1997

Panelist, "Litigation Ethics," conference presented to the leadership of the American Bar Association, West Palm Beach, Florida, October 24, 1997

Instructor, "Litigating a Legal Malpractice Case," Pennsylvania Bar Institute course, June 5, 1997

Panelist, "The Practice of Law and Professional Responsibility: Issues in the 21st Century," Third Circuit Judicial Conference, May 12, 1997

Faculty Member, "Professionalism for Today's Practitioner," Philadelphia Bar Education Center Continuing Legal Education program, Philadelphia, Pennsylvania, November 22, 1996

Faculty Member and Co-Leader, "Professionalism for Today's Practitioner," Philadelphia Bar Education Center Continuing Legal Education course, November 14, 1996

Co-Speaker, "Ethics and Professional Duties," Pennsylvania Bar Institute's Annual Program on Developments in Federal Practice, November 1995

Co-Presenter, "Professionalism," Philadelphia Bar Association's Annual Basic Legal Practice Seminar, November 1995

Faculty, "Alternatives to Litigation: The 90's Approach," The Philadelphia Bar Education Center Seminar, October 1995

Speaker, "What To Do Before The Lawyer Arrives," Two CPE Breakfast Seminars sponsored by The CPA Club of New Castle County, Delaware, July 1995

Judge Pro Tem, Philadelphia County Court of Common Pleas, Civil Case Delay Reduction Program, 1994-present

Speaker, "Business Ethics," 1993 Education Conference sponsored by The Philadelphia Association of Paralegals, October 1993

Court-appointed Settlement Master, Philadelphia County Court's Civil Delay Reduction System, 1992-present

Court-appointed Mediator, United States District Court for the Eastern District of Pennsylvania, 1992-present

Guest Faculty Member, "The Legal Profession and Professional Responsibility,"
University of Pennsylvania Law School, January 1987-1992

Instructor, Center on Professionalism, University of Pennsylvania Law School, ALI-ABA and Philadelphia Bar Association Mandatory Continuing Legal Education Ethics courses throughout mid-Atlantic states, 1992-present

Panelist, "The Code of Professional Responsibility Provisions on Confidential Client Communications and a Lawyer's Obligations Concerning Disclosure of Criminal or Other Deleterious Conduct," ALAS Loss Prevention Seminar, June 1992

Lecturer/Workshop Leader, "'Bad Faith' and Punitive Damages in Life, Health and Disability Claims," Defense Research Institute Practice Seminar, April 1988

Lecturer on Construction Litigation, Risk Prevention and Contract Drafting, National Convention of Women Construction Owners and Executives, Washington, D.C., May 1987

Lecturer to various professional and trade associations on selected topics including:

International Society of Appraisers (The Duties of Expert Appraisers, Testimony and Reports in Litigation Cases)

Philadelphia Chapter, Pennsylvania Institute of Certified Public Accountants (Accountant Liability and Risk Management)

Philadelphia Chapter, National Society of Professional Engineers (Architect/Engineer Liability and Liability Insurance)

American Institute of Architects, Philadelphia Women's Chapter (Liability for Construction Management)

General Building Contractors Association, Pennsylvania Chapter (Claims Prevention, Minority Business Enterprises, Claims Presentation, Insurance Coverage)

American Bar Association, Litigation Section, Fall Meeting October 1990 (Professional Responsibility and Ethics topics, Women in the Legal Profession)

Philadelphia Bar Association, Panelist, "Breaking Through the Glass Ceiling," Fall 1990

Listed in *Who's Who in American Law*

CIVIC AND CHARITABLE ACTIVITIES AND BOARD MEMBERSHIPS

University of Pennsylvania Law School American Inn of Court

Master, 2000-present

University of Pennsylvania Law School

Board of Overseers, 1993-1999

Law Alumni Society
Board of Managers

National Chair, Annual Giving Campaign, 1998-1999

Chair, Benjamin Franklin Society, 1997-1998

The Baldwin School Board of Trustees, 1989-1998

The Children's House Montessori School, Board President, 1989-1991

St. John Vianney Parish Committee

The Haverford School Trustees Marketing Committee

PERSONAL INFORMATION

Married to Robert L. Pratter, Esq.

Two Children, Ages 23 and 16

Born in Chicago, Illinois 1949

March 1, 2001

**FEDERAL JUDICIAL NOMINATING COMMISSION
OF PENNSYLVANIA
PERSONAL DATA QUESTIONNAIRE FOR LAWYER APPLICANTS
APPLICATION OF GENE E.K. PRATTER**

1. Full name and social security number.

Name: Gene Ellen (Kreyche) Pratter
Social Security Number: (b)(6)

2. Office and home addresses, zip codes, telephone numbers and area codes (name of law firm, if associated).

Home:

(b)(6)

Office:

Duane, Morris & Heckscher, LLP
One Liberty Place
Philadelphia, PA 19103
Direct #: 215-979-1170
Fax: 215-979-1020
E-mail: gpratter@duanemorris.com

3. Date and place of birth.

Date: (b)(6)
Place of Birth: Chicago, Illinois

4. Are you a naturalized citizen? If so, give date and place of naturalization.

Answer: No.

5. Family status:

- a. Are you married? If so, state the date of marriage and your spouse's full name (including maiden name, if applicable).

Answer: Yes. Married to Robert Lawrence Pratter, Esquire.
October 21, 1978.

- b. **Have you been divorced? If so, give particulars, including the date, the name of the moving party, the number of the case, the court and the grounds.**

Answer: Yes. Divorced from Charles Richard Bruton.
Gene Ellen Kreyche Bruton v. Charles Richard Bruton, Court of
Common Pleas for Philadelphia County, Pa., May Term, 1978,
No. 2125.
Date of Decree: June 28, 1978

I was the moving party; the grounds were "Indignities to the
Person"; the divorce was not contested. I also obtained an
annulment of the marriage from the Archdiocese of Philadelphia in
1979.

My former husband is a partner at Pepper Hamilton, LLP
(Philadelphia Office). His phone number is 215-981-4410.

- c. **Names of your children, with age, address and present occupation of each.**

Answer:

Child:	Name:	Virginia Paige Pratter
	Age:	24
	Date of Birth:	(b)(6)
	Occupation:	Student
		University of Pennsylvania
		Law School
		(Class of 2003)
		(Yale University '98)
	School Address:	(b)(6)
	Home Address:	(b)(6)

Child:

Name:

Matthew Robert Pratter

Age:

17

Date of Birth:

(b)(6)

Occupation:

Boarding Student (Class of 2003)
The Williston Northampton School
19 Payson Avenue
Easthampton, MA 01027

Home Address:

(b)(6)

6. Have you had military service? If so:

Answer: No.

7. List each college and law school you attended, including the dates of attendance, the degrees awarded, and, if you left any institution without receiving a degree, the reason for leaving. List scholastic honors.

Answer:

Stanford University

Stanford, CA

1967-1971

A.B. (Honors in Major -- Political Science) (Minor: Religious Studies), awarded June, 1971

Additional Scholastic Honors: Cap & Gown Scholarship Award (1970-71) (women's academic honor society)

University of Pennsylvania Law School

Philadelphia, PA

1972-1975

J.D., awarded May 1975

8. List all courts in which you have been admitted to practice, with dates of admission.

Answer:

Admitted to practice:

- Supreme Court of Pennsylvania, October 1975
- United States District Court for the Eastern District of Pennsylvania, October 1975
- United States Court of Appeals for the Third Circuit, April 1981

In addition, I have been admitted pro hac vice in various other courts, including federal district courts in New York, Connecticut, Delaware, New Jersey, Illinois, Texas, Maryland, and Ohio, and state courts in New Jersey, Delaware, Texas, and Maryland, among others.

- * I also hold the designation of Registered Foreign Lawyer issued in the U.K. and supervised by The Law Society. By this designation I am permitted to be a member of a firm of solicitors practicing in the United Kingdom, which our firm does.

9. Describe chronologically your law practice and experience after your graduation from law school, including:

- a. Whether you served as a clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk.
- b. Whether you practiced alone, and if so, the addresses and dates.
- c. The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.
- d. Any other relevant particulars.

Answer:

- * Following graduation from law school in May 1975, I joined Duane, Morris & Heckscher as an associate in the firm's Philadelphia office. I became a partner in 1983 and continue to practice as a partner in the firm. In January 1999 I was selected to be the firm's first General Counsel, and I continue to serve in that capacity. I am also continuing in active practice for the firm's clients. My time is divided approximately evenly between my General Counsel duties and service for outside clients. See also responses to Nos. 10, 11, 12, and 14 below.

10. a. What has been the general character of your practice, dividing into periods with dates if its character has changed over the years?

Answer:

- a. 1975-1978: As a young associate in a multifaceted law firm, I generally performed support functions for senior trial partners, principally Henry T. Reath, John B. Martin, Reeder R. Fox, and Michael M. Baylson. The majority of my work concerned commercial litigation, non-medical professional negligence matters, construction disputes, securities class actions and antitrust actions. My activities included legal research, drafting briefs and memoranda, preparing and responding to written discovery, interviewing witnesses and accompanying and assisting the senior attorneys at depositions and in court.

1978-1982: As a senior associate, I worked with senior trial partners in significant cases of the same type outlined above, but with greater independence, i.e., exclusively solo court appearances, presenting appellate arguments, and independent responsibility for client contact. I also began to handle cases on my own and to supervise younger attorneys.

1983-1990: These were the first years of considerable growth at our firm. As a young partner, I maintained an active litigation case load of increasingly complex matters with primary, and generally exclusive, responsibility for cases and clients. My work broadened into areas of counseling other professional firms and business clients and transactional representation in addition to litigation. I supervised several junior attorneys, began to publish articles, present speeches and programs and assumed various administrative and managerial duties within the firm, including primary responsibility for ethics, loss prevention, and hiring.

1991-Present: This immediate past decade has brought many substantive changes to litigation and to the practice of law generally; my practice has incorporated many of those changes. In my early career, virtually all of my work was on behalf of defendants, but currently my litigation engagements are almost evenly divided between representing plaintiffs and defendants, depending on the nature of the dispute. While I continue to be active in a range of commercial, fiduciary, and professional responsibility litigation and some specialized regulatory and constitutional work, I now also spend a considerable amount of time counseling clients in alternate dispute resolution areas, professional and business ethics, transactional negotiations and litigation "avoidance". I am the senior attorney on all matters that I handle. Occasionally, I am part of a team of multi-disciplinary lawyers; and in such instances, I am the litigation partner. My civic, charitable and related public activities have expanded greatly. Within our firm I now serve as a permanent member on our firm's governing Partner's Board and as our firm's General Counsel. In this capacity I have become primarily responsible for loss prevention and professional responsibility for our firm's 19 different offices, some 430 attorneys and some half dozen ancillary businesses owned by our firm.

*

- b. **Describe your typical clients and mention the areas, if any, in which you have specialized.**

Answer:

Typical Clients: Law firms and practicing lawyers, accounting firms, fiduciaries, financial institutions, bio-tech and other entrepreneurial enterprises, manufacturers, architects, engineers, insurers and reinsurers, insurance agents and brokers, all types of employers and employees, minority shareholders, non-profit

corporations such as the Philadelphia Zoo, contractors, educational institutions, corporate directors and officers.

Representative client references:

* Mary B. Fisher, Esquire
Assistant Counsel
Summit Bancorp
609-987-3506

Steve Carlin, Esquire
Assistant General Counsel
KPMG Peat Marwick LLP
212-909-5636

Harry R. Johnson
Vice President
The Graham Company
215-567-6300
215-567-6300

Mr. Joseph L. Castle, II
Castle Energy Corporation
610-995-9400

Mr. George Falconero
Maillie, Falconiero & Company
610-935-1420

Mary K. Smithson
Clerk of Courts
Bucks County Court of
Common Pleas
610-348-6389

* Mr. Warren Deakins

(b)(6)

* Ms. Melba Pearlstein

(b)(6)

Mr. John Smithson
Pennsylvania Manufacturers
Association
215-665-5115
215-665-5110

Mr. Barry Lyngard
Chairman of the Board
and
Alexander L. "Pete" Hoskins
President and CEO
The Zoological Society of Philadelphia
215-243-5202

Mr. James I. Irwin
USI MidAtlantic
610-666-5000

Mr. Donald Nikolaus
Donegal Mutual Insurance Company
717-426-7000

* Ms. Linda Phelps
Pennsylvania Association of
Independent Schools - Pennsylvania
Association of Private Academic Schools
610-567-2960

Additional client references can be provided.

Current Areas of Professional Concentration:

- Professional Liability - Attorneys, Accountants, Design Professionals, Agents and Brokers
- Fiduciary Liability - Trustees, Directors and Officers
- Professional, Business and Government Ethics
- Employment Litigation
- Insurance and Reinsurance Regulatory and Coverage Matters
- Construction Contracts
- Commercial Litigation (including Intellectual Property)
- Alternate Dispute Resolution

11. With respect to the last five years:

- a. Did you appear in court regularly, occasionally or not at all? If the frequency of your appearance in court has varied during this period, describe each such variance, giving the dates thereof.**

In the last five years, I appeared in court in approximately three matters per month on average, depending upon the demands of the specific cases and clients. The actual amount of time in court varies with the activity and the case. These appearances include trials and injunction actions, presentation of or opposition to motions, arguments, hearings, appellate arguments, and routine conferences. In the last few years, I have endeavored to send junior colleagues to some court appearances, where appropriate, out of consideration for clients' concerns for economy and for the professional development of younger lawyers.

- b. What percentage of these appearances were in:**

- 1. Federal courts**
- 2. State courts of record**
- 3. Other courts**

- (1) Federal courts - approximately 40%-50%;
- (2) State courts of record - approximately 40%;
- (3) Other, e.g., arbitration; A.D.R; administrative agencies, etc. - approximately 10%-20%.

- c. What percentage of your litigation was:**

- 1. Civil**
- 2. Criminal**

- (1) Civil - 90%;

(2) Criminal or Administrative - 10% (Licensing, etc.)

- d. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel or associate counsel.**

In the last approximately five to seven years, I was sole trial counsel for civil defendants in three jury trials, two in which directed verdicts were entered at the close of the plaintiffs' cases, and one that settled before closings. I was chief trial counsel in three civil non-jury trials and one contested bankruptcy case proceeding (non-jury) that settled after verdict while appeals were pending. In addition, I served as sole or chief counsel in ten administrative agency, licensing revocation or arbitration matters that concluded by administrative order or arbitration award. Most of the trials I have started were, like most civil litigation generally, settled prior to entry of a verdict or judgment.

- e. **What percentage of these trials were:**

1. **Jury**
2. **Non-jury**

- (1) Jury - 33%
- (2) Non-Jury - 33%
- (3) Administrative - 33%

12. **Summarize your experience in court prior to the last five years, indicating as to that period:**

- a. **Whether your appearances in court were more or less frequent.**

My substantive appearances in court have been about the same in terms of frequency, although before I became a partner the matters which I handled in court were somewhat less complex or involved lower amounts in dispute.

- b. **Any significant changes in the percentages stated in your answers to questions 11b., 11c. or 11e.**

The percentages were roughly the same, with somewhat fewer administrative engagements.

- c. **Any significant changes in the number of cases per year in courts of records you tried to verdict or judgment (rather than settled), as sole counsel, chief counsel or associate counsel.**

The only significant change is that prior to about 1986, I was involved in a greater number of trials simply because I was still sometimes serving as an assistant, i.e., "second chair", for several then very active trial attorneys in our firm.

13. Describe five of the most significant litigated matters which you personally handled and give the citations, if the cases were reported. Give a capsule summary of the substance of each case, and a succinct statement of what you believe to be the particular significance of the 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 dates of the trial period or periods; (b) the name of the court and the judge before whom the case was tried: and (c) the individual name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

Answer:

*

1. BAKER, ET AL V. SUMMIT BANK
United States District Court for the Eastern District of Pennsylvania
Civil Action No. 99-CV-2010
Representing: Summit Bank, N.A.
Trial Judge: The Honorable Edmund V. Ludwig
Supervising Magistrate: The Honorable Diane M. Welsh
Trial Period: Not yet called to trial.
Opposing Counsel: John F. Innelli, Esquire
Innelli and Molder
325 Chestnut Street, Suite 903
Philadelphia, PA 19106
215-627-3394

J. Dennis Faucher, Esquire
Ellen Meriwether, Esquire
Miller Faucher Cafferty and Wexler LLP
One Penn Square West
30 South 15th Street
Suite 2500
Philadelphia, PA 19102
(215) 864-2800

I am senior trial counsel for the defendant and supervise a team of four junior attorneys.

Disposition: We have not yet been called to trial. However, on behalf of Summit Bank we did succeed in gaining dismissal of several of the counts in the initial class action complaint. Our dispositive summary judgment motion is pending.

Summary and Significance: This class action is one of very few cases involving claims emanating from a rarely analyzed federal statute, the Trust Indenture Act of 1940. The plaintiff class of purchasers and holders of certificates of deposit issued throughout the 1990's by equipment leasing companies which became insolvent claim that the commercial bank which served as the trustee pursuant to the indentures governing the certificates negligently performed its fiduciary duties, causing the purchaser-investors to suffer losses when the issuers filed for bankruptcy. The challenge for Judge Ludwig and, hence of defending this claim, centers on the dearth of reported case law guidance concerning the Trust Indenture Act or the appropriate conduct of an indenture trustee. The interplay of the statute, the diversity of particulars of the alleged losses among the thousands of class members, and the lengthy and problematic attempted salvation and then bankruptcy of the issuers challenges all counsel, as well as the court. This case has drawn considerable national attention in the commercial banking industry because so many such institutions have significant commercial trust activities but never envisioned the liabilities claimed by the plaintiff class in this case. Framing the technical issues has prompted considerable attention to be paid to the assembly of appropriate experts. Because of the lack of judicial guidance from reported case law, the court, ably assisted by Magistrate Judge Welsh, has frequently called upon counsel to frame, address and analyze segmented issues as we work through the case.

- * 2. KOKEN v. KPMG PEAT MARWICK, et al
Pennsylvania Commonwealth Court, No. 609 MD 1997
Representing: KPMG Peat Marwick
Supervising Judge: Honorable Dan Pellegrini
Trial Period: Not yet called to trial
Opposing Counsel: Kean K. McDonald, Esquire
Gerard E. Arth, Esquire
Fox, Rothschild, O'Brien & Frankel LLP
2000 Market Street
10th Floor
Philadelphia, PA 19103-3291
215-299-2862
215-299-2720
- Other Parties' Counsel: Jeffrey G. Weil, Esquire
Jan P. Levine, Esquire
- Dechert Price & Rhoads

4000 Bell Atlantic Tower
1717 Arch Street
Philadelphia, PA 19103-2793
215-994-2538
215-994-2440

Edward J. Pluimer, Esquire
Dorsey & Whitney, LLP
Pillsbury Center South
220 South Sixth Street
Minneapolis, MN 55402
612-340-2973

Frances P. Barron, Esquire
Julie A. North, Esquire
Cravath, Swaine & Moore
825 8th Avenue - Room 4050
New York, NY 55402
212-474-1506

I share primary responsibility for the defense of KPMG in this case with one of my New York partners.

Disposition: This case has not yet been called to trial, but we have had defense successes at the preliminary dispositive motion stage and our summary judgment motion is pending.

Summary and Significance: This civil case brought by the Insurance Commissioner of Pennsylvania has its roots in the insolvency and liquidation of Summit National Life Insurance Company ("SNLIC") and the federal criminal prosecution of lawyer and insurance executive Allen Stewart. The Insurance Department initiated this suit in the Commonwealth Court against our client, KPMG, and the successor auditor firm (Price Waterhouse) which issued audit reports relating to SNLIC in the late 1980's and early 1990's, as well as against the entity that sold SNLIC to Stewart. Hence, the case calls upon that Court to exercise its infrequently used original trial jurisdiction, challenging all counsel as well as the Court to address jurisdictional and administrative issues (e.g., can the Commonwealth Court "delegate" its conduct of a jury trial to a common pleas court? familiarizing the Commonwealth Court with conventional discovery matters in the context of regulatory claims of executive privileges, etc.) In addition to the expected need to master complicated issues of statutory accounting rules applicable to insurance companies, analyzing inter-state regulatory discrepancies between Pennsylvania and Ohio, and juggling competing defense strategies among the defendants, this case frequently presents issues relating to the implications posed by the predicate (but not yet fully completed) federal criminal prosecution of Mr. Stewart, the Insurance Department's

supervision of the Summit liquidation, the operation of the Pennsylvania Insurance Guaranty Assn. and unsettled damages theories.

3. J.J. WHITE, INC. v. THE GRAHAM COMPANY, ET AL
United States District Court for the Eastern District of Pennsylvania
Civil Action No. 96-6131
Represented: The Graham Company, William A. Graham, IV and
Harry R. Johnson
Trial Judge: The Honorable Robert S. Gawthrop, III
Trial Period: 9/14/98 - 9/16/98 (Jury Trial)
Opposing Counsel: Steven A. Arbittier, Esq. and
Robert McL. Boote, Esq.
Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 864-8125
(215) 864-8231

My role was senior trial counsel for all three defendants.

Disposition: After three years of active litigation, including one interlocutory appeal to the Third Circuit Court of Appeals on a novel issue involving the interplay of the McCarran-Ferguson Act and RICO, the case (which was expected to be tried for three weeks) was resolved after opening arguments, with two of the three counts being dismissed and the third count being resolved pursuant to a confidential agreement.

Summary and Significance: This RICO, fraud and breach of fiduciary duty case, brought by a long-time commercial insurance customer against a large commercial insurance broker, received industry-wide attention as the first litigated attempt to secure damages for the customary insurance industry practice whereby brokers receive non-commission revenue from carriers but do not specifically disclose that revenue to the broker's client(s). Heretofore, this industry practice had not received either regulatory or judicial attention. This particular case covered an 18-year period, almost 100 insurance policies, more than a dozen different carriers and allegedly many millions of dollars in premiums, service fees, commissions and other revenue. As a lawyer representing a long-time client, I saw this case as threatening my client's customary existence and as demanding both organizational and advocacy skills as we engaged in extraordinary discovery, as well as documentary, motion and expert witness-related endeavors, not to mention dealing with frequent inquiry from all segments of the insurance industry. The case also ultimately provided an unexpected opportunity to observe various reactions of lay persons to formal court proceedings and to a variety of judicial attributes.

4. NIKOLAUS v. INSURANCE DEPARTMENT, ET AL
Commonwealth Court of Pennsylvania, Docket No. 25 MD 1997
Represented: Donald Nikolaus
Trial Judge: Commonwealth Court Judge James R. Kelley
Trial Period: January 1997
Opposing Counsel: Terrance A. Keating, Esquire
Insurance Department of the Commonwealth of
Pennsylvania
1341 Strawberry Square
Harrisburg, PA 17120
(717) 783-2125
- G. Thompson Bell, Esquire
Stevens & Lee
111 North Sixth Street
P.O. Box 679
Reading, PA 19603-0679
(610) 478-2000
- Richard P. McElroy, Esquire
Blank Rome Comisky & McCauley
1200 Four Penn Center
Philadelphia, PA 19103
(215) 569-5631

My role was sole trial counsel for the plaintiff/petitioner.

Disposition: My client challenged the constitutionality of Pennsylvania's new mutual-to-stock conversion statute relating to insurance companies and petitioned to enjoin a policyholders' proxy vote to authorize the conversion. Although Judge Kelley refused to issue the injunction, he did allow the constitutional challenge to the statute and the Insurance Department's application of the statute to proceed for a full trial. The Department agreed to modify its procedures to meet our client's constitutional concerns prior to trial, so the matter was settled.

Summary and Significance: This case represented the first in-court challenge to Pennsylvania's new, "streamlined" mutual insurance company conversion procedure, a scheme that has been followed in several other states. The new statute omits any notice or hearing requirement for policyholders who question or do not desire the conversion. Our client was opposed not only by the Insurance Department but also the four companies whose management desired conversion. The litigation was widely reported by the financial and industry press, although our client eschewed publicity in favor of improving

the integrity of the conversion approval process. Our client was very pleased to be able to persuade the Department's representatives to adopt due process procedures to supplement the new statute.

5. THE GRAHAM COMPANY, ET AL v. ROLLINS, BURDICK, HUNTER COMPANY, AON CORPORATION AND JOSEPH M. McNASBY.
United States District Court for the Eastern District of Pennsylvania,
Civil Action No. 92-1851
Represented: The Graham Company and William A. Graham, IV
Trial Judge: The Honorable Jan DuBois - Jury Trial
Trial Period: 6/16/93 - 6/22/93
Opposing counsel: Michael L. Banks, Esquire
Morgan, Lewis & Bockius,
2000 One Logan Square,
Philadelphia, PA 19103-6993
(215) 963-5387

I was chief trial counsel, assisted by a junior associate.

Disposition: Settled after conclusion of opponent's case. Under the terms of the settlement, I can only report that my clients were very pleased with the result which upheld a covenant not compete in the face of a "public policy" attack.

Summary and Significance: This dispute concerned primarily the enforcement of a very comprehensive covenant-not-to-compete in the context of the highly competitive insurance brokerage business. My client also sought damages and injunctive relief in connection with certain actions of the ex-employee's subsequent employers. The case also involved elaborate counterclaims (including libel and slander claims), a consolidated related state court action and multi-jurisdictional discovery disputes around the country.

The significance of the case was that a great volume of my client's most profitable business was at risk. The damages issues were somewhat novel in terms of the valuation of the business at issue.

Additional judicial references:

- | | |
|---|---|
| <p>* Honorable Edward R. Becker
Chief Judge of the U.S. Court of Appeals
for the Third Circuit
215-597-9642</p> <p>Honorable Marjorie O. Rendell
U.S. Court of Appeals for the Third Circuit
215-597-3015</p> <p>Honorable Thomas N. O'Neill, Jr.
U.S.D.C. for the Eastern District
of Pennsylvania
215-597-2750</p> <p>Honorable J. William Ditter, Jr. (retired)
U.S.D.C. for the Eastern District
of Pennsylvania
215-597-9640</p> <p>* Honorable Calvin S. Drayer, Jr.
Montgomery County
Court of Common Pleas
610-278-3000</p> | <p>Honorable Edmund B. Spaeth, Jr.
(former judge of Pennsylvania
Superior Court)
Pepper Hamilton, LLP
215-981-4892</p> <p>* Honorable Carolyn Engel Temin
Philadelphia Court of
Common Pleas
215-683-7109</p> <p>* Honorable Harvey Bartle, III
U.S.D.C. for the Eastern District
of Pennsylvania
215-597-2693</p> <p>Honorable Thomas A. Wallitsch
Lehigh County Court of
Common Pleas
610-820-3024</p> <p>* Honorable Jay C. Waldman
U.S.D.C. for the Eastern District
of Pennsylvania
215-597-9644</p> |
|---|---|

Additional area attorney references:

- | | |
|--|--|
| <p>Robert N. de Luca
Saul, Ewing, Remick & Saul
215-972-7760</p> | <p>Jerome R. Richter
Laurence S. Shtasel
Blank Rome Comisky &
McCauley
215-569-5607
215-569-5691</p> |
|--|--|

* Michael Fitts, Dean
Prof. Colin S. Diver
Prof. Curtis Reitz
The University of Pennsylvania
Law School
215-898-7061

David H. Marion
Montgomery, McCracken
Walker & Rhoads
215-772-7541

Gerald J. Pappert
First Assistant Attorney General
Office of the Attorney General
(717) 566-1672

Joseph A. Tate
Dechert Price & Rhoads
215-994-2350

William J. O'Brien
Conrad O'Brien Gellman & Rohn, PC
215- 864-9600

* Prof. James Strazzella
Temple University
Beasley School of Law
215-204-7861

Dennis R. Suplee
Schnader Harrison Segal & Lewis
(215) 751-2068

* Alan J. Davis
Ballard Spahr Andrews & Ingersoll
LLP
215-864-8230

Frederic M. Wentz
McGrory Wentz Fernandez
& O'Hara
(610) 279-2480

Kathleen D. Wilkinson
Wilson, Elser, Moskowitz,
Edelman & Dicker, LLP
215-627-6900

* Marc J. Sonnenfeld
Morgan, Lewis & Bockius LLP
215-963-5572

* Frank DeSimone
215-567-3507

14. Have you ever held judicial office? If so, give dates and details including the courts involved, whether elected or appointed, periods of services, and a description of the jurisdiction of each of such courts with any limitations upon the jurisdiction of each court.

Answer: No.

Have you ever held public office other than judicial office? If so, give details, including the office involved, whether elected or appointed, and the length of your service, giving dates.

Answer: No, but see response to Question 28 which refers to my service as a Settlement Master and Judge Pro Tem, pursuant to appointments by the Philadelphia Court of Common Pleas, and as a Mediator, appointed by the United States District Court for the Eastern District of Pennsylvania.

15. Have you ever been an unsuccessful candidate for elective, judicial or other public office? If so, give details, including dates.

Answer: No, although I previously submitted this Questionnaire to, and have been interviewed by, the Commission.

16. Have you every been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office? If so, give details including dates.

Answer: No, other than working as an undergraduate admissions officer assistant in 1972 to 1973 at the University of Pennsylvania prior to starting law school.

17. Are you now an officer or director or otherwise engaged in the management of any business enterprise?

- a. If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

Answer: No, although I have served as a trustee of non-profit, independent schools and an overseer at the University of Pennsylvania Law School.

- b. Is it your intention to resign such positions and withdraw from any participation in the management of any such enterprises if you are nominated and confirmed? If not, give reasons.

Answer: Not applicable. However, I would cease direct fund-raising solicitations.

18. Have you ever been arrested, charged or held by federal, state or other law enforcement authorities for violation of any federal law or regulation, state law or regulation, county or municipal law, regulation or ordinance? If so, give details. Do not include traffic violations for which a fine of \$50.00 or less was imposed.

Answer: No.

19. Have you ever failed to file a Federal Income Tax Return, as required?

Answer: No.

Are you now or were you during any of the past five years delinquent in the filing of your federal income tax returns or the payment of your federal income tax obligations? If so, please give particulars.

Answer: No.

- 20. Have you ever been sued by a client? If so, give particulars.**

Answer: No. To the extent my firm has been named in any actions, none pertain to me in any way.

- 21. Has there ever been a claim made against you or your insurer alleging malpractice in any way? If so, please give details.**

Answer: No. See No. 20, above.

- 22. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give the particulars. Do not list proceedings in which you were merely a guardian ad litem or stockholder. Include all legal proceedings in which you were a party in interest, a material witness, were named as co-conspirator or a co-respondent, and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness.**

Answer: No, other than the divorce action referenced in response to Question 5(b). I have been deposed in matters filed against my firm or firm current or former clients, none of which included any allegations of negligence concerning my conduct. In one matter, the procedures I instituted for my firm in connection with the "ethical screen" applicable to lawyers joining our Chicago office were challenged and unreservedly upheld by the Court of Chancery and Appellate Court in Cook County, Illinois. A copy of the opinions issued in this matter will be provided upon request. I have been retained as an expert witness and have provided expert reports on behalf of litigant-lawyers.

- 23. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give the particulars.**

Answer: No.

24.

(b)(6)

25. List all bar association and professional societies of which you are a member and give the titles and dates of any offices which you have held in such groups. Also, list

chairmanships of any committees in bar associations and professional societies, and memberships on any committees which you believe to be of particular significance (e.g., judicial selection committee, committee of censors, grievance committee).

Answer:

1. American Bar Association
Member since 1976
 - a. Litigation Section, member since 1978
 1. Co-Chair, Committee on Ethics and Professionalism
1995 to 1998
 2. Co-Chair and Member, Task Force on the Independent Lawyer
1995 to present
 3. Member, 4-person Ad Hoc Committee on Contingent Fees
1995 to 1998
 4. Member, Committee on Women and Minorities in the Profession
and Committee of the Woman Advocate
January 1996 to 2000
 - b. Business Law Section, member since 1981
 - c. Tort and Insurance Law Section, member since 1980
2. Pennsylvania Bar Association
Member since 1976
 - a. Civil Law Section
 - b. Education Law Section
3. Philadelphia Bar Association
Member since 1976
 - a. Appointed to Professional Guidance Committee
(1992 to present)
* Chair of the Committee (1999 to present)
 - b. Appointed to Professional Responsibility Committee

(1992 to present)

- c. Member, Women in the Profession Committee
(1996 to present)

- 1. Member, Senior Women Advisory Board

- 4. Defense Research Institute
Member, 1983 to present

- 5. Pennsylvania Defense Institute
Member, 1980 to present

- 6. Philadelphia Bar Foundation
Member, 1980 to present

26. **List all organizations other than bar associations or professional associations or professional societies of which you are or have been a member, including civic, charitable, religious, educational, social and fraternal organizations. Do any of said organizations in which you have been a member during the last three years discriminate because of race, color, creed or national origin?**

Answer:

- 1. University of Pennsylvania Law School
 - a. Member, Board of Overseers, 1993-2000
 - b. National Chair, Annual Giving Campaign (1997-1999)
 - c. Chair, Benjamin Franklin Society (1995 to present)
 - d. Law Alumni Society (1975 to present)
 - * e. Inn of Court (2000 to present)

- 2. The Baldwin School
Bryn Mawr, Pennsylvania

(The Baldwin School is an independent, Pre-K-12 school for girls.)

- a. Member, Committee Chair, Executive Committee
Board of Trustees

1989 to 1998

3. The Haverford School
Haverford, Pennsylvania

(The Haverford School is an independent, Pre-K-12 school for boys.)

- a. Board of Trustees Marketing Committee and Development Committee;
1996 to 2000

4. The Children's House Montessori School
Gladwyne, Pennsylvania

- a. Board of Trustees
Member, 1987 - 1991
President, 1989-1991

5. St. Thomas More Society
Member
1980 to present

6. Cap & Gown Society (national women's academic honor society)
Stanford University
Stanford, California
1970 to present

7. Stanford Alumni Association and Stanford-Philadelphia Club
1971 to present

8. American Association of University Women
1995 to 2000

9. Donor, fund raiser, events participant and supporter of various Philadelphia-based civic and charitable institutions, including:

Philadelphia Museum of Art
Philadelphia Orchestra
Historical Society of Pennsylvania
Zoological Society of Philadelphia
American Cancer Society
Catholic Charities Appeal, Archdiocese of Philadelphia
Please Touch Museum
Franklin Institute

Academy of Natural History

In addition, my husband is a member of the Philadelphia Country Club, in Gladwyne, Pennsylvania. The membership is functionally a "family" membership, although only one adult member of the family holds the membership.

None of these organizations discriminates on the basis of race, color, creed, national origin or sexual preference.

27. **List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions.**

Answer:

See above. In addition, through various activities (principally by virtue of positions held or fund-raising, organizing events, etc.) several of the organizations listed above have recognized my service with honors and evidence of appreciation, such as naming me to be graduation speaker, designating me to represent or speak on behalf of the organization to a national umbrella organization, citations of appreciation, etc.

28. **State any other information which may reflect positively or adversely on you, which you believe should be disclosed in connection with consideration of you for nomination for the Federal Judiciary.**

Answer:

1. Matters concerning professional responsibility are extremely important to me. I have written extensively on this subject and organized many programs for various professional organizations and court-sponsored seminars, including for the 1998, 1999 and 2000 ABA Annual Meetings (issues relating to professional independence and ethics), the 1997 and 1999 Judicial Conference of the Third Circuit for which I assembled and moderated a panel discussions on the practice of law and professional responsibility, and the 1997 ABA Litigation Section Annual Meeting for which I assembled and moderated a panel discussion on "Jumping Ship: Practical and Ethical Issues for Litigators Thinking of Switching Firms." I present approximately 4 programs per year for CLE credits in Pennsylvania on issues relating to professional ethics.

2. University of Pennsylvania Center on Professionalism

Several years before the Pennsylvania Supreme Court instituted a mandatory continuing legal education ("C.L.E.") requirement for lawyers, the Dean and Faculty of the Penn Law School developed a new curriculum for an intensive, two-week course on ethics for first-

year law students. I was asked to become one of several practitioners to help design and teach the course. I served on the faculty for this course for every year that it was part of the required curriculum. The course evolved into the Center on Professionalism which developed, produced and presented multifaceted ethics classes to practitioners and judges. The scope of the Center's activities grew quickly beyond the Philadelphia region throughout the Commonwealth and the East Coast. The Center was one of the first licensed providers of C.L.E. courses when the mandatory requirements were instituted for Pennsylvania lawyers. I regularly participated in developing and editing the Center's written and video materials and dramatizations. Over a five-year period, I estimate I taught approximately 70 C.L.E. sessions for the Center. I continue to be active in presenting CLE courses for PBI and other authorized providers.

3. Mediator, appointed by the federal district court for the Eastern District of Pennsylvania in connection with delay reduction programs. In this capacity, I have served the court in approximately 20-25 matters.

4. Several years' service as a Settlement Master and, more recently, as Judge Pro Tem, appointed by the Administrative Judge of the Court of Common Pleas for Philadelphia County in connection with the various delay reduction programs. I have handled approximately 90 matters, many of which the parties resolved with my assistance.

5. Panel member, American Arbitration Association (Philadelphia) for approximately 12 years.

29. Why do you wish to become a Federal Judge?

What special strengths do you possess that would particularly well qualify you for the position of judge?

Answer:

* As I have previously expressed to the Commission, for more than 25 years I have strived to be an honorable participant in our country's legal system. I take great satisfaction from my work. I like and admire lawyers, and respect the litigants they represent. I care a great deal about how lawyers, litigants and the lay population relate to and think about our judicial system and the judges who personify that system. A representative expression of my dedication to the legal system may be reviewed in my article, "A Letter To My Daughter" published in Volume 62 of The Philadelphia Lawyer in the Spring 1999.

I have high regard for the common law traditions that value precedents, and believe the future should reflect the best of the past. Law must reflect a reliable but

dynamic constancy. The judiciary is the critical center of the system. Intelligent and conscientious judges with the appropriate temperament can bring both justice and efficiency to the process. Without such judges the system will fall short of our community's and society's expectations and needs.

At their best, the federal courts provide a forum where creativity, intelligence, respect for the rule of law and reason are firmly and fairly brought to bear on an infinite array of people and problems. A federal judge ought to personify those qualities and goals. I am very concerned about the general state of professionalism, civility, inefficiency and expense associated with litigation and the legal profession. An organized society cannot long tolerate conditions that erode public respect for our legal system. The judiciary must promote heightened standards of ethical conduct and accountability by those who are part of the civil or criminal legal system, laypersons and lawyers alike. Judges can be most effective by deciding civil controversies with clarity and bringing them to prompt and definitive conclusions without remaining as day-to-day administrators over the parties' activities once a decision is rendered. Likewise, a judge's role in the criminal justice system must demonstrate unrelenting fairness to victims and defendants alike. I hope to be a part of that effort and, as a result, reverse the trend of what knowledgeable commentators and casual observers alike opine is our society's waning respect for the judicial system.

Among my characteristics which support my qualification to serve as a federal judge are: honesty; absolute willingness to deal both with the unique and the mundane; the ability to recognize and resist distractions; fair-mindedness; and a belief in accountability. I have a good sense of humor, and try not to take myself too seriously. I am generally self-confident. I am not shy, but do not need to be the center of attention. I do not shirk responsibilities, and I am known as someone who works hard. I believe in being responsive. I enjoy and appreciate the give-and-take of analysis of "hard questions", but do not have difficulty making efficient and timely decisions. I can resist making choices based on what is merely "popular" or the most sympathetic, and I can accept that results in disputes sometimes reflect anomalies. I like the intellectual challenges of legal studies and enjoy the process of legal writing. I tend to be patient without being overly indulgent. My colleagues generally believe I am a relatively "quick study" and able to grasp promptly the essence of new problems. I value practicality, candor and efficiency. I enjoy the company of others but also am well-suited to working or being alone. Training younger lawyers is very satisfying. I have respect for all people of good faith and expect the same of others. The process of my professional and personal maturation and, in particular, my active work as a settlement master, judge pro tem and mediator, have led me to believe that I have the appropriate skills and temperament to serve effectively in a more central role to resolve disputes or facilitate others to do so.

*

My general counsel role within our firm daily demands that I listen to controversies, dilemma and disputes and then resolve them sensibly, correctly and with dispatch and consideration for the competing positions of my colleagues.

30. Do you authorize the Federal Judicial Nominating Commission of Pennsylvania to make inquiries to obtain information and review records of Federal, State and Local government agencies and any legal or judicial enforcement agencies, including the United States Department of Justice, pertaining to matters relevant to your being considered as an appointee to judicial office?

Answer: Yes.

31. Are you aware of any facts that would inhibit your appointment and ability to serve as a judge of the United States District Court? If your answer is yes, please give the information relative thereto.

Answer: No.

32. Is there anything in your background that could be embarrassing when thoroughly investigated?

Answer: I do not believe so.

33. Do you feel that your practice has offered you the opportunity of being a good administrator?

Answer:

Yes, my busy personal and family life, along with full-time practice, consistent and active involvement in civic and charitable activities, and frequent writing projects, have all demanded, and contributed, to my development of successful administrative skills in dealing with people, responsibilities and systems of all sorts.

34. a. Are there any unsatisfied judgments against you? If so, list, giving all pertinent details.

Answer: No.

- b. Are you in default in the performance or discharge of any duty or obligation imposed upon you by any governmental agency or decrees or order of any court, including, but not restricted to, support orders and decrees?

Answer: No.

- c. Have you ever made an assignment for the benefit of creditors? Has a petition in bankruptcy ever been filed by or against you? If so, give full

particulars.

Answer: No.

35. Have you ever published any legal books or articles? If so, please list them, giving the citations and dates.

Answer: Yes.

- * 1. "Advanced Legal Ethics and the Internet - - Professional and Ethical Challenges of Electronic Communications", presented for Technology Institute, Philadelphia Convention Center, February 4, 2000 and February 22, 2001.
- * 2. "Maintaining Confidentiality and the Attorney-Client Privilege", PBI-PBEC Education Center, July 20, 2000.
- * 3. "A Letter To My Daughter", Volume 62 of The Philadelphia Lawyer, Spring, 1999.
- * 4. Contributor, "Lawyers' Investments In Their Clients", published in 2000 by the ABA Litigation Section.
- 5. "Historical Roots of Lawyers' Professional Independence", published by ABA Litigation Section, March 1998.
- 6. "Jumping Ship: Practical and Ethical Issues for Litigators Thinking of Switching Firms", published by ABA Litigation Section, April 1997.
- 7. "Professional Responsibility and Ethics", published in Developments in Reorganization and Commercial Finance Law, published May 1, 1997 by Duane, Morris & Heckscher.
- 8. "Trial of a Legal Malpractice Action: Causation and Damages", published by Pennsylvania Bar Institute, June 1998.
- 9. "Bankruptcy Court Application of Ethics Rules and Standards of Conduct," Bankruptcy Litigation (October 1995).
- 10. "Professional Ethics in the Bankruptcy Context," Bankruptcy Litigation (October 1994).
- 11. "Design Engineers - Responsibilities During Construction," Journal of Construction Engineering, Vol. 112, No. 3, September 1986.

12. "Accountants' Professional Liability," Society of Chartered Property and Casualty Underwriters, Monograph, Fall, 1983.
 13. "Advanced Legal Ethics and the Internet - - Professional and Ethical Challenges of Electronic Communications", presented for Technology Institute, Philadelphia Convention Center, February 4, 2000 and February 22, 2001.
 14. I have authored at least six other articles that have been privately circulated to clients, industry representatives and the like on a variety of topics, including affirmative action, bankruptcy law, insurance regulatory law and law firm loss prevention. Generally, these papers were presented in conjunction with seminars, workshops and speaking engagements.
36. **Have you given any public address or speeches of professional import? If so, please state the subject matter and the groups to whom given and when given.**

Answer: Yes.

Panelist, "Lawyer Independence", ABA Annual Meetings, August 1997, 1998 and 2000:

- * "Advanced Legal Ethics and the Internet - - Professional and Ethical Challenges of Electronic Communications", presented for Technology Institute, Philadelphia Convention Center, February 4, 2000 and February 22, 2001.
- * "Maintaining Confidentiality and the Attorney-Client Privilege", PBI-PBEC Education Center, July 20, 2000.

Co-Presenter, "The Practice of Law and Professional Responsibility: Issues in the 21st Century", Fifty-Seventh Judicial Conference of the Third Circuit, Philadelphia, May 1997.

Co-Presenter, "Jumping Ship: Practical and Ethical Issues for Litigators Thinking of Switching Firms", ABA Section Annual Meeting, Washington, D.C., April 1997.

Speaker, "Affirmative Action After Adarand: A Forecast for 1996 and Beyond," Human Resource Managers and In-House Counsel, The Rittenhouse Hotel, March 20, 1996.

Panelist, Program on Professional Ethics, ABA Annual Meeting, Orlando, Florida (August, 1996)

Speaker, "Ethics and Professional Duties," Pennsylvania Bar Institute's Annual Program on Developments in Federal Practice, November 1995

Co-Presenter, "Professionalism," Philadelphia Bar Association's Annual Basic Legal Practice Seminar, November 1995

Faculty, "Alternatives to Litigation: The 90's Approach", The Philadelphia Bar Education Center Seminar for C.L.E. and C.P.E. credit for lawyers and accountants, October 11, 1995 (author of video-taped dramatization and discussion leader)

Speaker, "What To Do Before The Lawyer Arrives," CPE Breakfast Seminar series sponsored by The CPA of New Castle County, Delaware, Delaware, July 1995

Speaker, "Business Ethics," 1993 Education Conference sponsored by The Philadelphia Association of Paralegals, October 1993

Panelist, "The Code of Professional Responsibility Provisions on Confidential Client Communications and a Lawyer's Obligations Concerning Disclosure of Criminal or Other Deleterious Conduct," ALAS Annual Meeting Loss Prevention Seminar, Banff, Alberta, Canada, June 1992

Panelist, Philadelphia Bar Association, "Breaking Through the Glass Ceiling," Fall 1990

American Bar Association, Litigation Section, Fall Meeting October 1990 (Professional Responsibility and Ethics topics, Women in the Legal Profession)

Lecturer or presenter on Construction Litigation, Risk Prevention and Contract Drafting, National Convention of Women Construction Owners and Executives, Washington, D.C., May 1987

Lecturer to various professional and trade associations on selected topics, including:

International Society of Appraisers (The Duties of Expert Appraisers, Testimony and Reports in Litigation Cases)

Philadelphia Chapter, Pennsylvania Institute of Certified Public Accountants (Accountant Liability and Risk Management)

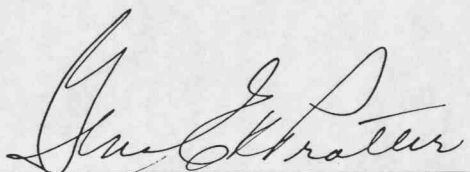
Philadelphia Chapter, National Society of Professional Engineers (Architect/Engineer Liability and Liability Insurance)

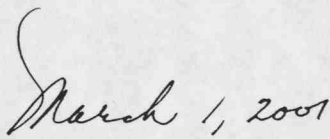
American Institute of Architects, Philadelphia Women's Chapter (Liability for Construction Management)

General Building Contractors Association, Pennsylvania Chapter (Claims

Prevention, Minority Business Enterprises, Claims Presentation, Insurance Coverage)

37. Kindly date and sign your name at the conclusion of your answers.


Name


Date

PH2\107222.1

Judge Legrome Davis was twice nominated (July 1998 and January 1999) by former President Clinton for service on the United States District Court--Eastern District of Pennsylvania. Immediately prior to his first nomination, Judge Davis finished first out of almost one hundred applicants under consideration by the Federal Judicial Nominating Commission.

Judge Davis serves on the Court of the Common Pleas of Philadelphia County, a position he has held since 1987. From 1992 until January 2001, Judge Davis served as the Supervising Judge of the Criminal Division, with principal responsibility for all issues of policy, planning and administration involving criminal case processing. In this capacity, Judge Davis designed and implemented several case management improvement projects, one of which reduced the inventory of felony cases awaiting trial by 34 percent, or 3,400 cases in its first year of operation. Some court experts say this success is unparalleled in American jurisprudence.

During his tenure as Supervising Judge, numerous city, state and federal funding authorities awarded the First Judicial District more than nineteen million dollars to support supervisory endeavors for defendants developed by Judge Davis and administered under his direction. He is the Coordinator of the Female Offenders' Criminal Justice Treatment Network, a collaborative project linking the criminal justice and treatment communities in addressing the complex and special challenges of women in the criminal justice system. This project is funded by the Center for Substance Abuse and Treatment. Judge Davis was integral in conceptualizing and implementing the court reforms which were integral to the suspension of the federal prison cap in 1995.

Previously he worked for Ballard, Spahr, Ingersoll & Andrews, and the Office of the General Counsel of the University of Pennsylvania. He was an Assistant District Attorney for nine years, serving in the Homicide, Narcotics and Career Criminal Units, and was the Chief of the Rape Prosecution Unit when he left the office to seek a state court judgeship. For many years, he taught trial advocacy at Temple University School of Law.

Davis is a current or former member of the following advisory boards: National Judicial College: Community Courts; National Judicial College: Project on "The Changing Role of the Judiciary"; National Institute of Justice, Pretrial Services Project; National Association of Court Managers, Caseflow Management Curriculum Committee; National Judicial College, "Building Effective Management Teams in the Courts"; American Bar Association, "Project on Drug Night Courts: Developing a Prototype"; Pennsylvania Attorney General's Conference on Violence Prevention; Pennsylvania Futures Commission; and the Pennsylvania Crime and Delinquency: Corrections Policy Committee.

Among other awards, Judge Davis has been honored by the Pennsylvania Trial Judges Association (Golden Crowbar Award), Philadelphia Common Pleas Court Board of Judges (Exceptional Service Award), Philadelphia Bar Association (Thurgood Marshall Award), the Rutgers-Camden Black Law Students Association (Martin Luther King Award), Philadelphia Coalition for Victim Advocacy (Victim Advocacy Award) and the Fraternal Order of Police (Honorary Lifetime Membership--Lodge 92).

Davis regularly provides technical assistance to criminal justice systems across the nation and in other countries in the development of effective case flow management systems, the integration of case processing systems with treatment alternatives and the development of rational pretrial release systems.

Judge Davis is the son of an Air Force sergeant and the grandson of an Alabama textile mill worker. His father is the pastor of Emmanuel Temple Church of God in Christ in Topeka, Kansas and his mother is the District Supervisor for the Women's Division of the Church of God in Christ for the Central District of Kansas. The judge is a graduate of Princeton University and Rutgers--Camden School of Law, and has been married for twenty-three years. He and his wife have two children.

- Member, Pennsylvania Attorney General's Council on Violence Prevention, 1996-1997
- Member, National Institute of Justice, Professional Development Advisory Board, Pretrial Services Practices Board, 1996-1998
- Member, National Association of Court Managers, Caseflow Management Curriculum, 1996-1998
- Member, Pennsylvania Crime & Delinquency Commission, Corrections Policy Committee
- Expert Field Reviewer, Center for Substance Abuse & Treatment, "Integrating Alcohol and Drug Abuse Treatment with Alternative Case Processing in the Justice System", 1995
- Member, American Bar Association, Project on Drug Night Courts: Developing a Prototype", 1991-1992.



LEGROME D. DAVIS
JUDGE

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS
JUDICIAL CHAMBERS

692 CITY HALL
PHILADELPHIA, PA 19107
(215) 686-7946/47
FAX: (215) 686-2624
E-MAIL: legrome.davis@courts.phila.gov

June 15, 2001

Mr. Brett Kavanaugh
Associate Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

Dear Mr. Kavanaugh:

It was my pleasure to speak with you yesterday afternoon. In accordance with our conversation, enclosed please find the following documents: a. a copy of my most recent Personal Data Questionnaire (submitted to the Pennsylvania Federal Judicial Nominating Commission in March 2001); b. a copy of my most recent biographical statement, and; c. a copy of my most recent resume.

I look forward to speaking with you on Wednesday, October 20.

Respectfully,

Legrome Davis

Enclosures

FEDERAL JUDICIAL NOMINATING COMMISSION
OF PENNSYLVANIA

PERSONAL DATA QUESTIONNAIRE FOR APPLICANTS
CURRENTLY ON THE BENCH

1. Full name and social security number.

My full name is Legrome Derek Davis; my social security number is (b)(6)

2. Office and home addresses, zip codes, telephone numbers and area codes. (Name of law firm, if associated).

Current office address: Suite 1201; Criminal Justice Center; 1301 Filbert Street; Philadelphia, PA 19107; 215-683-7020/7021/7023; 215-686-7946/47; facsimile number: 215-683-7022.

Within the next two weeks, I will relocate my office to 692 City Hall; 215-686-7946/47; facsimile number: 215-686-2624.

3. Date and place of birth.

I was born on (b)(6) in Columbus, Ohio.

4. Are you a naturalized citizen? If so, give date and place naturalization.

No.

5. Family status:

- (a) Are you married? If so, state the date of marriage and your spouse's full name (including maiden name, if applicable)

I married Susan Slater on July 30, 1978.

- (b) Have you been divorced? If so, give particulars, including the date, the name of the moving party, the number of case, the court and the grounds.

I am presently married and living with my wife. I have never been divorced.

- (c) Names of your children, with age, address and present occupation of each.

Christopher Woods Davis was born on (b)(6); Katharine Slater Davis was born on (b)(6). Both of my children are currently students.

6. Have you had any military service? If so: No.

- (a) Give dates, branch of service, rank or rate, serial number and present status.

- (b) Have you ever been rejected or released from any of the armed services for reasons other than honorable? If so, give details.

7. List each college and law school you attended, including the dates of attendance, the degrees awarded, and, if you left any institution without receiving a degree, the reason for leaving. List scholastic honors.

I attended Princeton University from September 1969 until May 1973. I received a Bachelor of Arts Degree in May 1973. I attended Rutgers--Camden School of Law from September 1973 until May 1976. I received a Juris Doctorate degree in May 1976.

8. As of the time when you became a member of the judiciary, list all courts to which you had been admitted to practice, indicating the dates of admission in each case.

I was admitted to practice before the Supreme Court of Pennsylvania in May 1977 and the United States District Court--Eastern District of Pennsylvania in January 1981. My admission to the bar never lapsed when I was a practicing attorney. Those memberships, of course, lapsed when I became a judge.

9. As of the time when you ascended to the bench, state whether you were engaged in the practice of law as a solo practitioner or whether you were connected with a law firm, a corporate law department or governmental agency. In the latter situations, state the name of the firm, corporate law department or governmental agency and indicate the nature and duration of your relationship. Indicate county and state where you practiced your profession.

I have never been engaged in the practice of law as a sole practitioner.

July 1987- November 1987: I was an associate at Ballard, Spahr, Andrews & Ingersoll engaged in asbestos litigation. James Coleman, Esquire, was my immediate supervisor. He can be reached at 215-864-8101.

10. If in the past you had practiced in other localities or had been connected with other law firms, corporate law departments, or governmental agencies, give the particulars, including the location or locations, the names of the firms, corporate law departments or agencies and your relationships thereto and the relevant dates. Indicate also any period in the past during which you practiced alone.

May 1977-September 1980: Assistant District Attorney in Philadelphia County. Raymond Harley, Deputy District Attorney for the Trial Division, is familiar with my work in the Trial Division during this period. His telephone number is 215-686-8021. Eric Henson, the former Deputy District Attorney for the Law Division, may be contacted about my assignment to the Law Division. His current telephone number is 215-981-5753; after the middle of May, his telephone number will be 451-5200.

September 1980-October 1981: I was employed by the Pennsylvania Crime Commission as the attorney assigned to a fraudulent coal tax shelter investigation. This initiative, the Leviticus Project, was a federally funded seven state investigative coalition created as a consequence of the awareness that fraudulent coal tax shelter ventures are not confined by the geographic boundaries of the states. Joan Weiner, Esquire, was my immediate supervisor. She can be reached at 215-686-5737.

October 1981-March 1987: I was employed by the Philadelphia District Attorney's Office. Deputy District Attorney Raymond Harley (215-696-8021) is familiar with my work during this period. During these two extended periods as an Assistant District Attorney, I served as lead counsel for the Commonwealth in thousands of bench trials and approximately seventy jury trials. At various points, I was assigned to the Homicide, Career Criminal, Narcotics and Major Trial Divisions. When I left the office to seek a position in the judiciary, I was Chief of the Rape Prosecution Unit. Prior administrative experience in the District Attorney's Office included approximately one year as Assistant Chief of the Narcotics Unit.

March 1987-May 1987: I was a candidate in the judicial elections.

In June 1987, I was employed by the Office of General Counsel for the University of Pennsylvania. My responsibilities were exclusively in the area of potential federal employment discrimination actions.

July 1987- November 1987: I was an associate at Ballard, Spahr, Andrews & Ingersoll engaged in asbestos litigation. James Coleman, Esquire, was my immediate supervisor. He can be reached at 215-864-8101.

11. As of the time when you ascended to the bench, what was the general character of your typical clients and mention any legal specialities which you possessed. If the nature of your practice had been substantially different at any time in the past, give the details, including the character of such and the periods involved. State any facts you consider significant in your law practice experience before you left such practice for the bench.

May 1977-September 1980: prosecutor.

September 1980-October 1981: counsel to an criminal investigative effort.

October 1981-March 1987: prosecutor.

June 1987: attorney, Office of General Counsel for the University of Pennsylvania.

12. Are you or have you ever been engaged in any occupation, business or profession other than the practice of law? If so, please give the details, including dates.

August 1990-present: it has been my pleasure to serve as a consultant for the American University School of Public Affairs. Specifically, I have provided, and continue to provide, technical assistance to state courts in the design and implementation of criminal case management systems and the effective integration of treatment resources into the criminal courts' case flow mechanisms. I recently assisted the Bermuda National Drug Commission in the development of a drug treatment court. I have provided technical assistance to the administrative leadership in Baltimore, Maryland and the Bermuda National Drug Commission in the development of structural mechanisms to dispose of drug cases earlier while providing sufficient treatment interventions. I have also recently participated in an examination of the administration and organizational structure of the Public Defender's Office in Indianapolis, Indiana. Later this month, I will assist the courts in Fredericks County, Maryland in the design of case processing systems. Joseph Trotter, Esquire, the Director of the Justice Programs Office at American University, has direct knowledge about my work product. His telephone number is 202-885-2671.

Since 1998, I have served as a consultant to Justice Management Institute providing technical assistance to state courts in the design and implementation of criminal case management systems. I am currently working on a project in Fulton County, Georgia which includes the City of Atlanta. Barry Mahoney of Denver, Colorado, is the President of this enterprise. His telephone number is 303-831-7564.

From approximately 1989 until 1994, I served as an Instructor for the Temple University Integrated Trial Advocacy Program. Professor Edward Ohlbaum of the Temple University School of Law is the Director of this program. His telephone number is 215-787-1856.

13. List all organizations other than bar associations or professional associations or professional societies of which you are or have been a member, including civic, charitable, religious, educational, social and fraternal organizations. Do any of said organizations in which you have been a member during the last three years discriminate because of race, color, creed or national origin?

I am presently associated with, or was previously associated with, the following bar associations and professional societies:

(a) Member, Advisory Board, National Judicial College, The Changing Role of the Judiciary, 1998 (selected as a member of the Advisory Board to assist in planning a course on the Changing Role of the Judiciary.

(b) Member, National Association for the Advancement of Colored People, 1998 to present.

(c) Peer Review Panelist, Bureau of Justice Assistance, United States Department of Justice, 1997 to present (selected as a local practitioner eligible to review funding applications from other jurisdictions and evaluate technical and funding merit).

(d) Peer Review Panelist, National Institute of Justice, United States Department of Justice, 1996-1997 (selected as a local practitioner eligible to review funding applications from other jurisdictions and evaluate technical and funding merit).

(e) Member, Pennsylvania Attorney General's Council on Violence Prevention, 1996-1997.

(f) Member, National Institute of Justice, Professional Development Advisory Board, Pretrial Services Practices Project, 1996-1998.

(g) Member, National Association of Court Managers, Caseflow Management Curriculum Committee, 1996-1998.

(h) Member, National Bar Association, Judicial Council, 1996-1998.

(i) Member, Pennsylvania Futures Commission, 1995-1998: This entity, sponsored by the Supreme Court, the Pennsylvania Bar Association and the Administrative Office of the Pennsylvania Courts, is charged with developing a strategic plan for preparing Pennsylvania courts for the anticipated realities we will collectively face in the year 2020. I am Co-chair of the Criminal Justice Subcommittee.

(j) Member, Pennsylvania Crime and Delinquency's (PCCD) Corrections Policy Committee 1995-1996: This committee, comprising three judges, high level administrators, District Attorneys and legislators from across the Commonwealth, was charged with identifying structural and operational impediments to the orderly functioning of state and local criminal justice systems and recommending policies to address those impediments. I served as Co-

Chair of the Adult Criminal Justice Subcommittee.

(k) Expert Field Reviewer, Center for Substance Abuse and Treatment, "Treatment Improvement Protocol: Integrating Alcohol and Drug Abuse Treatment with Alternative Case Processing in the Justice System," 1995.

(l) Member, Clark Foundation Steering Committee, 1993-1994: This committee, a precursor to the PCCD Corrections Policy Committee, was comprised of two judges and five state criminal justice agency leaders. Our objective was to further the development of rational and resource-sensitive criminal justice policies.

(m) Member, Task Force on Racial Bias in the Courts, 1993 to 1996: It has been my privilege to serve as a member of two separate task forces charged with identifying potential racial bias in the courts and developing strategic plans to address actual or potential bias. I was a member of the Executive Committee of the 1996 Task Force.

(n) Member, Apothaker Award Committee, 1991 to 1996: This Bar Foundation Committee annually awards a financial grant to the single individual or entity that has contributed most significantly to the concept of equal justice over the course of the last year.

(o) Member, Jenkins Law Library Advisory Committee, 1990-1993.

(p) Member, Greater Philadelphia Urban Affairs Coalition, Crime and Justice Task Force, 1990-1992: This Committee was comprised of business, civic, religious, and judicial leaders and had as its principal mission the systematic examination of the criminal justice system with the vision of improving its day-to-day functioning.

(q) Member, Advisory Board, American Bar Association, "Project on Drug Night Courts: Developing a Prototype," 1991-1992: This project examined the operation of the Chicago Night Drug Courts, identifying strengths and weaknesses with an eye toward national applicability.

(r) Member, Pennsylvania District Attorneys' Association, circa 1977-1987.

b. List also chairmanships of any committees in bar associations and professional societies, and memberships on any committees which you believe to be of particular significance (e.g., judicial selection committee, committee of censors, grievance committee).

I have chaired the following professional committees:

(a) Pennsylvania Commission on Crime and Delinquency, Corrections Policy Committee, Co-chair, Criminal Justice Subcommittee (1995-1996).

(b) Pennsylvania Commission on the Future of the Courts, Co-chair, Criminal

Justice Subcommittee (1996-present)

c. Describe also your participation, if any, on judicial committees, in judicial conferences, and in sitting, by designation, as a temporary member of the court which reviews decisions of your court.

I have chaired or participated in the following judicial committees:

- (a) Co-chair, Criminal Justice Center Implementation Committee, 1993-1995.
 - (1) Chairperson, Security Subcommittee
 - (2) Chairperson, Automated Revenue Collection Committee
- (b) Chairperson, Post-Adjudication Committee, 1993-present.
- (c) Chairperson, Pretrial Release Guidelines Committee, 1992-present.
- (d) Chairperson, Case Flow Management Committee, 1991-present.
- (e) Member, Criminal Rules Committee, 1996-present.
- (f) Member, Counsel Fees Committee, 1992-1996.
- (g) Member, Board of Judges Criminal Justice Committee, 1989-present.
- (h) Member, Mental-Health Assessments: Oversight Committee, 1991-present.
- (i) Member, Pretrial Services Advisory Committee, 1991-1993.
- (j) Member, Criminal Justice Center Judicial Advisory Committee on Design, 1991-1993.
- (k) Member, Planning Committee, 1991-1992.
- (l) Member, Judicial Accountability Committee, 1990-present.
- (m) Member, Judicial Study Committee, 1988-1996.

None of these organizations discriminate because of race, color, creed or national origin.

14. What judicial office do you now hold? State whether you have been appointed or elected and the dates thereof. Have you ever held any other judicial office? If so, please state the courts and the periods of service.

November 1987-present: Judge of the Court of Common Pleas, First Judicial District of Pennsylvania, an elected position. The Common Pleas Court is the highest state trial court and has jurisdiction over criminal cases alleging the commission of felonies as well as significant civil matters. I have served exclusively in the Criminal Division.

During my tenure on the court, I have served in the following appointive leadership positions. All appointments were strictly on the basis of merit. None of these appointments were rotational.

(a) 1992-Jan 2001: Supervising Judge, Criminal Division, Court of Common Pleas. In 1992, Administrative Judge Alex Bonavitacola (215-686-3770) created this post and appointed me with the advice and consent of the Supreme Court of Pennsylvania. In 1996, Administrative Judge John Herron (215-686-9536) reappointed me to this post. From 1992 until January 2001, I was responsible for all policy, planning and administration within the Criminal Division. In January I resigned my office with the understanding and expectation that I would be transferred to the Civil Division.

(b) 1988-1990: Supervisor, Felony-Waiver Program, 1988-1990. (Supervised nine judges assigned to the Felony-Waiver Program, a program which annually disposes of 70% of the court's caseload; began to identify and address systemic shortcomings.) I was appointed to the position by Administrative Judge Edward G. Blake, who is deceased.

(c) 1991: Calendar Judge, Major Trial Program. (Supervised twenty-four judges assigned to the trial of serious, non-homicide, felony matters; assigned all matters for trial; resolved many pretrial motions; established policies for the program. This program annually disposes of 25% of the court's inventory.) I was appointed to this position by Administrative Judge Nelson A. Diaz. (215-569-5734)

(d) 1992-1993: Supervisor, Section Calendaring Program. (Supervised sixteen judges assigned to the trial of serious, non-homicide, felony matters; designed and created this program; integrated the use of computers as a case assignment tool.) I was appointed to this position by Administrative Judge Nelson A. Diaz (215-569-5734).

(e) 1993-1994: Calendar Judge, Homicide Program. (Supervised eleven judges assigned to the Homicide Program; handled most pretrial motions and all case assignment responsibilities.) I was appointed to this position by Administrative Judge Alex Bonavitacola (215-686-3770).

In every program in which I have served during my tenure on this court, I was eventually designated as program leader.

15. For the last five years, or portion thereof, that you have held judicial office, indicate:

- (a) The nature of the typical matters that came before you.

As Supervising Judge of the Criminal Division for eight and one-half years, courtroom responsibilities were only a portion of my duties. My other duties were principally administrative in nature. I directly supervised forty criminal judges and six hundred and fifty employees. I was responsible for all issues of criminal justice policy, planning and implementation. Briefly, I would describe my function as a catalyst for system improvement. I am ever mindful of the constitutional basis for an independent judiciary, but I have come to appreciate the importance, even the necessity, of the leadership of the judiciary being involved in administrative and policy-making functions required for a modern and effective system of justice. Extensive broad-based system improvement has occurred in the last seven years.

Since January 2001, I have presided over criminal trials. My most recent trial involved an aggravated assault in which the victim's injuries left him as a quadraplegic.

- (b) The percentage of your time devoted to:

- (1) Civil: Not applicable
- (2) Criminal: 100 percent
- (3) Other: Not applicable

- (c) The percentage of your time devoted to:

- (1) Jury: Fifty percent currently
- (2) Non-jury: Fifty percent currently
- (3) Argument or appellate court: None
- (4) Other: None

- (d) Five of the more significant opinions you have handed down and give the citations if the cases were reported.

(a) Commonwealth v. Martorano and Daidone: This case was disposed before another judge; I received the matter after its reversal on direct appeal. In this case, the defense argued that the application of the Jay Smith double jeopardy doctrine precluded retrial because of the willful misconduct of the trial prosecutor in 1984. The narrow issue faced was whether the Jay Smith holding applied to circumstances

beyond the intentional concealment of physical evidence. The factual circumstance giving rise to this prosecution was the homicide of a union organizer by these defendants purportedly involved with organized crime. In this case, I was squarely confronted with the legal effect of the patent misconduct of the trial prosecutor. As a result of a careful examination of the minimal precedent in this area, it was determined that retrial was not precluded by either the federal or state constitutions. The Superior Court fashioned new law and reversed my decision. While I was troubled by the prosecutor's behavior, I did not think it the place of the trial court to create new law and fashion a remedy not previously endorsed by the appellate courts. This function is principally reserved for the appellate courts.

The Assistant District Attorney in this matter was Marilyn Murray (1421 Arch Street; Philadelphia, PA; 215-686-5704). The defendants were represented by F. Emmett Fitzpatrick (926 Public Ledger Building; 610 Chestnut Street; Philadelphia, PA; 215-925-5200) and Thomas Colas Carroll (The Curtis Center; Suite 750; Philadelphia, PA; 215-925-2500).

(b) Commonwealth v. Scarfo, et. al.: This opinion also pertains to a notorious Philadelphia case and, once again, directly addressed the application of the Jay Smith doctrine to the misconduct of the local prosecutor. In this case, the local head of the Mafia and numerous associates were convicted of homicide in a 1987 state court trial. The case was reversed on direct appeal, and my involvement in the matter commenced. Following extensive evidentiary hearings, my duty was to resolve double jeopardy claims and determine the applicability of Com. v. Jay Smith to the closing arguments of the prosecution. After examination of the precedent, retrial was permitted. The Superior Court affirmed my determinations; the Supreme Court denied allocatur. The trial court and Superior Court opinions are attached.

The Commonwealth was represented by Assistant District Attorney Charles Joseph Grant (1401 Walnut Street; Philadelphia, PA; 215-496-3100). The defendants were represented by Norris Gellman (625 Walnut Street; Suite 750; Philadelphia, PA; 215-5704), M. W. Pinsky (No listing available in the Philadelphia Legal Directory); Ramy Djerassi (1600 Market Street; Philadelphia, PA; 215-751-0955); Joseph Santaguida (121 South Broad Street; second floor; Philadelphia, PA; 215-893-0900); Nino Tinari (1500 Market Street; Philadelphia, PA; 215-790-4010); David McLaughlin (The Ben Franklin; Philadelphia, PA; 215-592-9400); Donald Manno (2500 McClellan Avenue, Pennsauken, NJ; 609-665-6464); Jeffrey Minehart (1923 Welsh Road; Philadelphia, PA; 215-671-1923).

(c) Commonwealth v. Calvin Johnson: In this case, the trial court was confronted with the issue of the relative strength of the right to counsel of choice as measured against the statutorily enacted privilege for psychotherapeutic records. Defense counsel in this matter, despite clear instructions from the court, issued a subpoena duces tecum for the treatment records of the eyewitness to a crime **and** privately reviewed those extensive records despite my order that the court would review the records in camera. When the nature and extent of the violation were brought to my

attention, in a question of first impression these equally clear and strong rights were balanced. Trial counsel was removed. The defendant, who was represented by court-appointed counsel of his choice, appealed. The Superior Court affirmed my decision. This case is reported at 663 A2d. 720 (Pa. Super, 1995). Earlier this year, the Supreme Court affirmed the Superior Court's result, holding that orders disqualifying counsel are not immediately appealable. (No. 23, Appeal Docket, E.D. Pa., 1996) The trial court, Superior Court and Supreme Court opinions are attached.

The Commonwealth was represented by Assistant District Attorney Hugh Colihan (1421 Arch Street; Philadelphia, PA; 215-686-8046). The defendant was represented by Assistant Public Defender William Bachman (70 N. 17th Street; Philadelphia, PA; 214-568-3190).

(d) Commonwealth v. Robert Edwards and Robin Pickron: The defendants' home was searched by state parole officers acting without a warrant. While a parole agent who is acting as an administrator of the parole system is not required to obtain a warrant to search a parolee's home, when the nature of the function performed by the agent changes and he begins to act as a police officer gathering evidence to support new criminal charges, a warrant is required. Based upon my analysis of the purpose of the agents' search, the evidence was suppressed. The Commonwealth appealed this order. The Superior Court reversed. The Supreme Court of Pennsylvania granted allocatur and reinstated my initial determinations. The Supreme Court opinion is reported at 664 A2d. 1093 (Pa.1993). The trial court and Supreme Court opinions are attached.

In reality, the governing standards in this area were not clearly delineated and legislation was required in order to address a gap in the law. During the 1995 Special Legislative Session on Crime, statutory authority was enacted appropriately resolving the issues raised in this appeal. Parole Officers now have a statutorily-based right to search a parolee's residence as a consequence of their responsibility to supervise defendants in the community.

The Commonwealth was represented by Assistant District Attorney John Minges (1421 Arch Street; Philadelphia, PA; 215-686-5850). The defendants were represented by First Deputy Defender Dennis Kelly (70 N. 17th Street; Philadelphia, PA; 215-568-3190) and Daniel Preminger 1050 Robinson Building; (42 S. 15th St; Philadelphia, PA; 215-564-1227)

(e) Commonwealth v. Christopher Maiden: This defendant, who had no prior criminal record, in a period of slightly more than one month sought out six young women who were generally alone and in isolated areas. Two of the women were kidnaped and raped, and others managed to escape his threatening advances through flight.

This defendant was sentenced to a total period of confinement of thirty to sixty years, and appealed the judgment of sentence as violative of the Pennsylvania Sentencing Commission's guidelines framework. The total period of incarceration was reached through the imposition of three lengthy consecutive sentences, each of which

individually exceeded the aggravated sentencing guideline range. Six shorter consecutive sentences could have been imposed in accordance with the dictates of the Sentencing Guidelines. This sentencing framework was selected because of the dual concerns of the defendant's present inability to control his impulses, and my uncertainty as to his prognosis for future change. Rather than imposing a multitude of shorter consecutive sentences which effectively eliminate the possibility of parole, a lesser number of lengthy consecutive sentences were imposed. In Pennsylvania, parole does not automatically occur at the expiration of a minimum sentence. Moreover, as a defendant cannot begin to serve a consecutive sentence until parole is granted on a previous one, the imposition of a large number of consecutive sentences invariably lengthens the actual period of incarceration dramatically. Prison officials advise me that sentences which preclude the possibility of eventual release often create disciplinary problems within the prison.

Given the facts of these cases and the pathological nature of the acts, it was my intention to remove the defendant from society for at least thirty years, and perhaps for the remainder of his life. Under the sentencing framework chosen, if his behavior in prison is appropriate, he will eventually be released from custody. If his progress does not merit parole, the State Parole Board will adequately protect society through the denial of his parole petitions. The Superior Court affirmed this sentencing structure in a memorandum opinion. The trial court and Superior Court opinions are attached.

The Commonwealth was represented by Assistant District Attorney William Fisher (1421 Arch Street; Philadelphia, PA; 215-686-686-8045). The defendant was represented by Assistant Defender Paul Conway (70 N. 17th Street; Philadelphia, PA; 215-568-3190).

16. Have you ever held public office, other than judicial office, or have you every been a candidate for such an office? If so, give the details, including the offices involved, whether elected or appointed, and the length of your service.

No.
17. Have you ever been arrested, charged or held by federal, state or other law-enforcement authorities for violation of any federal law, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations for which a fine of \$50.00 or less was imposed.

No.
18. Have you ever failed to file a Federal Income Tax Return, as required?

No.

Are you now or were you during any of the past five years delinquent in the filing of your federal income tax returns or the payment of your federal income tax

obligations? If so, please give particulars.

No.

19. Have you ever been sued by a client? If so, please give particulars.

No.

20. Has there ever been a claim made against you or your insurer alleging malpractice in any way? If so, please give details.

No.

21. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give the particulars. Do not list proceedings in which you were merely a guardian ad litem or stockholder. Include all legal proceedings in which you were a party in interest, a material witness, were named as co-conspirator or a co-respondent, and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness.

I have never been a defendant or a plaintiff in any criminal matter nor have I ever been a witness before a grand jury or a subject of a grand jury proceeding. I have been a witness in two criminal proceedings in Philadelphia.

(a) On Columbus Day, 1991, I caught a career criminal burglarizing my neighbor's home. He is presently serving a correctional sentence in the state prison.

(b) In February 1992, I was approached by a defense attorney who advised me the bailiff working in my courtroom was soliciting money for the assignment of cases to my calendar. The court officer had not represented he could affect my judgment but, rather, as the fact-finding process in my courtroom was viewed by the parties as intellectually honest and reliable, the assignment of cases to my docket had a measurable fiscal value. A relevant editorial, describing me as "hard-working and ...[with] a reputation for being firm and fair" is attached for your review and consideration. The editorial concludes by stating "[i]t could be said it's a triumph when a corrupt court official allegedly tries to trade on a Philadelphia judge's reputation for honesty."

The attorney specifically stated that he did not wish a criminal investigation to be initiated. Instead, his request (to me and a Deputy Court Administrator, the only other person within the system aware of this activity), was for the matter to be handled quietly and administratively. Although both the Deputy Court Administrator and I were friendly with the court officer and had no reason previously to suspect him of this type of activity, we found the recommended course of action to be unacceptable and fundamentally wrong. Despite the potential embarrassment to me

and a court system only beginning to recover public confidence because of earlier scandals, we directed the attorney to the District Attorney's Office and promptly notified our superiors. A brief, but intense, three day investigation followed and the court officer was arrested, with my full knowledge and cooperation with law enforcement officials, in my courtroom with marked money in his pocket. He eventually pled guilty and was sentenced to a term of imprisonment. This matter is: Commonwealth v. Harold Brewer, CP 92-05-2788.

(c) In my capacity as Supervising Judge of the Criminal Division, I have been a party of interest in two petitions for Writs of Prohibition and/or Mandamus filed in the Supreme Court of Pennsylvania. Both actions were filed by the Defender Association of Philadelphia and occasioned the review of the procedures then-Administrative Judge Alex Bonavita and I agreed I would implement in an effort to alleviate jail overcrowding. Very briefly, for more than four years I have been laboring to improve local practices and procedures with respect to the use of confinement.

The City Administration's present strategy, which resulted in the lifting of the federal jail population cap, in many ways is a direct consequence of views initially articulated to the City by the judicial leadership. It is not an overstatement to say that many of the ongoing internal system reorganization and reconfiguration efforts which resulted in the lifting of the prison cap were generated from my office. Over time, the court has redefined its view of its responsibility for jail population management and its relationship to the executive branch in this discrete area. This evolution was necessary because of the negative consequences of the prison cap to the citizenry. In many ways, the federal prison cap prevented the local courts from satisfying their core mission of protecting the public and establishing public confidence in the integrity of the judicial processes. Today, the courts and the City administration jointly recognize the most effective strategy for addressing jail population cap issues is through the internal examination of institutional practices and procedures and the implementation of reforms where necessary.

As part of this larger process, the population of the Philadelphia Prison System and the various categories of detentioners were examined. In order to maintain a constitutionally permissible confinement level, confinement resources must be devoted to these specific areas: pretrial population, direct sentencing population, resentencing (or violations of probation and parole), and inmates held for other jurisdictions. As this examination proceeded, it became clear that approximately one-tenth of local jail beds were devoted to inmates serving state sentences in county institutions. Moreover, as a consequence of imposing a sentence of this nature, release decisions could be made **only** by the State Department of Parole, an institution historically slow to act on release decisions. Thus, county institutions were overflowing, the population ceiling had largely negative consequences for our city and courts, and no relief was in sight.

Upon examination of the paucity of legal authority, it became clear that the place of

confinement was not a term and condition of a sentence; instead, appellate courts treat a confinement locale as an administrative determination. In my view, although the case law discussed only the authority of prison administrators to effectuate transfers, the enunciated policies should permit the judicial transfer of most of these inmates, provided basic due process concerns were addressed. Following extensive hearings, I ordered the transfer of most of these inmates. The Defender Association filed suit. The Pennsylvania Supreme Court denied relief in a written order. Defender Association of Philadelphia v. Common Pleas Court of Philadelphia, 156 E.D. Misc. Docket 1993.

One year later, the Defender Association filed a second Mandamus/Prohibition action with respect to factual circumstances not addressed by the initial action. The Supreme Court denied relief in this matter as well. Lewis Williams v. Common Pleas Court of Philadelphia, 176 E.D. Misc. Docket 1994.

(d) Representatives of the Judicial Conduct Board interviewed me about the circumstances surrounding Judge Bernard Avellino's refusal to accept the program assignment made by Administrative Judge John Herron. Judge Avellino boycotted this assignment for one week and was suspended without pay by the Supreme Court for three months. In discussing this most peculiar incident in print on January 8, 1997, Philadelphia Inquirer columnist Steve Lopez described me as "...one of the people who have restored a sense of decorum to the local courts in recent years..." With Judge Avellino's accelerated retirement from the bench, the disciplinary complaint was withdrawn.

22. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give the particulars.

No.

23. (a) Are there any unsatisfied judgements against you? If so, list, give all pertinent details.

No.

- (b) Are you in default in the performance or discharge of any duty or obligation imposed upon you by any governmental agency or decrees or order of any court, including, but not restricted to, support orders and decrees?

No.

- (c) Have you ever made an assignment for the benefit of creditors? Has a petition in bankruptcy ever been filed by or against you? If

so, give full particulars.

No.

24.

(b)(6)

25. Have you published any legal books or articles? If so, please list them, giving the citations and dates.

As one of seven judges nationwide who pioneered the field of differentiated case management in the late 1980s and early 1990s, my brief article describing and analyzing the Philadelphia court system's experiences with DCM was published in the Fall 1993 volume of *The Judge's Journal*. A copy of this article is attached. Differentiated case management is currently a staple case processing technique across the country and in Philadelphia.

I have written no other legal articles or books.

26. Have you given any public addresses or speeches of professional import? If so, please state the subject matter and the groups to whom given and when given.

In November 2000, I decided the case of Commonwealth v. Miriam White, an eleven year old charged with the unprovoked and random homicide of a fifty-five year old hair dresser who was walking her dog on her twenty-seventh wedding anniversary. This case garnered significant public attention; my ruling, which was announced in open court, is attached.

27. List any honors, prizes, awards, or other forms of recognition which you have received.

Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the committee.

- (a) In August 2000, I was selected by the United States Department of State for participation in the State Department's "Speakers Program." For two weeks, I addressed members of the judiciary of the Republic of Kenya on justice system improvement, particularly in the area of case processing systems. It was my pleasure to speak with the Kenya Supreme Court as well as members of intermediate appellate courts and the trial bench.
- (b) In July 2000, I received the Golden Crowbar Award from the Pennsylvania State Trial Judges Association. This award is made once annually to the single Pennsylvania trial judge who has made the most significant contributions to the administration of justice in the preceding calendar year. This is the highest recognition awarded by the Pennsylvania State Trial Judges Association.
- (c) On January 26, 1999, President William Clinton placed my name in nomination for service on the United States District Court--Eastern District of Pennsylvania.
- (d) In January 1999, I received the Martin Luther King, Jr. Award from the Black Law Students Association of Rutgers School of Law-Camden in recognition of contributions to the legal profession.

- (e) In November 1998, I received the Thurgood Marshall Award from the Criminal Justice Section of the Philadelphia Bar Association for service to the legal profession.
- (f) On July 30, 1998, President William Clinton placed my name in nomination for service on the U.S. Federal District Court--Eastern District of Pennsylvania.
- (g) In 1998, I received a certificate of appreciation from the President of American University for "demonstrated commitment to the improvement of justice administration in the United States and distinguished contributions ...to the School of Public Affairs."
- (h) In 1997, I received a special commendation from the Attorney General of Pennsylvania for service on the Attorney General's Policy Council on Violence Prevention.
- (i) In 1997, I received a certificate of appreciation from the Chief Justice of the Pennsylvania Supreme Court in recognition of contributions to the Pennsylvania Futures Commission.
- (j) I was selected to participate in the 1997 White House Conference on Hate Crimes. I was one of two judges chosen to participate in this important initiative.
- (k) I was selected by the National Institute of Justice as a participant in the June 1997 "Symposium on the 30th Anniversary of the President's Commission on Law Enforcement and the Administration of Justice." Only a small number of judges from across the country were chosen to participate in this interdisciplinary symposium.
- (l) In March 1997, I was one of ten criminal justice professionals (and the only judge) selected by the United States Department of Justice and the Vera Institute of Justice to meet with Republic of South Africa Minister of Justice Dr. A. M. Omar to provide advice in the development of an effective and fair pretrial release system.
- (m) In March 1996, I participated in a three-day conference sponsored by the Bureau of Justice Assistance (BJA), a division of the United States Department of Justice. BJA invited twenty criminal justice professionals (District Attorneys, Defenders, Supreme Court Justices, Judges, Chief Probation Officers and academics) to participate in an interactive dialogue geared toward redefining BJA future funding priorities.
- (n) In February 1995, at the request of the National Judicial College, I

participated as a member of a National Judicial College Advisory Board in the development of a curriculum on "Building Effective Management Teams in the Courts." Although I was asked to serve as a faculty member for this course in January 1996, my commitments to my court would not permit me to do so.

- (o) In October 1994, Fraternal Order of Police Lodge 92 presented me a lifetime membership and a separate award in recognition of "outstanding service to law enforcement."
- (p) In 1992, the Philadelphia Coalition for Victim Advocacy selected me as the recipient of their Victim Advocacy Award.
- (q) In 1992, Mayor Rendell appointed me Chairperson of a recently-established Task Force on Alternatives to Incarceration.
- (r) The Judicial Study Committee received the Golden Crowbar Award from the Pennsylvania State Conference of Trial Judges in 1990 for its work in examining the structure of the Philadelphia Courts and in developing socially responsible strategies for the future. I am one of the nine judges who worked on this project for two years, and our final report still serves as the blueprint for Philadelphia court reform. I take special pride in this collective award as the Judicial Study Commission was created by the then-Administrative Judge for the narrow purpose of examining the impact of the December 1987 changes to the Pennsylvania speedy trial rule. As a result of our collective observations and concerns regarding the management and direction of the court, we began to scrutinize our institution's procedures, policies, facilities, and administrative structures.

28. List all bar associations, professional societies and judicial organizations of which you were, or are, a member and give the titles and dates of any offices which you have held in such groups. List also chairmanships of any committees in bar associations, professional societies and judicial organizations which you consider to be of particular significance (e.g.) Judicial selection committee, committee of censors, grievance committee).

- (a) Member, Advisory Board, National Judicial College, The Changing Role of the Judiciary, 1998 selected as a member of the Advisory Board to assist in planning a course on the Changing Role of the Judiciary.
- (b) Peer Review Panelist, Bureau of Justice Assistance, United States Department of Justice, 1997 (selected as a local practitioner eligible to review funding applications from other jurisdictions and evaluate technical and funding merit).

- (c) Peer Review Panelist, National Institute of Justice, United States Department of Justice, 1996-1997 (selected as a local practitioner eligible to review funding applications from other jurisdictions and evaluate technical and funding merit).
29. State any other information which may reflect positively or adversely on you, or which you believe should be disclosed in connection with consideration of you for nomination for the Federal Judiciary.

As Supervising Judge of the Criminal Division for over eight years, courtroom responsibilities were only a portion of my duties. My other duties were principally administrative in nature. I directly supervised forty criminal judges and six hundred and fifty employees. I was responsible for all issues of criminal justice policy, planning and implementation. Briefly, I would describe my function as a catalyst for system improvement. I am ever mindful of the constitutional basis for an independent judiciary, but I have come to appreciate the importance, even the necessity, of the leadership of the judiciary being involved in administrative and policy-making functions required for a modern and effective system of justice. Extensive broad-based system improvement has occurred in the last six years.

Under my leadership, the following system improvement activities occurred:

- (1) The Criminal Courts' case processing mechanisms were totally revamped. Our inventory is current, and has been for almost a decade. Today, the criminal courts dispose more than two thousand more cases per year than we disposed of seven years ago when we had twelve additional judges. Case processing refinements and a positive working environment are responsible for this progress.

This evolutionary case flow process commenced in 1989 when then-Administrative Judge Edward Blake selected me to supervise an early intervention treatment program developed by the Probation Department. As a consequence of my involvement and several other factors, the program was fundamentally restructured and a comprehensive case processing approach was instituted. Previously, the court's inventory had increased in eight of ten years and no strategy was in place to respond to the influx of drug-related cases. Utilizing differentiated case management (DCM) techniques, I personally disposed more than 4,700 felony cases in a single year, which represented 23% of the total cases disposed by the 47 judges assigned to the Criminal Division in 1990. In their final report, the Levin Commission, which was appointed by Chief Justice Nix, described this program and approach as "... possibly the most significant innovation in the Philadelphia courts in many a year."

In 1989, when I first realized the potential of differentiated case management, the Philadelphia legal community was skeptical of the approach and did not envision its potential. The DCM techniques for which I was the original local advocate have since been institutionalized throughout the court system. DCM is now the accepted

case management approach throughout the Trial Division. The Homicide Program and Major Felony (or Section Calendaring) Program case processing systems have been totally restructured. The Civil Division's "Day-Backward" and "Day-Forward" Programs, which have reduced, and will continue to reduce, the inventory of civil cases, are mirror images of the Section Calendaring Program, the second case management program I created. The court is now current with its inventory.

(2) A longstanding "cap" on Philadelphia's jail population imposed by a United States District Court Judge no longer is a daily reality in the lives of Philadelphians. The City and the courts have redefined their working relationship in this area, effectively partnering to develop and implement a strategy for return of local control for jail admissions and release decision-making.

In December 1994, attorneys for the City and the courts lost a motion before the federal judge supervising the local jail population ceiling. This motion related to the protection of documents in possession of a consultant employed (on separate projects) by the City and the courts. The documents revealed a two-year work product geared toward restructuring Pretrial Services and creating a new structured framework for pretrial release decision-making, a framework which appropriately balances the defendant's risk of misconduct (flight/rearrest) and the nature of the charges. Both projects were under my direction. Pretrial release, if appropriate, was then conditioned upon the provision of actual supervision by Pretrial Services Officers at a level calculated to address the defendant's basic needs. Within twenty-four hours of receipt of these documents, Judge Shapiro scheduled a conference with counsel and me. Her only question concerned when my efforts in these discrete areas would be completed. After discussion, it was determined that responsibility for jail admissions and pretrial release determinations would be returned to local authorities during the summer of 1995.

Subsequently, efforts continued to restructure Pretrial Services to prepare that agency to satisfy the challenges of the future. It was clear to me that our pretrial release guidelines would confine defendants at a rate higher than prior practices had. I was also cognizant that the return of local control would be temporary, at best, unless the courts and the executive branch developed a coordinated strategy. Following discussions with the highest members of the executive branch and extensive planning sessions, population management figures were established for local jail facilities, and a special release mechanism was developed for alleviating jail populations during overcrowding emergencies. These steps represent a significant shift in the executive branch's approach to achieving removal of the court ordered population cap. Today, system participants work cooperatively to address system shortcomings; this new approach is at the core of recent progress. Cooperative work is also underway to address system shortcomings in the area of post-conviction alternatives.

Recent statistics comparing the rate of misconduct for pretrial releasees in 1992 [Harris v. City of Philadelphia] with the misconduct rate for 1996 releasees [local decision making]

reveal that rate of rearrest while in pretrial status has been reduced by 45% under locally developed and implemented guidelines. Over the same period, the failure to appear rate has been reduced by 25%.

(3) The Criminal Justice Center was completed in 1995 and currently houses the criminal courts. Planning for this building occurred over ten year period and, in the last two years, involved all criminal justice partners in the review and revision of basic operational procedures. Under the shared leadership of the Executive Court Administrator and me, these thirty criminal justice officials met biweekly to analyze current practices and procedures, and to anticipate and plan for the future. At one point, twelve separate subcommittees were operational. Our vision saw development of the building as an opportunity to address and correct the shortcomings of City Hall and, in large part, we succeeded in this endeavor.

(4) A working partnership has been established between the Health Department and the criminal courts. The benefits of this partnership are manifested in two concrete ways. First, all defendants in need of substance abuse treatment receive a medical assessment which determines the recommended level of care. Prior to my tenure, the judiciary had no tool available to accurately assess level of care. This resulted in an inefficient use of treatment spaces because no determination was made as to the defendant's actual needs. Previously, members of the judiciary were forced to compete to secure treatment beds for defendants. For the past four years, the courts and the Health Department have been working in a coordinated fashion, medical examinations are conducted in all instances and the limited bed space is effectively utilized.

Second, the First Judicial District received a \$5.75 million dollar grant from the Center for Substance Abuse and Treatment to develop and implement a treatment network for female defendants. The Health Department, which treats many criminal justice clients from a different vantage point, partners with the courts in this project. Our objective is to develop a comprehensive and coordinated system providing services regardless of the defendant's custody or bail status and making them accessible at the pre-trial and post-conviction stages. This continuum of services does not currently exist anywhere in the country. I am the coordinator of this project.

(5) A significant portion of my energy has been devoted to the process of creating a rational system of community sanctions. As a direct consequence of my activities, more than \$18 million in new monies were brought into the court system in the last eight and a half years to further these goals. Two successive Governors have created a dedicated funding stream to support county intermediate punishment efforts. In all instances, I was principally responsible for local program structure; in many cases, I wrote the local court's application for funding; on occasion, I participated in educating funding sources about the value of the proposed projects.

(6) An effective education program for Criminal Division judiciary was established in December 1995. The curriculum was established by senior Criminal Division

judges. The interactive learning sessions were conducted principally by members of the bench. The objective, quite simply, was for experienced judges to provide substantive knowledge about criminal and constitutional law as well as guidance concerning the nuances involved in creating and operating an effective courtroom. Currently, similar judicial educational programs focusing on a specific topic are conducted biweekly.

As you perhaps appreciate, much progress has occurred with the operation and structure of the Philadelphia criminal justice system in recent years. Much is attributable to the court's effective coordination with local, state and federal authorities. Another source of the progress is the important links I have been able to establish with the research, academic and treatment communities. These relationships permit the First Judicial District to progress toward its goal of a responsible and responsive judicial system. As criminal justice challenges are shared across agency and discipline boundaries, solutions and approaches must be coordinated as well.

30. Why do you wish to become a Federal Judge? What special strengths do you feel you possess that would particularly well-qualify you for the position of judges?

On a personal level, it should be understood that I am a public servant. I have spent the majority of my professional life either as a state court judge, or in the practice of public interest law. After moving every two or three years as a youth in my parents' household, I made my home in Philadelphia. After never truly having a home community, I have a strong desire to return to this area some of the benefits it has given me. To this point, I have sought to make these contributions as a city attorney and as a member of the state trial bench. While both positions have given me satisfaction, and while I know I could continue to make social contributions as a state trial judge, I would not be at ease with myself if I did not aspire to the federal bench. Despite the rewards of my present position, and the multifaceted efforts at system improvement, I am capable of greater contribution. Primarily for this reason, I redefined my duties as a Common Pleas judge. I would welcome, and would be honored by, the opportunity to administer justice on a higher plane.

I am familiar with many of the issues presently facing the federal judiciary. In many respects, they parallel the challenges to the local judiciary. Federal court inventories continue to grow. Through my leadership, imagination, and labors, the Criminal Division anticipated the challenges of the future, responded, and continues to respond, adequately and appropriately. We are current in our inventory. Principles of case management have application beyond the Philadelphia courts. I enjoy the challenge of creating greater efficiencies with level resources. I would welcome the potential opportunity to contribute to the Philadelphia Federal District Court's efforts to manage its caseload and address issues inherent in the proper administration of justice. As the federal court undergoes thoughtful change, my background and experiences should demonstrate how much I have to contribute.

In my years on the Philadelphia bench, I have demonstrated a tireless energy and a far-reaching capacity to undertake major projects for the court. I will work as hard as necessary to complete the assigned task to my standards. If the existing procedures or systems are not effective, it becomes my responsibility to improve them. My essential characteristic is the ability to function effectively within the established rules of the court system while encouraging the gradual process of reform. Whether playing ball, enjoying my children, photographing the wonders of nature, designing and constructing furniture, renovating my one hundred and twenty-year-old house or trying to change the very nature of local legal practice, I give my very best. It would be a high honor to contribute this proven personal and intellectual energy to the federal court system.

My energy and perspective are best understood as a product of family values. My roots are lower-working class. My father went to the ninth grade; my mother, the seventh. My father worked twelve hours each day at two jobs during my youth, and my mother cleaned houses and made clothing so that her sons might have a wider range of choices than those with which she was presented. I am the second member of my extended family to graduate from high school, preceded only by my brother who is two years older than me. Although both parents instilled the value of hard work in me, this quality has long been present in my family. Upon his retirement at the age of 73, my paternal grandfather, a textile mill worker in small-town Alabama, received an award from his employers in recognition of his forty years of exemplary service. As he told me at the time, "this has only ever been given to three people--two white men and me." I was proud when he shared the significance of this award with me, for we both knew he had made the most of his opportunities. My professional arena differs from his, but my desire to excel is the same. As a consequence, it is my professional nature to labor intensely. I have supported myself one hundred percent since I was seventeen years old, and I hope that I will ultimately be able to say that I have made the most of my opportunities. I am not satisfied with anything short of my best effort. In submitting this application, my goal is not prestige or recognition, but the opportunity to make a larger contribution.

I can contribute an understanding and appreciation of the ordinary man who has not had the opportunity to attend college or practice a profession as elevated as the law. My family background and personal experiences, which are broader than many, have shaped my judicial philosophy. As a consequence, my commitment to fairness and equal justice is more than an intellectual abstraction--these values are the beacons by which I direct my life.

31. Do you authorize the Federal Judicial Nominating Commission of Pennsylvania to make inquiries to, obtain information and review records of Federal, State and Local government agencies and any legal or judicial enforcement agencies, including the United States Department of Justice, pertaining to matters relevant to your being considered as an appointee to judicial office?

Yes.

32. Are you aware of any facts that would inhibit your appointment and ability to serve as a judge of the United States District Court? If your answer is yes, please give the information relative thereto.

No.

33. Is there anything in your background that could be embarrassing when thoroughly investigated?

No.

34. Do you feel that your practice has offered you the opportunity of being a good administrator?

As described throughout this application, not only has my practice afforded me the opportunity of being a good administrator, I have developed excellent administrative skills. It must be appreciated that the Philadelphia courts previously enjoyed a well earned local and nation reputation for resistance to change. Under my leadership, the Criminal Courts are now on the national cutting edge on a number of fronts. Change does not occur because of the inherent powers in an exalted position, but rather because of a clearly communicated and shared vision coupled with an ability to convince parties and institutions with disparate perspectives to work together for the common good. This is the essence of effective administration. In my view, administration is one of my strengths.

35. Kindly date and sign your name at the conclusion of your answers.

NAME

DATE

Commonwealth of Pennsylvania v. Miriam White
Ruling of Judge Legrome Davis
November 2, 2000

The lawyers have not agreed in this case. The hybrid solution--which would give Miriam treatment in the juvenile system as a youth and supervision in the adult system during adulthood--will not happen. This solution would have satisfied both dimensions of justice: rehabilitation for Miriam and protection for the community. As we have discussed earlier, the statutory structure in the Pennsylvania does not give this court the ability to achieve this result on its own.

I cannot tell you why the lawyers were unable to agree. I can only tell you that last week an offer that would have kept Miriam in treatment until the age of 21 and out of jail as long as she worked at improving herself and did not commit any new crimes was rejected. I believe the defense rejected treatment with probation because they characterized it as a setup for failure.

Those of you who were in court last Friday heard this offer expressed and witnessed its rejection. If this offer had been accepted last Friday, Miriam would be in the Brown School today. For reasons I cannot explain, the treatment which is so obviously in Miriam's best interests was turned down.

Last week's offer is no longer on the table and there will be no agreement to the new, much less treatment-oriented, offer from the Commonwealth.

And I will decide this case, without being able to provide the full measure of justice which was available to counsel. My options are only two: to send her to the Brown School, where supervision will end at the age of 21 whether Miriam's issues, and the danger she presents to others, have been resolved or send her to the adult system where, if convicted, she will not receive the high caliber of treatment offered at the Brown School.

A fair application of the law to the facts of this case requires the denial of the defendant's decertification petition. First, the defense has the burden of proving that decertification is in the public interest. If the defense fails to meet the burden, the petition fails.

In deciding whether the defense has met this burden, the court must consider many factors, including the impact of the crime on the victim and the victim's family, the impact of the crime on the community, and whether the defendant is amenable to treatment.

Initially, the impact upon the victim is great. Rose Marie Knight is no longer with us. A complete stranger took her life on her wedding anniversary. She does not even know why she died. Her husband, Jerome Knight, carries on with quiet dignity although his world will never be the same. Incredibly, he is willing to forgive. He wants Miriam to get treatment provided the law can guarantee that "she will never do it again." He has uncommon compassion and understanding. Yet, in his pain, he tells us something important: we must know that Miriam will

never commit a senseless and violent act like this again.

The impact of this crime on the community is complex. A vibrant life was senselessly taken in a random attack by a total stranger. All people in the community must be free to walk the streets without fearing assaults of this nature, no matter what the cause of the behavior. Homicidal rage, even in an 11-year-old, affects us all.

On the other hand, Miriam White has been seriously mentally and emotionally damaged by her life experiences. As a community, we have a responsibility to improve those among us who are not what they should be. It would be right to give Miriam White the opportunity to improve herself.

As I said earlier, last week's plea offer provided the opportunity for treatment. As long as Miriam worked at treatment and did not commit any new crimes, she would have stayed out of jail. It was rejected apparently because it did not contain enough guarantees for the defense. Well, probation is never a guarantee. It is an opportunity to prove yourself and improve yourself. If you do well, you remain in the community. If your behavior falls short of expectations, the law evaluates that behavior and tries to reach a just result. This is the way the law has always worked. Ask anyone who has ever been on probation. Yet, for some reason, the standard application of the law was not acceptable in this case.

This court expended great effort in trying to secure treatment for Miriam. I did this, in part, out of recognition of the importance of the community that Miriam receive treatment. I made special efforts because my sense of social responsibility dictates that we try to help Miriam. Unfortunately no one can force a party to accept an offer, although it comprehensively addresses their treatment needs while providing adequate protection to the community. It is the lawyers who rejected the offer who must explain their reasons and why this rejection was in Miriam's best interests. But, when such an offer is rejected, my desire to help Miriam cannot be replaced with exoneration of her behavior in disregard of the clear dictates of the law.

I have done all that my view of the law allows me to do to help Miriam gain treatment. The law does not allow me to excuse this behavior just because she is ill. Her illness does not rise to the level of a legal defense.

The question of amenability decides this case. Amenability means: will Miriam be cured by the age of 21? Are reasonably certain she will never again harm anyone? We do not send someone back to juvenile court on a murder because we **hope** they will get better. We send them back because we **know** they will get better. That is why Lakesha Graham, another 13-year-old African American female charged with homicide, was returned to juvenile court in this very courtroom just last week.

In this case, both sides presented experts on amenability. All of the experts tell me Miriam's serious issues will continue into adulthood.

Dr. Benedek, the former president of the American Psychiatric Association, and a special consultant to the Secret Service (which is charged with protecting the President) testified in this matter. She expressed the strong and credible opinion that Miriam will present issues of potential dangerousness for a long time. I was told by Dr. Benedek, one of the foremost experts in the country on violence committed by children, that Miriam could harm again. She said to me: "I think it's highly likely that there will be another tragedy . . . I am concerned about this and I think that is a very likely possibility."

Dr. Benedek also told us she has "grave concerns about her amenability to rehabilitation in the juvenile system." She doubts that Miriam can be fully repaired by the age of 21. At whatever point Miriam is returned to the community, the doctor advised, it is imperative that she receive strong structure and strict supervision.

On the witness stand, the doctor identified the large number of risk factors Miriam presents. She then discussed her examination of Miriam. The doctor told me "within ten minutes of the [beginning of the] evaluation she talked about her fantasies of killing and hurting people, fantasies that she continues to have while incarcerated, and those people ranged from COs to her family, the family that she's living with, her adoptive mother, her siblings, aunts, uncles and cousins and they're right on the surface and she told us about them."

I find Dr. Benedek to be knowledgeable and credible. She is one of the premier experts in the country and has examined and consulted on more than 100 youths charged with murder. She has provided advice which helps protect our President. Her manner was non-aggressive and compassionate toward Miriam. I believe the doctor when she tells me "Miriam is a special case" who presents unique issues of dangerousness and rehabilitation. I have handled more than a thousand decertification cases in the last five years. I have not seen a case presenting all of the issues evident in Miriam.

Dr. Heilbrun, the defense's principal expert, convinces me that Miriam's supervision cannot end at the age of 21. Dr. Heilbrun has been in front of me on many occasions. He is a credible and truthful professional. He writes "Miriam's amenability to interventions in risk-relevant areas appears to be mixed, judging from her history. Historically, Miriam's progress while in a structured residential treatment facility has been good. However, Miriam's behavior has deteriorated when placed back into the community."

He calls her a "moderate to high risk for future offending." He says that we should be concerned about her "destructive and self-injurious behavior when released from residential placement." He says that her performance in the community in the past has been "relatively poor" and concludes by stating that Miriam will need long-term and "intensive aftercare services when she is released."

In a nutshell, the doctor tells me that unless Miriam is supported upon return to the community, we can expect her to lose the gains made in treatment. If she loses those gains, she

will be a danger to herself and she will be a danger to others. Remember that Miriam had been released from a residential psychiatric placement for less than three weeks when she stabbed Mrs. Knight. Remember that she was not receiving any community-based services when this crime occurred.

In no way does this defense testimony establish amenability. Rather it tells of her high risks and the dangers she presents if she is not supported and maintained in the community in a particular way. The doctor calls her amenability to treatment "mixed." That means, it is an open question in the doctor's mind. There is no certainty that they can cure her. The defense's own expert cannot satisfy the burden of proof here.

Let me say one other thing about these examinations. All of the doctors found that Miriam functioned at a higher cognitive level than her test scores showed. Dr. Heilbrun wrote: Miriam's receptive communicative abilities surpass expressive skills, due to speech difficulties." This means she understands more than she says. Dr. Heilbrun also said she is "correctly oriented as to time, place and person." All of the doctors who have examined her in the last year have found that Miriam knows where she is and why she is there. Dr. Benedek testified that "Miriam functions at a low level academically, but a higher level intellectually."

In the conversations I have had with Miriam throughout this case, I find that while she has clear and significant limitations, she functions higher than has been written in the media. She has cognitive skills. She is capable of judgment. She is capable of planning. She knows right from wrong. She has an awareness of much that is around her. Much of her behavior is geared toward gaining attention. As she told Dr. Helbrun, "I just act up if I don't get my way, if I don't get a lot of attention."

Here is the biggest difficulty with this case: in Miriam's short history, she presents much evidence of dangerousness, most of which occurs when she does not get her way. It was my hope that the Brown School would have the opportunity to try to address this issue, with the strong safety net of structured supervision in the community. This was a risk worth taking.

But I cannot send Miriam back to juvenile court absent some guarantee that she will receive supervision and assistance after the age of 21. If Miriam went to the Brown School, I expect that Miriam would improve by the age of 21, but I do not know that her issues would be permanently resolved. If they are not resolved, Miriam's past tells us she will present great risk to the public if she is released unsupervised into the community. We all know a person's past behavior is the best indicator of their future behavior. Given Miriam's past, I cannot let her return to the community without proper intensive supervision.

In August 1999, Miriam stuck a knife six inches into the heart of a total stranger. Her anger arose because someone said something to her about letting the cat out of the house. Minutes after the incident, she told the arresting officer "I wanted to kill the lady. That's why I stabbed her in the heart." Hours after the stabbing, homicide detectives asked her questions. She

demonstrated a clear knowledge of right and wrong. She told the detectives that it is wrong to kill someone with a knife or a gun. She told the detectives that her purpose in stabbing Ms. Knight was to get to "go back to Wood Services, I didn't want to be with my family."

Months later, Miriam told the psychiatrist that she committed this offense because of her belief that "if I hurt someone, I don't have to go home." She told the doctor she got a knife and put it under her coat. In Miriam's words, "I didn't want nobody to see me with the knife . . . [I] thought they would call 911." All the while, Miriam told the psychiatrist, she was " . . . still thinking [she was] going to hurt someone."

Miriam also told the psychiatrist that she wanted to "hurt a grownup, not a teenager or a kid or a baby." She recounted that she saw kids, but walked past them before she came upon Mrs. Knight. When she saw Mrs. Knight by the church, she pulled the knife from under her clothing and stabbed her. Miriam said to the psychiatrist, I " . . . stabbed that lady. I didn't think she had any kids. Right then, I didn't care. I was just mad." Why was it important to stab a woman without children: as Miriam told the psychiatrist, "kids need their mothers."

Planning, analysis and judgment are evident in this process. Miriam clearly thought about what she was going to do: she intended to stab an adult, not a child. She intended to stab an adult without children. She knew the wrongfulness of her acts. She told the detective it is wrong to stab people. She said it is wrong to kill. When she got the knife, she hid it in her clothing so no one would call 911. In her convoluted way, Miriam weighed the violence and decided to do injury to a particular type of person--an adult without children. She walked past children until she saw Mrs. Knight.

All of this was done so that Miriam could obtain her goal of moving to another residence. This entire case is about what Miriam will do in order to get her way.

Dr. Benedek is right: this behavior is unprecedented for an 11-year-old girl. There is too much conscious calculation, twisted though it is. The distorted reasoning is all too evident. I am frightened by these thought processes. I cannot ignore the clear reality of the casual and purposeful violence of Miriam's mind.

The next act of violence which alarms me occurred in October 1999. While in the Philadelphia jails, Miriam tried to stick a pencil in a tutor's head. A prison guard grabbed her hand, as it was in motion, preventing serious injury to Ms. Williamson, whom Miriam told me she cared for. Miriam told me she tried to stab the tutor because she wanted Miriam to work on her lessons, and said she would leave if Miriam didn't.

The ease with which Miriam will cause injury to friends and strangers in order to gain her way frightens me.

While in jail, Miriam has been charged with five assaultive incidents, some of which

happened after Miriam assured me privately that she would behave. I will not chronicle her multiple threats to hurt and kill others.

I must, however, say one additional thing about Miriam's experiences in jail. I need to speak of my concern about Miriam's writings of September 2000, which were subject of a court hearing. These writings **convince** me that I must deny this decertification, that I would act irresponsibly if I did otherwise.

They make me wonder about the true costs of releasing Miriam without sufficient control and supervision. They convince me that I am not prepared to pay the price of being wrong.

In September, Miriam wrote: "I want to steal guns from the gun store."

"I want to be a serial killer."

"I want to kill my sister and brother."

"I don't feel sorry for Ms. Knight."

"I am glad she died."

"I hope she is in hell."

"I want to kill my family."

I know Miriam is tortured by many demons. I really want to be of help to her. But I cannot let Miriam loose in the community, today, tomorrow, or when she is 21 without sufficient knowledge that she will either be cured or be maintained in such a way that she will present minimal risk to the public. I am not prepared to pay the price of being wrong. I have to take Miriam's threats seriously in light of her past violent acts. Without the safeguards of the failed agreement, I have no assurance that when Miriam next experiences rage, her anger will pass without injury to another.

It is truly regrettable that the lawyers could not reach an agreement. Miriam needs the Brown School until she is 21 and careful supervision for a long time thereafter. Last week's sentence would have provided adequate protection to the community. It would have helped Miriam. That was the only way to give Miriam all that she needs. The defense should have taken that offer.

This case turns on every experts' concern--both defense and Commonwealth--about whether Miriam will be able to maintain treatment gains when she returns to the community. It turns on our clear knowledge that she will always need supervision to be productive. It turns on my deep worries about her desire to harm others--her mother and her family, for example. It

turns on the violence and injury Miriam has caused in the past. It turns on her statement that "I am glad that Ms. Knight died."

There is no joy in death and anyone who thinks so does not understand the value of life.

Miriam White is not a symbol of disparate treatment by race or class. She is sad, damaged and disturbed child who needed our help before she hurts someone else. She is a person who could be receiving help in the Brown School right now if last week's offer of treatment with no jail had been accepted.

I do not say these words to embarrass Miriam or you, Mrs. Stevens. I speak with detail because it is important that the public have a full understanding of why this petition must be denied. It is important that the public know that the defense rejected the exceptional offer of probation and treatment on a murder charge.

I cannot exonerate Miriam just because I feel sorry for her. I cannot return Miriam to juvenile court just because her life story makes my heart weep. My oath as a judge requires that I decide this case on the basis of the proofs in court.

The decertification petition is denied.

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- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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