

Withdrawn/Redacted Material

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Resume	[Resume] [with Attachments]	12	N.D.	b6;
002	Application	Personal Data Questionnaire [15 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	15	03/05/2001	b6;
003	Application	Personal Data Questionnaire [18 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	18	03/06/2001	b6;
004	Resume	Biography...	4	N.D.	b6;
005	Application	Personal Data Questionnaire [14 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	14	01/17/2001	b6;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

Pennsylvania Judicial Candidates [6]

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]
- 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]

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.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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 [27 PAGES RELEASED IN PART FOR (b)(6) ON PRA RE-REVIEW 09/09/2025 JLS]	27	01/29/2001	b6;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

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2017-0345-F

2018-0016-P

2018-0016-P

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Withdrawn/Redacted Material

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SUPERSEDED

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COLLECTION TITLE:

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Withdrawal Marker

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**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

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SERIES:

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FOLDER TITLE:

Pennsylvania Judicial Candidates [6]

FRC ID:

9123

OA Num.:

342

NARA Num.:

238

FOIA IDs and Segments:

2018-0016-P

2017-0345-F

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March 7, 2001

PRESIDENT JUDGE JAMES KNOLL GARDNER

BIOGRAPHICAL SUMMARY

President Judge James Knoll Gardner has served as Judge of the Court of Common Pleas of Lehigh County, Pennsylvania since May 29, 1981. Initially, he was nominated by former Pennsylvania Governor Dick Thornburgh and confirmed by the Pennsylvania Senate. Thereafter, he was elected to a full 10-year term as the nominee of both the Republican and Democratic parties in the November 1981 General Election. At the November 1991 General Election he was endorsed by both parties and retained for an additional full term.

The Court of Common Pleas is a trial court of unlimited general jurisdiction. It hears all matters, including civil, criminal, juvenile, domestic, equity, injunctions, adoptions, incompetencies, and estates. Judge Gardner has presided over 255 jury trials. The court also functions as an appeal court as the first level of appeal from its orders and verdicts. (In this capacity, Judge Gardner has written 637 legal opinions.)

From 1981 to 1991 Judge Gardner served in all divisions of the court. He presided over civil and criminal jury trials, non-jury trials, hearings, settlements, sentencings, injunctions, motions and appeals. Since 1984 he functioned as auditing judge for estate, guardianship and trust accounts, including the Harry C. Trexler Trust, Dorothy Rider Pool Health Care Trust, the Century Fund, and the Dexter F. and Dorothy H. Baker Foundation. (In this capacity, Judge Gardner has authored 326 orphans' court opinions and adjudications.)

From 1987 to 1991 Judge Gardner was in charge of major complex civil cases, the civil pre-trial settlement program, and the medical malpractice conciliation program, which he developed in 1988 to speed up the disposition of cases, encourage settlements, and free judges to perform other duties.

In his 1988 State of the Judiciary Report to the Lehigh County Bar Association, President Judge John E. Backenstoe publicly commended Judge Gardner for his "skillful supervision" of the medical malpractice program, which Judge Gardner instituted in Lehigh County. In his 1985 Report, Judge Backenstoe commended Judge Gardner for his work in the civil division for disposing of 941 major civil cases, an increase of 92% over the previous year: "This absolutely astonishing figure was achieved in the settlement column. Settlements went from 276 to 498. Judge Gardner handled most of the civil case load and he developed a remarkable ability to resolve cases...."

On April 16, 1989 Judge Gardner was appointed by Chief Justice Robert N.C. Nix, Jr. of the Supreme Court of Pennsylvania to preside as Trial Judge by special assignment in the Philadelphia Court of Common Pleas in Bradley v. Goode, a lawsuit by all of the Judges of the Court of Common Pleas, the Municipal Court, the Traffic Court, the Sheriff, Clerk of Quarter Sessions and Register of Wills, in Philadelphia against the Mayor, Finance Director, Treasurer and City Council of Philadelphia, seeking adequate funding for the Philadelphia Judicial budget. In part

as a result of Judge Gardner's efforts, this lawsuit, which involved a twenty million dollar dispute, settled out of court.

From 1992 through 1994 Judge Gardner served as Administrative Judge of the Criminal Division. As such he was in charge of the criminal and juvenile courts, the three judges who served those courts, the Adult Probation Department and the Juvenile Probation Department. In this position he presided, almost exclusively, over criminal trials, hearings, motions, arguments, appeals, guilty pleas and sentencings, as well as juvenile hearings, including dependency and delinquency matters.

As part of a major court reorganization, he designed the new Criminal Division and its procedures to speed the flow of cases, including judicial control of the docket, continuous jury trials and hearings, mandatory arraignments and list calls, diversionary programs, streamlined procedures, appointment of a full-time and a part-time Juvenile Master, a one-day/one-trial jury service system, and so forth.

In a report dated September 21, 1992 entitled "Improving the Pace of Litigation in the Lehigh County (PA) Court of Common Pleas", the National Center for State Courts commented on Judge Gardner's administrative innovations as follows: "The case-processing changes that have recently been implemented in the Criminal Division...are praiseworthy, and the leadership exhibited by the division's administrative judge...enable the division to make notable improvements in the management of criminal cases."

From 1995 through 1996 Judge Gardner served as a Judge in the Civil Division. In this position he presided over civil jury and non-jury trials, hearings, motions, arguments and appeals in all civil litigation matters. These include personal injury, products liability, professional negligence, commercial litigation, banking litigation, real estate disputes, mortgage foreclosures, and so forth. He handled all pre-trial, trial, and post-trial, aspects of the nearly 600 civil cases on his individual calendar.

In 1996 Judge Gardner also served as Administrative Judge of the Orphans' Court Division. As such he was in charge of the orphans' court, the three judges who served that court, the Director of Orphans' Court Operations, the Clerk of the Orphans' Court and staff. This court handles all matters concerning wills, estates, trusts, guardianships, incompetencies, adoptions and termination of parental rights.

On December 10, 1996 Judge Gardner was elected by his judicial colleagues to serve as President Judge of the Court of Common Pleas of Lehigh County for a five-year term commencing January 6, 1997. In this capacity he is the official in charge of the judicial branch of government in Lehigh County. He oversees nine Judges, three Administrative Judges, four Senior Judges, 14 District Justices, and 363 judicial employees. He has administrative responsibility for 16,700 cases filed each year and for a \$17,300,000 judicial budget. His functions include negotiating with the Lehigh County Executive and the Lehigh

County Commissioners concerning matters of judicial administration.

Presently, Judge Gardner serves as a Judge in the Civil Division, Motions/Family Court Division, and Orphans' Court Division. As a Judge in the Motions/Family Court Division he presides over family court hearings and matters including divorce, custody, visitation, support, equitable distribution of marital assets and protection from abuse matters. He also presides over miscellaneous motions and injunctions.

Judge Gardner also handles miscellaneous criminal matters, including probation and parole violation hearings and Post Conviction Relief Act hearings. He also presides over one or two criminal homicides each year.

Judge Gardner, age 60, is a native of Lehigh County. He is an honor graduate of Emmaus (Pennsylvania) High School. He graduated from Yale University magna cum laude, and from Harvard Law School.

Prior to becoming a judge, he was a partner (together with his father and sister) in the law firm of Gardner, Gardner & Racines, engaged in general practice in Allentown. (Each partner in this family firm have, at one time, served as judges. Judge Gardner's father, Honorable Theodore R. Gardner (now deceased) was a Lehigh County common pleas judge in the mid-1950's. His sister, Honorable Audrey Gardner Racines was a District Justice in the county in the 1970's and 1981.) Before that he was an

associate, specializing in litigation, with the Philadelphia law firm of Duane, Morris & Heckscher.

From 1977 to 1981 Gardner served as First Assistant District Attorney of Lehigh County; and from 1972 to 1977, as an Assistant District Attorney. He served as Solicitor to the Lehigh County Treasurer from 1971 to 1977.

For more than three years, Gardner served on active duty with the United States Navy. He served 28 years in the Naval Reserve, retiring with the rank of Captain on September 1, 1993. From May 5, 1992 until his retirement Captain Gardner served as an Appellate Military Judge on the United States Navy-Marine Corps Court of Military Review in Washington, D.C. (now known as the United States Navy-Marine Corps Court of Criminal Appeals). This is an intermediate appeal court which hears and decides automatic appeals from every serious Navy and Marine Corps Court-Martial conviction worldwide. This is the highest judicial appointment available to a military officer. Prior to Judge Gardner's appointment by the Judge Advocate General of the Navy, no Navy Reservist had ever served on this military appeal court.

From 1990 to 1991 Captain Gardner served as Commanding Officer of the Naval Reserve Trial Judiciary Activity, a national military unit, located in New Orleans, Louisiana, consisting of 14 Naval Reserve Military Judges, who preside over active duty military courts-martial.

In his capacity as Military Judge, Captain Gardner presided over 77 active duty military courts-martial between 1986 and 1991, including 9 General Courts-Martial and 68 Special Courts-Martial. His military judicial duties took him to locations around the world, from the United States to Europe and the Far East. He presided on land and aboard ship. He presided as a Military Judge in Norfolk, Virginia; Pensacola, Jacksonville and Orlando, Florida; San Diego and Coronado, California; Corpus Christi, Texas; Rota, Spain; and Okinawa, Japan.

Captain Gardner has been awarded nine military decorations, including the Navy Commendation Medal for Heroism. On October 11, 1991 he received from the President of the United States the Meritorious Service Medal "for outstanding meritorious service as a Military Judge while serving with the Naval Reserve Trial Judiciary from October 1985 to October 1991."

Judge Gardner is active in civic and community affairs. He serves on the Board of Directors of the Allentown Symphony Association, Boys and Girls Club of Allentown, and the Police Athletic League. He is a founder and Charter Member of Friends of the Emmaus Public Library. He is First Vice President of the Allentown Symphony Association. He is a member of the Advisory Committee of the Minsi Trails Council, Boy Scouts of America, and of the Board of Associates of Muhlenberg College. He serves as a member of the 15th Congressional District Military Academy Selection Board. Previously he served on the Board of the United Way of Lehigh County.

He is a former President of the Pennsylvania Conference of State Trial Judges and served as Editor of the conference newsletter, Jurispondence, which he created. He has served as a delegate to the National Conference of State Trial Judges, and serves on three national judicial committees.

Judge Gardner serves as a member of the Third Circuit Task Force on Management of Death Penalty Litigation of the United States Court of Appeals for the Third Circuit. He also serves as a member of the Pennsylvania Bar Association Council on Judicial Independence and as Chair of the Council Education Committee.

He is a member of the American Judges Association; the American, Pennsylvania, Mississippi, and Lehigh County, Bar Associations, and the Okinawa Bench and Bar Association. He serves as a Master of the Bench in The Donald E. Wieand, Sr. American Inn of Court, and as a member of the Bench-Bar Liaison Committee of Lehigh County.

Judge Gardner is a member of The Pennsylvania Society, the Board of Regents of The National Eagle Scout Association, the Yale Alumni Schools Committee, the Voluntary First Defenders, the Judge Advocates' Association, the Naval Reserve Association, the Navy-Marine Corps Retired Judge Advocates Association, and St. John's United Church of Christ in Emmaus, where he serves as an Elder.

Previously he served as President of East Penn Center, Inc., a non-profit corporation for the operation of a teen center

which he co-founded; Solicitor of P.H.O.N.E., Inc., a volunteer emergency telephone referral service; and Solicitor for the East Penn Area Jaycees. He also served as a member of the Board of Directors of the Emaus Building and Loan Association (now known as Patriot Bank), and the Board of Abco Abstracting Company of Lehigh County, Inc.

Judge Gardner has served as Chairman of the local United Way Committee on Areawide Relationships and the East Penn School District Year-Round School Study Committee.

As a Boy Scout, Judge Gardner received the Eagle Scout Award with Silver Palm, the Explorer Silver Award and the God and Country Award.

Judge Gardner has received numerous awards, including the Distinguished Eagle Scout Award conferred by The National Eagle Scout Association of the Boy Scouts of America; the designation of Regent for Life of The National Eagle Scout Association; the Special Achievement Award from the Pennsylvania Bar Association for "commitment to educating Pennsylvanians about the justice system and to protecting the independent judiciary"; the Liberty Bell Award from The Bar Association of Lehigh County for contributions to the legal system and improvement of the legal system; the Jurist of the Year Award from the Lehigh Law League; the Distinguished Citizen Award and Distinguished Service Medal from the Marine Corps League; an Appreciation Award from the United Veterans of Wars of the United States "in recognition of exemplary display of citizenship"; a Certificate of Merit from

the Chief of Naval Operations; a Certificate of Recognition by the Pennsylvania Police Officer's Association for "outstanding contributions to the concept of leadership"; the East Penn Area Jaycees Distinguished Service Award; the Lehigh-Northampton Counties Legal Secretaries Association Boss of the Year Award; "High Orations" at commencement from Yale University; and "Ranking Scholar", Yale University.

Judge Gardner has served as a Guest Lecturer in "Military Law" at the University of Mississippi Law School and has been a teacher, lecturer and instructor at the Pennsylvania Bar Institute, Allentown College of St. Francis de Sales, Lehigh County Community College, Pennsylvania College of the Judiciary, the Pennsylvania Commission on Crime and Delinquency, Allentown Police Academy, Naval Reserve Officers' School, and the Bar Association of Lehigh County.

As a recreational runner, Judge Gardner has competed in several long distance races including the Marine Corps Marathon (26.1 miles). He performs classical clarinet solos for local organizations, including the Allentown Symphony Holiday Carousel. He has sung on several local choirs. And he has directed and acted in numerous amateur and professional theatrical productions.

In his leisure time, Judge Gardner enjoys family activities, public speaking, reading, coin collecting, long-distance running, weight training, tennis, spectator sports,

jazz, chamber music, attending the theater and symphony, playing the clarinet and piano, and singing.

Judge Gardner and his wife Linda have four daughters: Christine, Andrea, Victoria and Stephanie. Christine L. Hanna is the Director of a child abuse prevention and domestic violence program in Allentown, Pennsylvania. Andrea T. Merrill is a piano teacher and professional accompanist in Ithaca, New York. Victoria L. Gardner is a Sophomore at Yale University in New Haven, Connecticut. Stephanie E. Gardner is a Freshman at Emmaus High School. The family resides in Emmaus, Upper Milford Township, Lehigh County, Pennsylvania.



THE COURT OF COMMON PLEAS

JUDGES' CHAMBERS

633 COURT STREET

READING, PENNSYLVANIA 19601

JEFFREY L. SCHMEHL
JUDGE

AREA CODE 610
478-6952
FAX 478-6449

June 18, 2001

Office of White House Counsel
Mr. Brett Kavanaugh
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

RE: Interview - Thursday, June 21st, 2001

Dear Mr. Kavanaugh:

As per our telephone conversation, please find enclosed the materials you requested. Should you require any further information or material, please do not hesitate to contact me.

Thank you again for your cooperation in this regard.

Very truly yours,

Jeffrey L. Schmehl, Judge

JLS:bap
Enclosures

FEDERAL JUDICIAL NOMINATING COMMISSION
OF PENNSYLVANIA
PERSON DATA QUESTIONNAIRE FOR APPLICANTS
CURRENTLY ON THE BENCH

1. Full name and social security number.

JUDGE JEFFREY L. SCHMEHL

(b)(6)

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

OFFICE: (610) 478-6952
Berks County Services Center
633 Court Street
Reading, PA 19601

HOME:

(b)(6)

(b)(6)

3. Date and place of birth.

(b)(6)

Reading, PA

4. Are you a naturalized citizen? If so, 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, if applicable).

Married to: DEBRA JEAN GRIFFITH SCHMEHL
September 5, 1982

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 grounds.

NO

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

KRISTIN L.	16	HOME	STUDENT
KEITH J.	14	HOME	STUDENT
KURT A.	11	HOME	STUDENT

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. (10 lines)

DICKINSON COLLEGE (1973-1977)
Carlisle, PA
B.A. (English Major)

UNIVERSITY OF TOLEDO SCHOOL OF LAW (1977-1980)
Toledo, Ohio
JURIS DOCTOR

8. As of the time 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.

PA SUPREME COURT (PENNSYLVANIA COURTS)	-	12-01-80
U.S. DISTRICT COURT (EASTERN DISTRICT)	-	03-30-81
3RD CIRCUIT COURT OF APPEALS	-	11-15-91
U.S. SUPREME COURT	-	11-18-85

9. As of the time 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 government agency and indicate the nature and duration of your relationship. Indicate county and state where you practiced your profession.

PARTNER IN LAW FIRM:
(1988 to 1997)

RHODA, STOUDT & BRADLEY
The Berkshire, Sixth Floor
Fifth & Washington Streets
P.O. Box 877
Reading, PA 19603-0877

ASSOCIATE:
(1986 to 1987)

BERKS COUNTY SOLICITOR:
(1989 to 1997)

Berks County Services Center
Solicitor's Office - 13th Floor
633 Court Street
Reading, PA 19601

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.

SOLO PRACTICE:
(1981 to 1986)

JEFFREY L. SCHMEHL, ESQUIRE
434 Penn Avenue
West Reading, PA 19611

BERKS CO. ASST. DISTRICT ATTY:
(1981 to 1986)

Berks County Courthouse
633 Court Street
Reading, PA 19601

BERKS CO. ASST. PUBLIC DEFENDER:
(1980 to 1981)

Berks County Courthouse
633 Court Street
Reading, PA 19601

11. As of the time when you ascended to the bench, what was the general character of your practice? Indicate the nature of your typical clients and mention any legal specialties 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.

My practice has always contained a strong base of individual clients for whom I performed the general practice of law, ranging from Wills and estates to real estate closings. I also represented small businesses and, as part of the Rhoda, Stoudt & Bradley Litigation Department, represented individuals, insurance companies and corporate clients in civil litigation. I also represented plaintiffs in personal injury lawsuits, both when I was in solo practice and during my time with Rhoda, Stoudt & Bradley. Lastly, I represented municipal clients and clients who were involved with municipalities. I served as the Berks County Solicitor, representing Berks County, Pennsylvania, in all civil matters ('89-'97), serving three different administrations.

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.

TEACHING:	Reading Police Academy	(1984 to 1988)
	Alvernia College	(1999 to present)

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?

Wyomissing Basketball Club, Wyomissing, PA - Vice President
Wyomissing Mavericks Youth Football League, - Board of Directors
Wyomissing, PA
Wyomissing Area Little League Baseball, - Board of Directors
Wyomissing, PA
Kline's Creek Park Recreational Association, - Board of Directors
Sinking Spring, PA (1986 thru 1991)

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

14. What judicial office do you now hold?

JUDGE OF THE COURT OF COMMON PLEAS, BERKS COUNTY, PENNSYLVANIA

a) 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.

I was nominated in May, 1997, by both parties and formally elected in November, 1997.

I began serving as Judge on January 5th, 1998.

I have never held any other judicial office.

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.

I have been assigned to the Criminal Division, hearing mostly criminal matters. I have also been hearing domestic violence cases, any appeal involving a liquor license, appointments of private detectives, and any vacancies in the Office of Constable. I also hear condemnations of private road cases.

b) The percentage of your time devoted to:

- 1) Civil - 5%
- 2) Criminal - 90%
- 3) Other - 5%

c) The percentage of your time devoted to:

- 1) Jury - 65%
- 2) Non-jury - 35%
- 3) Argument or appellate court
- 4) Other

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

- 1) Commonwealth of PA v. Matthew McMullen 756 A.2d 58
- 2) Commonwealth of PA v. Christopher Lee Greth 758 A.2d 692
- 3) Kutztown Inn v. Pennsylvania Liquor Control Board (Affirmed)
- 4) Commonwealth of PA v. Lawrence Karycki (Affirmed)
- 5) Commonwealth of PA v. David Powers (Affirmed)

16. Have you ever held public office, other than judicial office, or have you ever 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.

Yes, I held three appointed positions:

Assistant Public Defender	(1980 - 1981)
Assistant District Attorney	(1981 - 1986)
Berks County Solicitor	(1989 - 1997)

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

a) Are you now or were you during any of the past five year's 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 proceeding 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.

Yes, sued along with two Common Pleas Court Judges by a disgruntled litigant when I represented National Penn Bank, Fordham v. Eshelman, Schaeffer, Schmehl, et al.

This was in 1992. The case was dismissed pre-trial.

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, give a 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 order and decrees? (10 lines)

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)

(b)(6)

(b)(6)

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

NO

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.

Yes, speeches to the Lions Club, Rotary Club and Reading and Muhlenberg Citizens' Police Academies during the last three years. These speeches included topics on the state of the Judiciary in Berks County, Berks County Court Criminal Division, the Pennsylvania Court System, and the public's role in the criminal justice system.

I am also slated to teach at the upcoming Alvernia Senior College.

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

Received the Berks County Prison Society's
W. Richard Eshelman Award, 1995

Received a Commendation from the City of Reading as
Assistant District Attorney for prosecuting drug cases,
1984

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).

Berks County Bar Association	(1980 to present)
Chairman, Public Relations Committee	(1986 thru 1988)
Member, Legal Education Committee	(1995 thru 1997)
Member, Unauthorized Practice of Law Committee	(1993 thru 1995)
PA Bar Association	(1981 to present)
American Bar Association	(1981 to present)
Justice Wm. Strong American Inns of Court	(1997 to present)
Endlich Law Club	(1985 to present)
American Judicature Society	(1998 to 2000)

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.

I am a graduate of the National Judicial College, Reno, Nevada (1998).

I am a member of the Executive Committee of the Pennsylvania Conference of State Trial Judges, appointed by the President of the Conference in 1999.

I served as Berks County Solicitor with distinction in both Democratic and Republican administrations.

In the May, 1997, judicial primary, I was nominated by both the Republican and Democratic parties to the office of Judge.

Most of my legal career was dedicated to public service, beginning as an Assistant Public Defender, moving on to Assistant District Attorney, then serving as Berks County Solicitor and, ultimately, Judge of the Court of Common Pleas of Berks County.

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

Being a Judge at the trial court level is a demanding and challenging job. I feel my entire legal career with criminal, civil, municipal and judicial experience uniquely prepares me to assume the title of a Federal District Court Judge. It is even a more challenging job and needs the best our legal community can offer. I thoroughly enjoy doing trial work at the Court of Common Pleas level and would love the challenge of handling federal criminal cases and complex civil litigation at the Federal Court level.

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 governmental 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?

Yes. As Berks County Solicitor, I ran a law office consisting of six (6) Assistant Solicitors and two (2) Secretaries. Furthermore, as a partner at Rhoda, Stoudt & Bradley and as a Senior District Attorney, I was responsible for training younger attorneys. Lastly, as a Berks County Judge, I am responsible for my immediate staff and running a case load of over 1400 cases a year.

35. Kindly date and sign your name at the conclusion of your answers
(If electronic, please send original copy (signed) in the mail to Regional Chairman,
Thomas R. Kline, Esquire, KLINE & SPECTER, P.C., 1525 Locust Street, 19th Floor, Philadelphia,
Pennsylvania 19102)

 3/5/01
Name: _____ Date: _____

THE HONORABLE JEFFREY L. SCHMEHL
JUDGE OF THE BERKS COUNTY COURT OF COMMON PLEAS
(January, 1998 to Present)

Graduate - National Judicial College, 1998

Member, Executive Committee - PA Conference of State Trial Judges

I. PAST POSITIONS

Partner - Reading Law Firm - Rhoda, Stoudt & Bradley - 1988 to 1997

Berks County Solicitor - 1989 to 1997
Served Three Administrations of County Commissioners

Assistant District Attorney - 1981 to 1986
Berks County

Assistant Public Defender - 1980 to 1981
Berks County

II. MISCELLANEOUS

Adjunct Professor - Alvernia College - 1999 to Present

Solicitor to Berks County Chiefs of Police Association - 1995 to 1997

Past Instructor to Police and Police Trainees on Legal Issues
Reading Police Academy

Past Chairman
Berks County Bar Association
Public Relations Committee

Past Member
Berks County Bar Association
Continuing Legal Education Committee

III. EDUCATION

Graduate - Governor Mifflin High School, Shillington, PA
Bachelor of Arts - Dickinson College, Carlisle, PA
Juris Doctor - University of Toledo College of Law, Toledo, OH

*58 756 A.2d 58

Superior Court of Pennsylvania.

COMMONWEALTH of Pennsylvania, Appellee,**v.****Matthew McMULLEN, Appellant.**

Submitted May 24, 2000.

Filed July 6, 2000.

Defendant was convicted in the Court of Common Pleas, Berks County, Criminal Division, No. 3261/98, Schmehl, J., of driving under the influence as a minor, and he appealed. The Superior Court, No. 1600 MDA 1999, Hester, J., held that statute prohibiting person from operating vehicle when amount of alcohol by weight in blood of minor is .02% or greater did not violate defendant's due process rights.

Affirmed.

West Headnotes

[1] Constitutional Law ☞48(1)

92 ----

92II Construction, Operation, and Enforcement of Constitutional Provisions

92k44 Determination of Constitutional Questions

92k48 Presumptions and Construction in Favor of Constitutionality

92k48(1) In General.

Statute will be found unconstitutional only if it clearly, palpably, and plainly violates constitutional rights.

[2] Constitutional Law ☞48(1)

92 ----

92II Construction, Operation, and Enforcement of Constitutional Provisions

92k44 Determination of Constitutional Questions

92k48 Presumptions and Construction in Favor of Constitutionality

92k48(1) In General.

There is strong presumption that legislative enactments do not violate the constitution, and there is heavy burden of persuasion upon one who questions constitutionality of statute.

[3] Criminal Law ☞13.1(1)

110 ----

110I Nature and Elements of Crime

110k12 Statutory Provisions

110k13.1 Certainty and Definiteness

110k13.1(1) In General.

As generally stated, void for vagueness doctrine requires that penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in manner that does not encourage arbitrary and discriminatory enforcement.

[4] Criminal Law ☞13.1(1)

110 ----

110I Nature and Elements of Crime

110k12 Statutory Provisions

110k13.1 Certainty and Definiteness

110k13.1(1) In General.

Principal aspect of void for vagueness doctrine is requirement that legislation establish minimal guidelines to govern law enforcement for, without such minimal guidelines, criminal statute might permit standardless sweep that allows policemen, prosecutors, and juries to pursue their personal predilections.

[5] Automobiles ☞316

48A ----

48AVII Offenses

48AVII(A) In General

48Ak316 Creation and Definition of Offenses.

[See headnote text below]

[5] Constitutional Law ☞258(3.1)

92 ----

92XII Due Process of Law

92k256 Criminal Prosecutions

92k258 Creation or Definition of Offense

92k258(3) Particular Statutes and Ordinances

92k258(3.1) In General.

Statute prohibiting person from operating motor vehicle when the amount of alcohol by weight in the blood of a minor is .02% or greater was sufficiently definite with no danger of arbitrary or discriminatory enforcement, and thus, statute was not void for vagueness; minor confronted with this statute was put on notice that operating vehicle after consuming even small amount of alcohol could lead to criminal liability, and only discretionary aspect involved was whether arresting officer had probable cause to request individual to submit to blood test. 75 Pa.C.S.A. § 3731(a)(4)(ii).

[6] Constitutional Law ☞213.1(1)

92 ----

92XI Equal Protection of Laws

92k213.1 Bases for Discrimination Affected in General

92k213.1(1) In General.

Where statute, challenged on equal protection grounds, affects fundamental right or includes suspect class, heightened level of scrutiny must be applied. U.S.C.A. Const.Amend. 14.

[7] Constitutional Law 213.1(1)

92 ----

92XI Equal Protection of Laws

92k213.1 Bases for Discrimination Affected in General

92k213.1(1) In General.

In analyzing equal protection claims, intermediate scrutiny is applied to important rights and sensitive classifications. U.S.C.A. Const.Amend. 14.

[8] Constitutional Law 213.1(2)

92 ----

92XI Equal Protection of Laws

92k213.1 Bases for Discrimination Affected in General

92k213.1(2) Rational or Reasonable Basis; Relation to Object or Compelling Interest.

In analyzing equal protection claims, rational basis test applies where there are no fundamental rights or suspect classes and where there are no important rights or sensitive classifications. U.S.C.A. Const.Amend. 14.

[9] Intoxicating Liquors 5.1

223 ----

223I Power to Control Traffic

223k5 States

223k5.1 In General.

Commonwealth's police powers in matters pertaining to regulation of alcoholic beverages is particularly broad.

[10] Constitutional Law 258(3.1)

92 ----

92XII Due Process of Law

92k256 Criminal Prosecutions

92k258 Creation or Definition of Offense

92k258(3) Particular Statutes and Ordinances

92k258(3.1) In General.

Privilege to operate motor vehicle was not a fundamental right and age was not a suspect class, and as such, rational basis, rather than strict scrutiny or intermediate scrutiny, was appropriate standard

for determining whether statute prohibiting person from driving when amount of alcohol by weight in blood of minor is .02% or greater violated defendant's due process rights. U.S.C.A. Const.Amend. 14; 75 Pa.C.S.A. § 3731(a)(4)(ii).

[11] Constitutional Law 251.3

92 ----

92XII Due Process of Law

92k251.3 Reasonableness or Arbitrariness; Rational Basis and Relation to Object.

Under rational relationship test, court determines whether statute challenged on due process grounds seeks to promote any legitimate state interest or public value and determines whether statute is reasonably related to accomplishing that articulated state interest. U.S.C.A. Const.Amend. 14.

[12] Automobiles 316

48A ----

48AVII Offenses

48AVII(A) In General

48Ak316 Creation and Definition of Offenses.

[See headnote text below]

[12] Constitutional Law 258(3.1)

92 ----

92XII Due Process of Law

92k256 Criminal Prosecutions

92k258 Creation or Definition of Offense

92k258(3) Particular Statutes and Ordinances

92k258(3.1) In General.

Statute prohibiting person from driving when amount of alcohol by weight in blood of minor is .02% or greater did not violate defendant's due process rights; statute was rationally related to legitimate state interests, .02% figure was not arbitrary, and legislature's interest in reducing teenage traffic fatalities was rationally related to this zero tolerance law. U.S.C.A. Const.Amend. 14; 75 Pa.C.S.A. § 3731(a)(4)(ii).

[13] Automobiles 332

48A ----

48AVII Offenses

48AVII(A) In General

48Ak332 Driving While Intoxicated.

Commonwealth is not required to produce evidence of intoxication as part of a prosecution under statute prohibiting person from operating motor vehicle when the amount of alcohol by weight in the blood of minor is .02% or greater; there is no language in

the statute whereby blood alcohol content of .02 is deemed to be per se intoxication. 75 Pa.C.S.A. § 3731(a)(4)(ii).

[14] Automobiles Ⓒ316

48A ----

48AVII Offenses

48AVII(A) In General

48Ak316 Creation and Definition of Offenses.

While some individuals may have false, preconceived idea of the conduct prohibited by statute, which criminalizes driving while under the influence of alcohol or controlled substances, this fact does not render the *58 statute unconstitutional. 75 Pa.C.S.A. § 3731.

[15] Criminal Law Ⓒ1044.2(1)

110 ----

110XXIV Review

110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review

110XXIV(E)1 In General

110k1044 Motion Presenting Objection

110k1044.2 Sufficiency and Scope of Motion

110k1044.2(1) In General.

Defendant's claim that his conviction for driving under the influence as a minor should be reversed because the statutory presumptive inference on which the conviction was based was constitutionally invalid was not properly before appellate court, given that defendant failed to raise this claim in his brief in support of motion to dismiss and he did not argue this point at oral argument on the motion to dismiss.

[16] Criminal Law Ⓒ1028

110 ----

110XXIV Review

110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review

110XXIV(E)1 In General

110k1028 Presentation of Questions in General.

Issues not raised during trial may not be raised on appeal.

*60 Craig S. Bory, Boyertown, for appellant.

Mark C. Baldwin, Asst. Dist. Atty., Reading, for Com., appellee.

Before McEWEN, President Judge, LALLY-GREEN, J. and HESTER, J.

HESTER, J.:

¶ 1 Matthew McMullen appeals from the September 9, 1999 judgment of sentence of forty-eight hours to twenty-three months incarceration and associated mandatory fines following his conviction of driving under the influence as a minor. For the following reasons, we affirm.

¶ 2 On July 13, 1998, Appellant was involved in a one-car accident. Appellant lost control of his vehicle, left the roadway, struck a vehicle, and drove into a residence. The Muhlenberg township police department responded to the accident. Officer Michael Travis interviewed Appellant and noticed he had glassy eyes and an odor of alcohol on his breath. Appellant admitted he had ingested some alcoholic beverages that evening. Appellant consented to a blood alcohol test. The test indicated Appellant's blood alcohol content ("BAC") was .105.

¶ 3 On July 16, 1999, Appellant was charged with driving under the influence of alcohol (FN1) and driving under the influence of alcohol as a minor. (FN2) A jury trial commenced on September 1, 1999, and concluded on September 3, 1999. The jury acquitted Appellant of driving under the influence of alcohol but convicted him of driving under the influence of alcohol as a minor. On September 9, 1999, Appellant was sentenced to a term of incarceration of forty-eight hours to twenty-three months and ordered to pay the costs of prosecution and supervision, a fine, participate in forty-eight hours of community service and pay restitution.

¶ 4 Appellant filed a notice of appeal to this Court on September 27, 1999. Pursuant to an order of the trial court, Appellant filed a concise statement of matters complained of upon appeal on October 6, 1999. The trial court filed its opinion on December 1, 1999. In his appeal, Appellant raises four issues, challenging the constitutionality of 75 Pa.C.S. § 3731(a)(4)(ii). These sections provide:

§ 3731. Driving under influence of alcohol or controlled substance

(a) **Offense defined.**--A person shall not drive, operate or be in actual physical control of the movement of a vehicle in any of the following circumstances:

(1) While under the influence of alcohol to a degree which renders the person incapable of safe driving.

(2) While under the influence of any controlled substance, as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, to a degree which renders the person incapable of safe driving.

(3) While under the combined influence of alcohol and any controlled *61 substance to a degree which renders the person incapable of safe driving.

(4) While the amount of alcohol by weight in the blood of:

(i) an adult is 0.10% or greater; or

(ii) a minor is 0.02% or greater.

[1][2][3][4] ¶ 5 Initially, Appellant asserts that 75 Pa.C.S. § 3731(a)(4)(ii) is unconstitutional on its face in violation of the Fourth and Fourteenth amendments to the United States Constitution. Our Supreme Court recently enunciated our standard of review for claims questioning the constitutionality of a statute:

The standard of review we apply to the court's conclusion is exacting. A statute will be found unconstitutional only if it clearly, palpably and plainly violates constitutional rights. Under well-settled principles of law, there is a strong presumption that legislative enactments do not violate the constitution. Further, there is a heavy burden of persuasion upon one who questions the constitutionality of an Act.

Commonwealth v. MacPherson, --- Pa. ---, ---, 752 A.2d 384, 388 (2000) (citations omitted). Our Supreme Court also has outlined the requirements for a due process challenge where a statute is alleged to be void for vagueness.

As generally stated, the void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. The

principle [sic] aspect of the doctrine is the requirement that legislation establish minimal guidelines to govern law enforcement for, without such minimal guidelines, a criminal statute might permit a standardless sweep [that] allows policemen, prosecutors, and juries to pursue their personal predilections (sic).

Commonwealth v. Mikulan, 504 Pa. 244, 251, 470 A.2d 1339, 1342-43 (1983) (citations omitted).

[5] ¶ 6 Appellant alleges that § 3731(a)(4)(ii) does not clearly identify what conduct is prohibited. Additionally, Appellant states the statute allows an impermissible amount of police discretion, which could potentially lead to arbitrary enforcement. We disagree. 75 Pa.C.S. § 3731(a)(4)(ii) is a zero-tolerance statute. It is intended to prohibit, deter, and punish minors who consume alcohol and then operate a motor vehicle. The minor confronted with this statute is put on notice that operating a motor vehicle after consuming even a small amount of alcohol can lead to criminal liability.

¶ 7 We also fail to see how this statute could be applied arbitrarily. Minors convicted under this statute must have a BAC of .02 or greater. The Commonwealth has an affirmative duty to prove this fact using scientific methods. The only discretionary aspect involved is whether the arresting officer has probable cause to request the individual to submit to a breathalyzer or a blood test. Objective criteria such as glassy eyes, slurred speech, or alcoholic odors serve as the basis for requesting a field sobriety test. The field sobriety test is then employed to determine whether or not to request a BAC test. The statute is sufficiently definite with no danger of arbitrary or discriminatory enforcement.

¶ 8 Secondly, Appellant asserts that 75 Pa.C.S. § 3731(a)(4)(ii) does not "bear a reasonable and substantial relationship to accomplishing the allowable purpose for which it was enacted in violation of article I, section II of the Pennsylvania Constitution." Appellant's brief at 11. We disagree with the premise of Appellant's argument as well as his conclusion.

[6][7][8][9][10] ¶ 9 Initially, we note the proper standard to be applied to this constitutional claim. Where a statute affects a fundamental right or includes a suspect class, a heightened level of

scrutiny must be applied. *62 *Smith v. Coyne*, 555 Pa. 21, 27, 722 A.2d 1022, 1025 (1999). Intermediate scrutiny is applied to important rights and sensitive classifications. *Id.* Where neither of the aforementioned conditions are present, a 'rational basis' test determines the constitutionality of the statute. *Id.* It is settled law in Pennsylvania that the privilege to operate a motor vehicle is not a fundamental right and age is not a suspect class. *Kimel v. Florida Board of Regents*, --- U.S. ---, ---, 120 S.Ct. 631, 645, 145 L.Ed.2d 522 (2000) (age classifications do not trigger strict scrutiny analysis); *Norris v. Wood*, 336 Pa.Super. 305, 485 A.2d 817, 820-21 (1984). Further, the Commonwealth's police powers in matters pertaining to the regulations of alcoholic beverages is particularly broad. *Mikulan*, 504 Pa. at 246, 470 A.2d at 1340.

¶ 10 Accordingly, we consider Appellant's claims under the 'rational basis' standard of review. Appellant concedes the fact that the Commonwealth has a valid interest in reducing the risk related to excessive drinking and driving. However, Appellant questions whether § 3731(a)(4)(ii), which prohibits driving with a BAC of .02, has a rational relation to achieving that goal. Specifically, Appellant argues that § 3731(a)(4)(ii) denies individuals due process because it can lead to the criminal convictions of persons who did not meet the legislative standard for intoxication of .10 as set forth in § 3731(a)(4)(i).

[11] ¶ 11 We must apply the two-step rational relationship test to this Constitutional question. *Commonwealth v. Strunk*, 400 Pa.Super. 25, 582 A.2d 1326 (1990); citing *Meier v. Anderson*, 692 F.Supp. 546, 552 (E.D.Pa.1988)*aff'd*, 869 F.2d 590 (3 rd Cir.1989). The first question is "whether the challenged statute seeks to promote any legitimate state interest or public value." *Id.* at 1328. The second prong of the analysis evaluates whether the statute is reasonably related to accomplishing that articulated state interest or interests. *Id.*

¶ 12 It is clear to this Court, as it was to the trial court, that there are legitimate state interests promoted by § 3731(a)(4)(ii). The legislature intended to deter and discourage underage drinking. Underage drinking and driving result in a high number of fatalities every year, not only throughout Pennsylvania, but throughout the United States. Nearly one-third of all deaths of fifteen to twenty-year-old persons result from motor vehicle crashes and approximately thirty-five percent of these

fatalities are related to alcohol. (FN3) By setting a low BAC threshold, the legislature sought to reduce teenage traffic injuries and also exercise its police powers in order to "attempt, halt, or at least retard the senseless slaughter of and injury to innocent people upon our roadways caused by drunk drivers." *Mikulan*, 504 Pa. at 248, 470 A.2d at 1341. These interests are promoted by the zero-tolerance statute.

¶ 13 We next consider whether this legislative enactment is reasonably related to the goal of deterring underage drinking and driving. Initially, we note that the constitutionality of § 3731(a)(4)(i) has been tested numerous times on the basis that the .10 figure is arbitrary and irrational. In *Mikulan*, *supra*, our Supreme Court resolved this issue and determined that the .10 figure was rational and constitutional. We must determine whether the .02 figure associated with § 3731(a)(4)(ii) is arbitrary or irrational. In reaching our conclusion, we need not compare (a)(4)(i) to (a)(4)(ii), as Appellant suggests, but instead we evaluate (a)(4)(ii) independently.

¶ 14 Appellant presented expert testimony at trial regarding the medical effect of alcohol on individuals. Appellant's expert witness testified that available scientific *63 and medical evidence does not support a finding of intoxication when an individual's BAC is .02%. Further, the expert opined that at a BAC of .02%, the effects of alcohol are minimal and would not significantly impair a minor or an adult's ability to drive. While we agree with Appellant's position that the record contains no evidence that this minimal amount of alcohol has an effect on an individual, we cannot agree that this statute is irrational or arbitrary.

[12] ¶ 15 The trial court exhaustively discussed the rationale behind (a)(4)(ii), and we adopt it:

Minors, unlike adults, *are not allowed to consume alcoholic beverages*. The legislature had the power, if it so desired, to set a .00 level, for zero tolerance. However, by setting a .02 level, Pennsylvania is virtually enacting a zero tolerance law, due to variances in the alcohol testing instruments. Therefore, the .02 figure is not arbitrary. Further, pursuant to the National Highway Systems Designation Act of 1995, starting in 1999, Federal Highway funds will be withheld from states that do not apply zero tolerance laws to persons under age 21, set a BAC of .02 or less, and establish .02 as a per se offense

without having to prove intoxication. See 23 U.S.C.A. § 410.

The legislature's interest in reducing teenage traffic fatalities is also rationally related to the zero tolerance law. It has been proven that states with some type of zero tolerance laws have experienced a drop in the number of nighttime fatal crashes involving young drivers. In comparison states without zero tolerance laws experienced an increase. One study showed that states with zero tolerance laws reduced the number of nighttime fatal crashes involving young drivers by 16 percent, while states without zero tolerance experienced a 1 percent increase. Since it has been established that Section 3731(a)(4)(ii) is rationally related to a legitimate state interest, it therefore does not violate the Defendant's due process rights under the Pennsylvania Constitution or the Constitution of the United States.

Trial Court Opinion, 12/1/99, at 8-9 (citations omitted) (emphasis added).

¶ 16 In his third allegation of error, Appellant argues that § 3731(a)(4)(ii) creates an unconstitutional mandatory and permissive presumption in violation of the Fifth Amendment to the United States Constitution and the Due Process Clause of the Pennsylvania Constitution. Appellant's brief at 13. Appellant argues that § 3731(a)(4)(ii) employs a presumption of intoxication once the Commonwealth offers proof that an individual's BAC was .02 or higher. Appellant asserts that the prosecution need not prove that there was intoxication and driving at the same time, only that the *per se* intoxication of .02 or higher occurred. Appellant further argues that the Due Process Clause requires the state to persuade the finder of fact beyond a reasonable doubt that the BAC at the time of driving relates to some scientific standard. Appellant concludes that § 3731(a)(4)(ii) relieves the Commonwealth from proving an element of the crime beyond a reasonable doubt.

[13] ¶ 17 We disagree. 75 Pa.C.S. § 3731(a)(4)(ii) created a separate and distinct offense from 75 Pa.C.S. § 3731(a)(1). Conviction under § 3731(a)(4)(ii) requires proof beyond a reasonable doubt that the actor drove, operated, or was in actual physical control of a motor vehicle while his BAC was .02 or greater. The Commonwealth is not

required to produce evidence of intoxication as part of a § 3731(a)(4)(ii) prosecution. There is no language in the statute whereby a BAC of .02 is deemed to be *per se* intoxication.

[14] ¶ 18 Appellant contends that because the heading of the statute implies an allegation of driving while intoxicated, a conviction based on a BAC of .02 creates an unconstitutional presumption of intoxication. The plain language of § 3731 *64. criminalizes driving while under the influence of alcohol or controlled substances. An individual can be convicted under this statute if intoxicated, if a controlled substance was taken that substantially impairs the ability to drive, if the BAC is .10 or greater, or if the BAC is .02 or greater and the actor is under the age of twenty-one. While some individuals may have a false, preconceived idea of the conduct prohibited by § 3731, this fact does not render the statute unconstitutional.

[15] ¶ 19 Lastly, Appellant argues his conviction under § 3731(a)(4)(ii) must be reversed because "the statutory presumptive inference set forth in subsection (A.1) on which the convictions was [sic] based is constitutionally invalid." Appellant's brief at 15. We are not able to address the merits of this claim due to the fact it is not properly before us. In his brief in support of motion to dismiss count II, Appellant failed to raise this claim. Further, Appellant did not argue this point at the September 1-2, 1999 oral argument on the motion to dismiss.

[16] ¶ 20 This issue was presented to the trial court after sentencing on September 13, 1999, in the form of a motion to amend Appellant's motion to dismiss. The trial court denied the motion on the same day without hearing argument on the merits of the issue. It is well established that issues not raised during trial may not be raised on appeal. *Commonwealth v. Edmondson*, 553 Pa. 160, 718 A.2d 751 (1998). Accordingly, we may not consider this issue on appeal.

¶ 21 Judgment of sentence affirmed.
(FN1.) 75 Pa.C.S. § 3731(a)(1).

(FN2.) 75 Pa.C.S. § 3731(a)(4)(ii).

(FN3.) *National Highway Traffic Safety Administration, U.S. Department of Transportation*. "The Facts: Zero Tolerance." (May 1998).

FEDERAL JUDICIAL NOMINATING COMMISSION
OF PENNSYLVANIA
PERSONAL DATA QUESTIONNAIRE FOR LAWYER APPLICANTS

1. Full name and social security number.

Timothy J. Savage

(b)(6)

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

(b)(6)

(215) 537-4800 (office)

(b)(6)

(home)

3. Date and place of birth.

(b)(6)

Philadelphia, Pennsylvania

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

No.

5. Family status:

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

June 22, 1968

Linda S. (Siegle) Savage

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.

No

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

Timothy, Jr., 32, [redacted] (b)(6) ; chef
Daniel, 29, [redacted] (b)(6) ; sales
Christian, 26, [redacted] (b)(6) ; sales
manager

6. Have you had 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.

Assumption College, 1964-1968, B.A. *cum laude*

Temple University School of Law, 1968-1971, J.D.

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

Supreme Court of the United States, 1980
United States Court of Appeals for the Second Circuit, 1981
United States Court of Appeals for the Third Circuit, 1981
United States Tax Court, 1985
United States District Court for the Eastern District of Pennsylvania, 1971
United States District Court for the District of New Jersey, 1985
Supreme Court of Pennsylvania, 1971
Supreme Court of New Jersey, 1985

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

a) Whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk.

No

b) Whether you practiced alone, and if so, the addresses and the dates.

Yes.

1716 Two Girard Plaza, Philadelphia, Pa. - 1976 - 1981
4714 Oxford Avenue, Philadelphia, PA - 1981 - 1991
5030 Oxford Avenue, Philadelphia, PA - 1991 - present

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.

1971-1974: MacCoy, Evans & Lewis, Two Penn Center, Philadelphia, PA, associate

1974-1976: Savage and Ciccone, 1716 Two Girard Plaza, Philadelphia, PA, partner

1976-present: Pennsylvania Liquor Control Board, Hearing Examiner

d) Any other relevant particulars.

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

Litigation, civil and criminal, state and federal courts.

At MacCoy, Evans & Lewis, I was an associate in the litigation department handling only civil matters. After leaving the firm for more trial work, I concentrated on representing criminal defendants in cases ranging from misdemeanors to homicide . During the last two decades, my practice has evolved to an emphasis on civil litigation and white collar crime.

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

Corporations and individuals of all types, including professionals, businesspersons, elected officials, judges and injured persons

Criminal, commercial and personal injury litigation

Many of my clients are referred by other attorneys

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 appearances in court has varied during this period, describe each such variance, giving the dates thereof.

Regularly

b) What percentage of these appearances were in:

(1) Federal courts.

10%

(2) State Courts of record.

90%

(3) Other courts.

c) What percentage of your litigation was:

(1) Civil.

75%

(2) Criminal.

25%

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

14 sole counsel in all

e) What percentage of these trials were:

(1) Jury

50%

(2) Non-Jury

50%

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.

More frequent

b) Any significant changes in the percentage stated in your answers to question 11(b), (c) and (e).

Yes. In the late seventies and eighties, I was trying more criminal cases in both state and federal courts and my criminal trial practice constituted about 60-70% of my time. During that period, I had several jury trials a year. Thus, the breakdown between civil and criminal trials, and between jury and non-jury trials was substantially different than the last five years.

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

Yes. During the period 1976-1990, I tried more cases to verdict because I had been doing more criminal defense work. Civil cases were more likely to settle.

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

The following cases are illustrative of my experience in representing different types of clients in varied forums and fields of law:

JIRB v. McCabe - 1987

One of 15 Common Pleas Judges accused of accepting bribes from the Roofers Union, Judge Joseph Patrick McCabe, Jr. was the subject of a federal grand jury investigation and was charged by the Judicial Inquiry and Review Board which sought his removal from the bench.

McCabe was acquitted and reassigned to the bench after a trial before the JIRB at which I represented him. He was never indicted by the federal government after the investigation during which I represented him.

The significant part of the JIRB case was the exculpatory evidence contained in FBI taped conversations which we presented to the JIRB. McCabe was the only judge to present such evidence which was accessed after I had litigated a motion in the federal district court for an order permitting me to hear and review all secretly recorded conversations and to make copies of any parts I wanted.

JIRB panel members: Hon. James E. Rowley, Bruce Kauffman, Esquire (presently a federal district court judge), James H. Higgins

JIRB trial counsel: Robert L. Keuch, Esquire
and William T. Arbuckle, III, Esquire
225 Market Street
Harrisburg, PA 17101

District Court Judge: Hon. Raymond J. Broderick

Assistant United States Attorney: Richard L. Scheff, Esquire

Elstone v. Waste Management - 1996

I represented the plaintiff, a building contractor, who was injured when a truss roof he and his employees were erecting collapsed. The plaintiff had contributed to the cause of the accident. However, I was able to demonstrate to the court and to the jury that the defendant, the owner of the property who designed the project, was also responsible under OSHA as the "prime contractor."

The jury returned a verdict finding the plaintiff and the defendant liable 49% and 51%, respectively. The damages award was settled during the pendency of post trial motions.

By accepting the plaintiff's part in causing the failure, we were able to focus on the defendant's role.

Philadelphia Court of Common Pleas, Hon. Paul Ribner

Defense counsel: Michael J. Plevyak, Esquire
White & Williams LLP
1500 Lancaster Avenue
Paoli, PA 19301
(610) 695-2907

Commonwealth v. Beck - 1976-1983 (2 cases)

I represented the defendant who was charged with murder and claimed self defense. After two trials and two appeals, he was discharged.

At the first trial, he was found guilty of third degree murder and sentenced to 7-20 years imprisonment. On appeal, the Pennsylvania Supreme Court reversed the conviction, and expanded and clarified an evidentiary rule applicable to self defense. *Comm. v. Beck*, 402 A.2d 1371 (Pa. 1979)

On retrial, the jury returned a verdict of guilty of voluntary manslaughter and not guilty of third degree murder. Beck was sentenced to 1-1/2 years to 3 years, 5 months. The Pennsylvania Supreme Court, in *Comm. v. Beck*, 464 A.2d 316 (Pa. 1983), reversed the second conviction and discharged the defendant.

In the first case, the ground work was laid in the trial record for the appellate court to set out a clear rule regarding the admissibility of certain evidence relevant to a defendant's state of mind when he claims self defense. The second appeal rested upon an esoteric rule of law, *autrefois acquit*, which arose out of the unique circumstances established at the end of the first trial and then during the jury charging conference and the jury's announcement of its verdict in the second trial.

Judges: Hon. Albert F. Sabo (first trial) and Hon. Joseph T. Murphy (second trial)

Opposing counsel: Barbara Christie, Esquire (first trial) and
Pierre Pie, Esquire (second trial)
Robert B. Lawler, Esquire (both appeals)

Shields v. Friedland - 1996

Shields suffered a closed head injury in a collision. Despite his apparently healthy appearance, we were able to demonstrate to the jury that he had suffered a serious injury.

The importance of the case was our ability to overcome the impression that Shields had recovered from his injuries and to present the medical testimony in layman's terms.

Philadelphia Court of Common Pleas, Hon. Arnold New

Defense counsel: Elizabeth F. Walker, Esquire
630 Freedom Business Center
King of Prussia, PA 19406
(610) 337-1975

United States v. Lederer - 1982

I represented former Congressman Raymond Lederer in an appeal to the United States Court of Appeals for the Second Circuit from his federal conviction in the Abscam investigation for Hobbs Act violations and on a petition for certiorari to the United States Supreme Court. Although the appeal and the petition were denied, the facts and circumstances developed in those proceedings were useful in obtaining a substantial reduction in the sentence in the district court.

United States v. Lederer, 692 F.2d 823 (1982), *cert denied*, 103 S. Ct. 2437 (1983)

United States District Court for the Eastern District of New York,
Honorable George C. Pratt

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

No. However, I have served in an adjudicative capacity with the Pennsylvania Liquor Control Board since 1976. See answer to 28 for further details.

a) 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.

No

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

Yes

Candidate for nomination in the Democratic primaries in Philadelphia for member of City Council at large in 1979 and for district councilman in 1983.

16. Have you ever 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.

No

17. Are you now an officer or director or otherwise engaged in the management of any business enterprise? **No**

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.

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.

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.

No

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

a) 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

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

No

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

No

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 a 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.

Yes

Savage, v. Thornburg

Plaintiff obtained an injunction restraining the governor from terminating his employment, alleging that it violated his First Amendment rights.

Savage, et al v. Ridge, et al,

Plaintiffs challenged the authority of the Executive to abolish the hearing examiner positions created by the Legislature. They successfully argued that the attempt violated the separation of powers doctrine.

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.

No

(b)(6)

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

American Bar Association (Section of Litigation)
Philadelphia Bar Association (Fee Disputes Committee)
New Jersey Bar Association
American Trial Lawyers Association
Pennsylvania Trial Lawyers Association
Philadelphia Trial Lawyers Association

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? No.

Metropolitan (Northeast) Boys & Girls Clubs (counsel and member of board of directors)
Northeast Community Center for Mental Health & Mental Retardation (former secretary and former member of board of directors)
Union League of Philadelphia
Northwood Civic Association (former counsel)
Frankford Special Services District (former president and founding member of board of directors)
Frankford Economic Revitalization Committee (former vice chairman)
Philadelphia Democratic County Executive Committee
Twenty-third Ward Democratic Executive Committee (county committeeman)
St. Joachim R.C. Church (former president, parish council; former chairman, finance committee)
Knights of Columbus, McHugh Council

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.

Editor, Temple Law Quarterly

Graduated college *cum laude*

Received distinction in labor law

28. 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 a hearing examiner for the Pennsylvania Liquor Control Board since 1976, I have presided over adversarial hearings on Liquor Code violations, license transfers, applications for new licenses and non-renewals of licenses. In that quasi-judicial role, I make evidentiary rulings, control the mode and interrogation of the witnesses, author opinions and recommend Board decisions.

After 1987, hearings on citations for violations were assumed by the Office of Administrative Law Judge which was created by the Legislature to separate the prosecutorial and adjudication functions. I then continued to conduct hearings in licensing cases.

I currently serve as a mediator in the United States District Court for the Eastern District of Pennsylvania and as a judge pro tem in the Court of Common Pleas, First Judicial District of Pennsylvania (Philadelphia County).

I was on the Criminal Justice Act Panel in the Eastern District for many years.

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

Having tried innumerable criminal and civil cases and having served in an adjudicatory position for almost 25 years, I want to make a career change in the profession I love and enjoy. I want to move to the next level and believe that I am ready to take on new challenges and to contribute to the federal bench.

I feel more comfortable in federal court. I respect and appreciate the professionalism and the seriousness of the diverse cases there.

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

I possess the experience, knowledge, pragmatism, temperament and background to be a fine trial judge. I am young enough to grow and mature into an excellent one.

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?

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 you answer is yes, please give the information relative thereto.

No

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

No

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

Yes

34. (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 decree 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

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

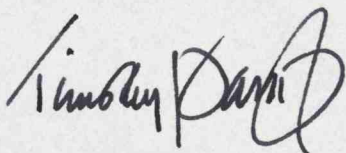
Note, *Union Authorization Cards Held Reliable in Place of Prejudicial Elections if Obtained Without Misrepresentation or Coercion*, 43 Temple Law Quarterly 104 (1969)

36. 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.

No

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

NAME:



DATE: March 6, 2001

Search the Lawyer Locator

Ratings reflect the confidential opinions of bar members and the judiciary, and attest to the individual lawyer's legal ability and adherence to professional standards of ethics. Exclusive to the Martindale-Hubbell Law Directory, ratings are accepted as exceptionally valuable benchmarks by members of the legal community, and testify to the unique and respected position the Law Directory occupies in the legal profession. They are intended for the use of lawyers and law firms in the practice of their profession. The public at large is encouraged to consult [Martindale-Hubbell Ratings](#), a site specially designed to meet the legal information needs of non-lawyers.

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The **Legal Ability Ratings** (C, B, A) take into consideration the standard of ability for the area where the lawyer practices, the attorney's expertise, nature of practice and qualifications relevant to the profession. Where a lawyer's practice is limited or specialized, rating opinions are made on the basis of performance in those specific fields of law.

The **General-Ethical Standards Rating** (V) covers adherence to professional standards of conduct and ethics, reliability, diligence and other criteria relevant to the discharge of professional responsibilities.

In the United States, 43% of the active bar is rated. Omission of individual lawyer ratings should not be construed as unfavorable since Martindale-Hubbell does not undertake to develop ratings for every lawyer. In addition, certain lawyers have requested their ratings not be published. In other instances, definitive information required to establish a rating has yet to be developed.

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Timothy J. Savage
Timothy J. Savage, P.C.
Philadelphia, Pennsylvania
(Philadelphia Co.)

Lawyer's Rating - AV*

Admitted: 1971.

*The Martindale-Hubbell AV rating indicates very high to preeminent legal ability and very high ethical standards as established by confidential opinions from members of the Bar.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Resume	Biography...	4	N.D.	^{MAR 9/9/2005} P2; P5; P6/b6;

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For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

Pennsylvania Judicial Candidates [6]

FRC ID:

9123

OA Num.:

342

NARA Num.:

238

FOIA IDs and Segments:

2018-0016-P

2017-0345-F

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]
- 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 advise 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]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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- 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.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Note - alban

Timothy J. Savage

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

5030 OXFORD AVENUE

PHILADELPHIA, PA. 19124-2520

(215) 537-4800

TIMOTHY J. SAVAGE

ALSO A MEMBER OF NEW JERSEY BAR

NEW JERSEY OFFICE

135 N. BROAD STREET

WOODBURY, NEW JERSEY 08096

(609) 853-8680

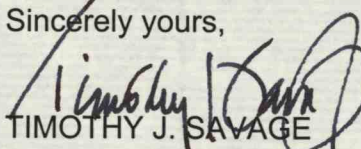
June 15, 2001

Brett Kavanaugh, Esquire
Associate Counsel to President Bush
The White House
128 Old Executive Building
Washington, DC 20502

Dear Mr. Kavanaugh:

Enclosed is the Personal Data Questionnaire which had been submitted to the Federal Judicial Nominating Commission with respect to vacancies on the United States District Court for the Eastern District of Pennsylvania. Also provided are copies of my Martindale-Hubbell Lawyer Rating Information and my biography appearing in Who's Who in American Law.

Sincerely yours,


TIMOTHY J. SAVAGE

TJS:bh
Enc.

Brett

DEPARTMENT OF LAW



TERRENCE F. McVERRY
COUNTY SOLICITOR

County of Allegheny

300 FORT PITT COMMONS BLDG.
445 FORT PITT BLVD.
PITTSBURGH, PA 15219
PHONE (412) 350-1120 - FAX (412) 350-1174

July 11, 2001

Mr. Timothy Flanigan
Deputy White House Counsel
The White House
West Wing Second Floor
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20502

**RE: Judicial Vacancies - United States District Court
for the Western District of Pennsylvania**

Dear Mr. Flanigan:

Thank you for the opportunity to personally meet with you Monday to discuss my professional background and qualifications for a potential nomination to serve as a judge on the U.S. District Court for the Western District of Pennsylvania. I appreciate having made your acquaintance. Should you desire any additional information or documentation, please do not hesitate to contact me.

Upon reflection, I may have misunderstood your last question regarding a judge whom I admire and whose picture might someday hang on my office wall. Although names such as John Marshall, Oliver Wendell Holmes, Learned Hand and Felix Frankfurter come readily to mind, I can only assure you that if I ever hang such a picture, it will not be of Earl Warren!

Again, thank you for your time and consideration. I hope that you will be able to make a favorable recommendation to the President regarding my candidacy for this important nomination.

Kindest personal regards.

Very truly yours,

TERRENCE F. McVERRY
County Solicitor

TM/em

**THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

DATE RECEIVED: 8/6/01

NAME OF CORRESPONDENT: Hon. Cynthia M. Rufe

SUBJECT: Additional Letters of Reference

ROUTE TO:		ACTION	DISPOSITION			
OFFICE/AGENCY	(STAFF NAME)	ACTION CODE	DATE M/D/YR	TYPE RESP	C D	COMPLETED M/D/YR

CUGONZ	A	8/6/01		C	
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ACTION COMMENTS:

Brett	A			/	/
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ACTION COMMENTS:

		/	/		/	/
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ACTION COMMENTS:

		/	/		/	/
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ACTION COMMENTS:

COMMENTS:

ADDITIONAL CORRESPONDENTS:

MEDIA:

COURT OF COMMON PLEAS



R. BARRY McANDREWS
PRESIDENT JUDGE

JUDGES

KENNETH G. BIEHN
MICHAEL J. KANE
SUSAN DEVLIN SCOTT
JOHN J. RUFÉ
CYNTHIA M. RUFÉ
DANIEL J. LAWLER
DAVID W. HECKLER
REA BOYLAN THOMAS
ALAN M. RUBENSTEIN

BUCKS COUNTY
SEVENTH JUDICIAL DISTRICT
DOYLESTOWN, PENNSYLVANIA
18901
(215) 348-6000

SENIOR JUDGES

PAUL R. BECKERT
OSCAR S. BORTNER
WARD F. CLARK
WILLIAM HART RUFÉ, III
ISAAC S. GARB
EDWARD G. BIESTER, JR.

July 27, 2001

Via Overnight Mail

Justice Alberto R. Gonzalez
Chief Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

RE: Honorable Cynthia M. Rufe

Dear Justice Gonzalez:

Please accept these additional letters of reference that have been received this week for continued consideration of my application for appointment to the United States District Court for the Eastern District of Pennsylvania.

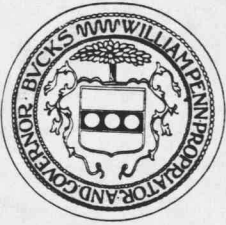
Thank you.

Very truly yours,

Cynthia Rufe/SJH

Hon. Cynthia M. Rufe

CMR/sjh
[Dictated but not read]
Enclosures



OFFICE OF THE DISTRICT ATTORNEY
BUCKS COUNTY COURTHOUSE
DOYLESTOWN, PENNSYLVANIA 18901

DIANE E. GIBBONS
DISTRICT ATTORNEY
(215) 348-6344

July 26, 2001

The Honorable George W. Bush
President of the United States
C/O Judge Alberto R. Gonzalez
Chief Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

Dear Mr. President:

As District Attorney of Bucks County and a prosecutor in the county for seventeen years, I have had the opportunity to practice before the Honorable Cynthia M. Rufe as a Judge for Court of Common Pleas. I also worked with her during her years as private counsel. Throughout her career, Judge Rufe has demonstrated the highest degree of integrity and professionalism. As a Judge of the Bucks County Court of Common Pleas, Judge Rufe has earned an excellent reputation among Bucks County attorneys who appear before her for her command of the law, her judicial temperament and her use of sound judicial restraint in interpreting and applying of the laws of the Commonwealth of Pennsylvania.

It has been my privilege and honor to practice before Judge Rufe. Without hesitation, I can state that Judge Rufe would make an excellent addition to the United States District Court.

Very truly yours,

Diane E. Gibbons
District Attorney

cc: Senator Arlen Specter
Senator Rick Santorum
Honorable Cynthia M. Rufe



FALLS TOWNSHIP POLICE DEPARTMENT

FIRST AND FINEST IN BUCKS COUNTY SINCE 1692

ARNOLD J. CONOLINE

Chief of Police

July 26, 2001

Honorable George W. Bush
President of the United States
c/o Justice Alberto R. Gonzalez
Chief Council to the President
128 Old Executive Office Building
Washington, D.C. 20502

Dear Mr. President:

I am writing this letter in support of Judge Cynthia Rufe relative to her aspired appointment as a judge to the United States District Court. I would respectfully like to express my professional and personal opinion as to why her selection would be an additional asset to this court of distinguished judges.

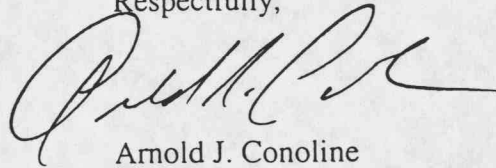
Judge Rufe was born and raised in a small home town community of Bristol Borough located along the banks of the Delaware River in Pennsylvania. The same town that I as well was born and raised. Understanding the importance of a good education, Judge Rufe attended high school, college and later law school. In fact, she taught me for a short period of time in our local high school. She comes from a well respected family in our town. Her parents taught her the qualities in life that really count which is perhaps why today she serves as a member of the highly respected Court of Common Pleas of Bucks County.

Prior to my employment as Chief of Police, I served for 18 years as a Sergeant Deputy Sheriff with the Bucks County Sheriff's Department. I have had the opportunity to observe Judge Rufe in the performance of her duties on almost a daily basis. She has a wealth of experience in handling cases relative to both civil and criminal matters. On several occasions, she has presided over numerous high profile cases demonstrating the highest caliber of professional conduct and an uncompromising desire to always see that justice is served. I can state unequivocally that she has continually fulfilled her obligations as a judge with the utmost sincerity, integrity and conscientiousness. Having the opportunity over the years to observe several judges, there is no doubt that Judge Rufe has the appropriate temperament to discharge her duties without bias or prejudice while at the same time recognizing the rights of individuals that come before her court.

Page 2
Judge Cynthia Rufe
July 26, 2001

Without any doubt, I believe that Judge Rufe possesses the necessary qualities for appointment to the United States District Court. Since her tenure on the bench, she has commanded both the respect and admiration from all of her colleagues, lawyers and many of the members of the law enforcement community. I believe if selected to this position, Judge Rufe will conduct herself in a manner above reproach and will discharge her obligations to those who come before her court impeccably. As Chief of Police of one of the larger police agencies in Bucks County, Pennsylvania, it gives me great honor to highly recommend her appointment to this honorable court.

Respectfully,

A handwritten signature in dark ink, appearing to read "Arnold J. Conoline". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Arnold J. Conoline
Chief of Police

AJC/ff

POLICE CHIEFS ASSOCIATION OF BUCKS COUNTY

P.O. BOX 1717

DOYLESTOWN, PENNSYLVANIA 18901

July 27, 2001

James Sabath
President

Joseph C. Costello
First Vice President

Frank W. Peranteau, Sr.
Second Vice President

Paul P. Brady
Secretary

Charles H. Penglase
Treasurer

Steven P. Daniels
Sergeant at Arms

Patrick J. Priore
Chaplain

Edward F. Wunsch
President Emeritus

Brenden E. Brett, Esq.
Beth S. Luce, Esq.
Solicitors

EXECUTIVE COMMITTEE
M. Barry Pilla, Jr.
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David Schultz
Edward J. Donnelly
Robert Bell
Alvin A. Buben
Frederick P. Crean, Jr.

Honorable George W. Bush,
President of the United States
C/O Justice Alberto R. Gonzalez
Chief Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

Dear Mr. President:

As a representative of the chief law enforcement officers in the County of Bucks, I am writing this letter in support of the Honorable Cynthia Weaver Rufe for appointment to a seat on the federal bench.

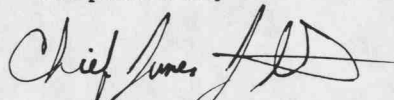
Judge Rufe has served admirably during the past eight years for the Court of Common Pleas in Bucks County. During her exemplary tenure, she has demonstrated an exceptional capacity to make sound and reasonable decisions.

Through her work with community social service agencies, she shows a genuine commitment to improving the quality of life for persons entering the justice system. Judge Rufe has been recognized as a champion for the rights of children and victims of domestic violence. Her versatility is evident through her experience in all phases of the justice system to include criminal, civil, juvenile, and family courts.

Although I have not had the pleasure of knowing Judge Rufe on a personal level, members of my organization have expressed to me that she is a remarkable individual of impeccable character and integrity.

I feel that Judge Rufe will be a tremendous asset to the federal judicial system as she has been to the Court of Common Pleas in Pennsylvania.

Respectfully submitted,



Chief James J. Sabath
President, Police Chiefs
Association of Bucks County

cc: Senator Rick Santorum
Senator Arlen Specter

COURT OF COMMON PLEAS



R. BARRY McANDREWS
PRESIDENT JUDGE

JUDGES

KENNETH G. BIEHN
EDWARD G. BIESTER, JR.
MICHAEL J. KANE
SUSAN DEVLIN SCOTT
JOHN J. RUFÉ
CYNTHIA M. RUFÉ
DANIEL J. LAWLER
DAVID W. HECKLER

BUCKS COUNTY
SEVENTH JUDICIAL DISTRICT
DOYLESTOWN, PENNSYLVANIA
18901
(215) 348-6000

SENIOR JUDGES

PAUL R. BECKERT
OSCAR S. BORTNER
LEONARD B. SOKOLOVE
WARD F. CLARK
WILLIAM HART RUFÉ, III
ISAAC S. GARB

August 2, 2001

Via Overnight Mail

Justice Alberto R. Gonzalez
Chief Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

Re: Honorable Cynthia M. Rufe

Dear Justice Gonzalez:

Please accept this additional letter of reference that has been received this week for continued consideration of my application for appointment to the United States District Court for the Eastern District of Pennsylvania. Additional letters are being sent to your office directly.

Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink that reads "Cynthia M. Rufe".

Hon. Cynthia M. Rufe

CMR/clh
Enc.



**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

P. O. Box 447
Ridley Park, PA 19078
(610) 534-3450
FAX (610) 534-3453

Hon. Joseph M. Augello
Chair
Hon. Joseph A. Hudock
Vice Chair

August 2, 2001

Dean R. Phillips
Counsel
Tricia W. Nagel
Executive Director

Honorable George W. Bush,
President of the United States
C/o Justice Alberto R. Gonzalez
Chief Counsel to the President
128 Old Executive Office Building
Washington, D.C. 20502

Dear President Bush:

I am pleased to learn that Judge Cynthia M. Rufe is being considered for a judgeship on the United States District Court for the Eastern District of Pennsylvania. I am taking this opportunity to comment on my experience working with Judge Rufe on the Supreme Court of Pennsylvania's Appellate Court Procedural Rules Committee in the hope that my thoughts will be useful to those involved in the process.

I have been General Counsel to the Appellate Court Procedural Rules Committee for the last 17 years following clerkships with the late Judge William D. Hutchinson and Judge Edmund V. Ludwig, both of whom served in the state judiciary before their appointments to the federal bench. In my years as counsel to the Committee, I have had the opportunity to work with Pennsylvania's preeminent lawyers and judges. In my experience, Judge Rufe is one of the best and most effective Committee members with whom I have worked. On a number of occasions, Judge Rufe has volunteered to chair subcommittees and has taken difficult drafting assignments. Moreover, in Committee debates, she demonstrates exemplary judicial temperament. She treats the lawyers, other judges and staff with dignity and she is a good listener. On the other hand, she is firm and decisive. Judge Rufe quickly comprehends the issues and works towards practical solutions. She is an obvious leader on the Committee.

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

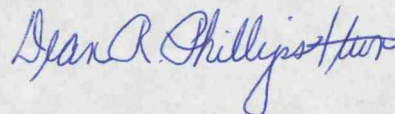
Honorable George W. Bush
Page Two
August 2, 2001

In addition, let me make further personal observation. Having had the opportunity to work closely with then Justice Hutchinson and Judge Ludwig, while they served Pennsylvania's judiciary, I can say with a high degree of confidence that Judge Rufe possesses the intellectual skills, knowledge of the law and character consistent with the high standards set by the federal government for its judges. While I know our Committee and the citizens of Bucks County will miss her service as a judge on the Bucks County Court of Common Pleas, we will certainly benefit from her appointment to the federal judiciary.

As a member of the Pennsylvania and federal bars, and as counsel to judges, I am aware of the importance of the position to which Judge Rufe has been nominated. I do not take lightly my responsibility in writing to my President and Senators regarding her nomination. In fact, this is the first time I have chosen to write such a letter. I have tried to keep this letter short and to the point. However, if I can be of any assistance to the federal government during the process or if someone would like to discuss in detail my observation of Judge Rufe in action, please do not hesitate to contact me.

Finally I have spoken to the Committee's Executive Director, Tricia Nagel, who endorses my thoughts regarding Judge Rufe's participation as a Committee member.

Respectfully,

A handwritten signature in blue ink that reads "Dean R. Phillips". The signature is written in a cursive, flowing style.

Dean R. Phillips,
Counsel

Langhorne Borough Police Department

Kenneth J. Barnes
Chief of Police



July 27, 2001

George W. Bush
President of the United States
1600 Pennsylvania Avenue
Washington, DC 20500-0003

RE: Judge Cynthia M. Rufe

Dear President Bush:

It is a rare occasion in someone's life when they have the opportunity to write the President of the United States much less write a letter of recommendation for someone who is being considered for the Federal Bench. In this case I have the honor and privilege of doing both.

Bucks County, Pennsylvania Court of Common Pleas Judge Cynthia M. Rufe is being considered for a position on the Federal Bench. I have known Judge Rufe for a good portion of my 28-year career in law enforcement. There are not enough words in the dictionary to describe her as one of the finest people I know, as an honest member of the Bar and as a hard working beyond reproach Judge in the Bucks County Court of Common Pleas. I am more than privileged to know her in these aspects and to call her friend. In a nutshell, she is the genuine article. She is "down to earth," extremely intelligent and as a member of the Bucks County, PA Judiciary is by far one of the most objective individuals to hold the honored and elected position of Judge.

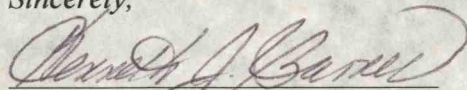
Quite frankly through they years she has taught me many things, and I can't thank her enough. She is one of those people that helped me grow in my career.

Her appointment to the Federal Bench would be a loss for the citizens of Bucks County but a tremendous gain for the Federal Judiciary System and the citizens of this Country.

In closing, I have no hesitation in recommending Judge Rufe for a Federal Judgeship but will go further to say that to not appoint her would be an "injustice."

Thank you for your time and consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kenneth J. Barnes".

Kenneth J. Barnes
Chief of Police

114 East Maple Avenue
Langhorne, Bucks County, Pennsylvania 19047
215-757-5911 Fax 215-757-1127
*Police *Community *Pride *Commitment

**FEDERAL JUDICIAL NOMINATING COMMISSION
OF PENNSYLVANIA**

**PERSONAL DATA QUESTIONNAIRE FOR APPLICANTS
CURRENTLY ON THE BENCH**

1. Full name and Social Security Number.

David Stewart Cercone

S.S. # (b)(6)

**2. Office and home address, zip codes, telephone numbers, fax numbers
and e-mail addresses.**

home address:
home telephone:

(b)(6)

office address: 702 City-County Building, Pittsburgh, PA 15219
office telephone: (412) 350-6801
office fax: (412) 350-6998

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. July 2, 1983, Mary Ann Kraus Cercone.

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

No.

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

Spencer D. Cercone, age 12; (b)(6)
(b)(6)

Stephen C. Cercone, age 10; (b)(6)
(b)(6)

Christopher A. Cercone, age 4; (b)(6)
(b)(6)

6. Have you had any military service? If so:

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

No.

- (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 dates of attendance, the degrees awarded, and, if you left any institution without receiving a degree, the reason for leaving. List any scholastic honors.

Westminster College, New Wilmington, Pennsylvania;
1970-1974; Bachelor of Arts (Magna Cum Laude).

Duquesne University School of Law, Pittsburgh, Pennsylvania;
1974-1977; Juris Doctor.

Phi Alpha Theta, national history society, (1973).
Pi Sigma Pi, national scholastic honorary society, (1974).

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

Admitted to practice before the following courts:
Pennsylvania Supreme Court, Superior Court,
Commonwealth Court and Common Pleas Court,
November 1977. United States District Court for
the Western District of Pennsylvania,
November 1977.

9. Describe your employment history, including any entities with which you practiced, addresses and dates.

I served as law clerk to the Honorable Paul R. Zavarella,
Allegheny County Court of Common Pleas, from
January 1978 to March 1979.

I was a sole practitioner from 1978 to 1979 and
1982 to 1986. My address was 706 Broadway Avenue,
McKees Rocks, PA 15136.

From 1979 - 1982 I served as an Allegheny County
Assistant District Attorney. I specialized in the prosecution
of crimes against persons such as rape and other sexual
offenses, kidnapping and aggravated assaults.

Individuals who have direct personal
knowledge about my work in the
Allegheny County District Attorney's
Office are: the Honorable Robert E. Colville,
315 Courthouse, Pittsburgh, PA 15219,
(412) 350-5547; Mr. Chris G. Copetas,
Allegheny County District Attorney's Office,
303 Courthouse, Pittsburgh, PA 15219,
(412) 350-4400; and Ms. Clair C. Capristo,

Allegheny County District Attorney's Office,
303 Courthouse, Pittsburgh, PA 15219,
(412) 350-4400.

I have been a part-time faculty member at the University of Pittsburgh since 1983. I teach two undergraduate courses: Constitutional Criminal Procedure and Introduction to Legal Studies.

Individuals who have direct personal knowledge about my service on the University of Pittsburgh faculty are: Dean Carolyn Ban, 3G07 Posvar Hall, Pittsburgh, PA 15260, (412) 648-7600; and Dr. Lee Weinberg, 3G07 Posvar Hall, Pittsburgh, PA 15260, (412) 648-2652.

10. Describe the general character of your practice as a lawyer, including the nature of your clients and any legal specialties you possessed. If the nature of your practice changed over time, describe the change.

I practiced law from 1978 to 1979 and from 1982 to 1986. Since my legal practice coincided with my service as a judicial law clerk and a district justice, it was part-time and generally limited to the areas of probate law, divorce and real estate transactions. During the periods between my law practice, I worked as an assistant district attorney, in which capacity I handled hundreds of criminal prosecutions.

The law offices of my part-time law practice were located in McKees Rocks, Pennsylvania, a suburb of Pittsburgh. My former clients were mostly individuals requiring legal assistance with estate planning, deed transfers, or estate probate. I also handled numerous uncontested divorces. As an assistant district attorney, I represented the people of the Commonwealth of Pennsylvania.

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

The only other occupation that I have been engaged in is the teaching that I described in my response to question nine.

12. List all organizations other than the 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?

Boys and Girls Club of Western Pennsylvania, Board of Directors, 1992 - present.

University of Pittsburgh, Graduate School of Public and International Affairs, Board of Visitors, 1999-present.

Italian Sons and Daughters of America, 1984-present.

Sons of Italy, 1997-present.

None of these organizations discriminates because of race, color, creed Or national origin.

13. What judicial office do you now hold? Were you 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.

1982 - 1985: District Justice (Magistrate); elected; jurisdiction over preliminary hearings for all state crimes, and trials for summary offenses, small claims civil actions and landlord tenant actions.

1986 - present: Judge, Court of Common Pleas, Allegheny County (State Trial Judge); elected; original general trial

jurisdiction over criminal, civil, juvenile, domestic relations and probate cases. Also, appellate jurisdiction over judgments from District Courts (Magistrate Court) and other special courts, as well as from some state and most local government agencies.

1986 - 1989: Assigned to the Criminal Division, Court of Common Pleas.

1990 - 1993 and 1999 - present: Assigned to the Civil Division, Court of Common Pleas.

1993 - 1999: Administrative Judge, Criminal Division, Court of Common Pleas; appointed by the Pennsylvania Supreme Court; presided over and administered the Criminal Division including the supervision of other judges and court personnel assigned to the division.

14. 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.

1. Civil jury and non-jury trials (both law and equity cases)
2. Civil conciliation conference
3. Miscellaneous civil motions, e.g. dispositive motions, motions for emergency equitable relief, petitions to strike/open judgments
4. Criminal jury and non-jury trials
5. Criminal guilty plea hearings
6. Miscellaneous criminal motions, e.g. motions for bail reduction, motions for Writ of Habeas Corpus, motions for return of property
7. Miscellaneous administrative matters, e.g. expungement petitions

(b) The percentage of time you devoted to:

- | | | |
|-----|----------|-----|
| (1) | Civil | 20% |
| (2) | Criminal | 80% |

- (3) Family 0%
- (4) Orphans' Court 0%

* As of January 2000, I have been devoting 90% of my time to civil and 10% to criminal cases.

(c) List five of the most significant opinions you have handed down and give the citations if reported.

1. Kaczorowski v. Gay, GD 90-05180
Trial court opinion reported at 140 P.L.J. 415 (1992). Appeal to Superior Court at No. 364 PGH 1992 discontinued, October 30, 1992.
2. Commonwealth v. Mialki, CC9801331
Affirmed by the Superior Court at No. 1587 PGH 1988. The Superior's decision is noted at 399 Pa.Super. 648, 573 A.2d 1159 (1990).
3. Commonwealth v. Jackson, CC9609480
Affirmed by the Pennsylvania Superior Court at 744 A.2d 271 (1999).
4. Commonwealth v. Bailey, CC9314654
Affirmed by the Superior Court at No. 754 PGH 1995. The Superior Court's affirmance is recorded at 679 A.2d 842 (1996).
5. Kapres v. Heller, GD 88-4899
Affirmed by the Superior Court at 417 Pa.Super. 371, 612 A.2d 987 (1992). The Pennsylvania Supreme Court later affirmed at 536 Pa. 551, 640 A.2d 888 (1994). The trial court's opinion is reported at 139 P.L.J. 137 (1991).

15. Have you ever held public office, other than judicial office, or have you ever 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.

16. Have you ever been convicted of any 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 \$200.00 or less was imposed.

No.

17. 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 in the filing of your Federal Income Tax Returns or the payment of your federal income tax obligations? If so, please give the particulars.

No.

18. If you have ever been sued by a client, please give the particulars.

No.

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

No.

20. Have you every 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, testified as a witness, were named as a 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.

1. Cercone v. Pitassi, AR 96-1833 (1996)

This small claims civil action was brought against a contractor

for damage sustained at my residence due to improper installation of a sewage line. The case was amicably settled for \$1,800.

2. Cutler v. Cercone, No. 133 W.D. Misc. Dkt. 1997 (1997)

In my official capacity as the administrative judge of the criminal division, a mandamus action was filed against me by a prisoner seeking discovery and trial transcripts. The prisoner's new lawyer in fact had possession of all material sought, and the case was dismissed by the Pennsylvania Supreme Court.

3. Banks v. Cercone, No. 28 W.D. Misc. Dkt. 1998 (1998)

This case arose from a petition for emergency writ of mandamus. A prisoner sought to compel me as the administrative judge of the criminal division to order a local district justice to grant him credit for time served. The Pennsylvania Supreme Court found that there was no basis for relief and dismissed the case.

4. Jones v. Cercone, No. 88 W.D. Misc. Dkt. 1997 (1997)

This case involved a petition for writ of mandamus by a defendant against another judge of our court. I was named a party because as administrative judge, I assigned this case to that judge. The Supreme Court of Pennsylvania denied the petition, and ordered that all judges' names be stricken from the caption.

5. Zellous v. Cercone, Civil Action 82-128,
United States District Court for the Western
District of Pennsylvania (1982)

This suit arose from a housing dispute between the Plaintiff and the Allegheny County Housing Authority wherein Plaintiff claimed she was wrongfully evicted. I was named a defendant in my capacity as the district justice who entered the eviction order against the Plaintiff. A federal

judge entered a summary judgment on my behalf.
This summary judgment was affirmed by the
United States Third Circuit Court of Appeals
without opinion at 720 F.2d 67 (3d Cir 1983).

21. Have you ever been disciplined or cited for a breach of ethics of professional 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.

22. (a) List all unsatisfied judgments against you.

None.

- (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?

No.

Has a petition in bankruptcy ever been filed by or against you?
If so, give particulars.

No.

23.

(b)(6)

(b)(6)

24. List any legal books or articles you have written, including citations and dates.
25. List public addresses or speeches of a professional nature, including the subject matter, the date, and the audience.

As administrative Judge of the Criminal Division, Allegheny County Common Pleas Court, I had frequently addressed sections of the local bar association, as well as other civic and professional organizations concerning the criminal justice system. I normally provide a view into the criminal justice system by discussing the influx of criminal cases, the type of cases being filed, and the ways the court is working to meet the resultant challenges.

26. List any honors, prizes, awards, or other forms of recognition that you have received.

Phi Alpha Theta, national history honorary society, (1973).
Pi Sigma Pi, national scholastic honorary society, (1974).
Awarded Bachelor of Arts Degree, Magna Cum Laude, (1974).
Westminster College Distinguished Alumni Award, (1994).
Italian Heritage Society Man of the Year in Law Award, (1995).
Italian-American Veterans Association Outstanding Citizen
Award, (1997).
Teacher of the Year Award, University of Pittsburgh, Graduate
School of Public and International Affairs, (2000).

27. List all bar associations, professional societies, committees, and judicial organizations of which you were, or are, a member and give the titles and dates of any offices that you have held in such groups.

Allegheny County Bar Association
Pennsylvania Conference of State Trial Judges

I have served on the following committees of the Allegheny
County Bar Association:

Civil Litigation Committee
Court Rules Committee
Pro Bono Committee
Opportunities For Minorities Committee
Association of Trial Lawyers in Criminal Court
Bench-Bar Conference Committee

During my term as administrative judge for the
criminal division, I sat on numerous ad hoc judicial
committees along with the president judge and other
administrative judges. These committees dealt with
a wide range of judicial administrative matters including
our jury selection system, court budget, court facilities
and judicial conduct.

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

In December 1993, I was unanimously selected by the Supreme Court of Pennsylvania to serve as Administrative Judge of the Criminal Division, Allegheny County Court of Common Pleas. In that capacity, I have supervised fourteen judges and over two hundred court employees.

During my tenure, I implemented an accelerated plea docket to prevent jail overcrowding and to reduce case backlogs. I revised the local court rules for the Criminal Division, and established a special docket to improve the collection of court costs and victim restitution. I established the first "drug court" in western Pennsylvania for the rehabilitation of drug offenders.

Finally, in a 1996 secret ballot referendum of the entire Allegheny County Bar Association (over 8,000 members), I received an approval rating of 96.3%.

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

Without deprecating the importance of state judges, I believe that the decisions of federal judges generally have a more significant impact on the community. I believe that my extensive experience and background as a trial judge would enable me to meet the demanding challenges confronting federal judges today. I would also like the opportunity to introduce to the federal system some of the programs and procedures that have been implemented in the state courts which have improved judicial efficiency and effectiveness.

30. Do you authorize the Federal Judicial Nominating Commission of Pennsylvania 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.

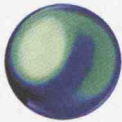
Date and sign your name at the conclusion of your answers.

David S. Cercone

NAME

January 17, 2001

DATE



Buchanan Ingersoll
ATTORNEYS

Joy Flowers Conti
412-562-3989
contijf@bipc.com

PRINCIPAL LOCATIONS

PHILADELPHIA
PITTSBURGH
PRINCETON
LONDON
MIAMI
BUFFALO
NEW YORK CITY
HARRISBURG
TAMPA
WASHINGTON, DC

July 3, 2001

VIA FEDERAL EXPRESS

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

Dear Mr. Kavanaugh:

Pursuant to our telephone conversation yesterday, you will find enclosed with this letter three (3) copies of my Federal Judicial Nominating Commission Personal Data Questionnaire, along with three (3) copies of both my long and short resume.

I look forward to meeting with you on Monday, July 9, 2001 at 4:00 p.m. If you have any questions, please call me.

Very truly yours,

Joy Flowers Conti

JFC/lmt

Enclosures

FEDERAL JUDICIAL NOMINATING COMMISSION
PERSONAL DATA QUESTIONNAIRE FOR LAWYER APPLICANTS

1. Full name and social security number.

Joy Flowers Conti

(b)(6)

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

Office:

Buchanan Ingersoll Professional Corporation
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410
(412) 562-3989
(412) 562-1041 (fax)
contijf@bipc.com

Home:

(b)(6)

3. Date and place of birth.

(b)(6)

Kane, Pennsylvania

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

Not Applicable

5. Family status:

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

Yes. January 16, 1971; Anthony Thomas Conti

- (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.

1. Andrew B. Conti; 25; [redacted (b)(6)]; sales/marketing, employed by Wheeling-Pittsburgh Steel Corporation
2. Michael T. Conti; 22; [redacted (b)(6)]; full-time student at Duquesne University, Pittsburgh, PA
3. Gregory D. Conti; 15; [redacted (b)(6)]; minor, attends 9th grade at Pine-Richland High School, Gibsonia, PA

6. Have you had military service? If so:

No.

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

Not Applicable

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

Not Applicable

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.

College:

Duquesne University
Pittsburgh, PA
1966-1970; Bachelor of Arts degree awarded
1970

Honors - Academic Scholarship 1966-1970;
Dean's List

Law School:

Duquesne University School of Law
Pittsburgh, PA
1970 - 1973; Juris Doctor Summa Cum Laude
degree awarded 1973

Honors: Academic Scholarship 1970-1973;
Order of the Barrister;
Highest Honor - Constitutional Law, Estates
and Trusts, Corporations, Conflict of Laws,
Property; Editor-in-Chief of the Law Review;
Graduated Summa Cum Laude

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

Supreme Court of the United States of America - May 1993
United States Court of Appeals for the Third Circuit - May 1976
Supreme Court of Pennsylvania - October 1973

United States District Court for the Western District of Pennsylvania - October 1973
Courts of Allegheny County, Pennsylvania - October 1973

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

Buchanan Ingersoll, Professional Corporation, 301 Grant St., 20th Floor.,
Pittsburgh, PA 15219-1410

Position: Shareholder -- March 1996 - Present

Experience: Services related to business bankruptcy, health care, commercial
finance and general corporate matters

Kirkpatrick & Lockhart LLP, 1500 Oliver Building, Pittsburgh, PA 15222

Position: Partner -- November 1983 - March, 1996

Associate -- July 1982 - October 1983

September 1974 - August 1976

Experience: Services related to business bankruptcy, commercial finance and
general corporate matters.

Duquesne University School of Law, Pittsburgh, PA 15282

Position: Professor of Law -- August 1976 - June 1982

Experience: Responsibility for teaching courses on Corporate Finance,
Corporate Readjustments and Reorganizations, Corporations,
Creditors' and Debtors' Rights and Civil Procedure.

Law Clerk to Justice Louis L. Manderino, Supreme Court of Pennsylvania,
September 1973 - August 1974

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.

From September 1974 through August 1976, I worked as an associate at then-named Kirkpatrick, Lockhart, Johnson & Hutchison. I was in the rotation system and my practice involved a variety of civil, business, corporate and litigation matters. When I returned in 1982 to Kirkpatrick & Lockhart after teaching for six years at Duquesne University School of Law, where I received tenure, my practice involved general corporate matters with a concentration in business bankruptcy law. After I left Kirkpatrick & Lockhart LLP in 1996 and joined Buchanan Ingersoll Professional Corporation, I continued my practice in general corporate law with a business bankruptcy emphasis and expanded my practice into a concentration in health care and nonprofit corporation law.

I have represented principally business entities and financial institutions in workouts and restructuring including both creditors and debtors. I have also represented non-profit entities, including religious organizations, in connection with governance and litigation matters. I have provided pro bono services to individuals seeking relief under Chapter 7 of the Bankruptcy Code.

11. With respect to the last five years:

(a) How frequently did you appear in court?

My appearances in court varied between regular and occasional appearances in bankruptcy court during the course of representation of debtors-in-possession and creditors from 1995 through the present. For example, in connection with the related bankruptcy cases of Trend-Lines, Inc. and Post Tool, Inc. in the United States Bankruptcy Court for the District of Massachusetts, Cases No. 00-15431 and 00-15432 - CJK, which commenced in August 2000, I have appeared before the bankruptcy court approximately five times. I had occasional appearances in federal district and circuit courts on matters arising out of the bankruptcy cases in which I appeared. I also occasionally appeared in state and district courts in connection with matters involving non-profit or religious entities.

(b) What percentage of these appearances were in:

1. Federal courts.
Over 95%
2. State courts of record.
Under 5%
3. Other courts.
None.

(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.

Most of the cases in which I have been involved were in the bankruptcy courts. Bankruptcy practice involves primarily motions or non-jury trials. Many issues were settled or resolved on motions for summary judgment. I generally served as the chief or co-counsel. In that context, I litigated to judgment more than ten adversary proceedings or motions.

(e) What percentage of these trials were:

1. Jury
0%
2. Non-jury
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 Busy Beaver Building Centers, Inc., 19 F.3d 833 (3d Cir. 1994)

This case arose from the Chapter 11 bankruptcy case of Busy Beaver Building Centers, Inc. filed in the United States Bankruptcy Court for the Western District of Pennsylvania. The Bankruptcy Court on February 25, 1991 issued an order disallowing payment to the debtor's counsel for fees charged for certain paralegal services on the basis that the services were purely clerical. My firm at that time was Kirkpatrick & Lockhart and we represented the debtor. Kirkpatrick & Lockhart, at its own cost and expense which far exceeded the amount at issue, requested reconsideration and after an evidentiary hearing the Bankruptcy Court reaffirmed its decision. The case was appealed to the United States District Court which affirmed the Bankruptcy Court's decision. On appeal to the Third Circuit, the Third Circuit voided the District Court's opinion and remanded the case for reconsideration. This case is significant because the concern involved was the role of the paralegal. The Third Circuit applied a market test to determine whether paralegal services are compensable and recognized the positive contribution of paralegals to the legal profession.

I was the chief counsel for my firm Kirkpatrick & Lockhart which was the appellant in this case. I presented the case to the Bankruptcy Court and had the primary responsibility for arguing and briefing the case on appeal. Ultimately, Busy Beaver Building Centers, Inc. was successfully reorganized and fees were awarded consistent with the market approach articulated by the Third Circuit. The trial and the appeals occurred between 1991 and 1994. The case was submitted to the Third Circuit on May 13, 1993 and was decided without argument on March 11, 1994.

The case in the Third Circuit was before Circuit Judges Becker, Hutchison and Roth. The opinion was written by Circuit Judge Becker. The case in the District Court was before District Judge Donald E. Ziegler, C.J. In the Bankruptcy Court the case was before Bankruptcy Judge Judith K. Fitzgerald. The case before the Bankruptcy Court is reported at 133 B.R. 753 (Bankr. W.D. Pa. 1991).

The names, addresses and telephone number of the associate counsel from my office are:

Paula A. Schmeck, Esq., formerly with Kirkpatrick & Lockhart LLP now at:

National City Bank of Pennsylvania
National City Tower
20 Stanwix Street
Pittsburgh, PA 15222
(412) 644-8806

Scott E. Westwood, Esq. formerly with Kirkpatrick & Lockhart LLP, last known address:

Allegheny Teledyne, Inc.
1000 Six PPG Place
Pittsburgh, PA 15222
(412) 394-2992

The names, addresses and telephone number for the counsel for National Federal of Paralegal Associations, Inc., et al. are:

Robert P. Simons, Esq.
Klett, Lieber, Rooney & Schorling, P.C.
40th Floor
One Oxford Centre
Pittsburgh, PA 15219
(412) 392-2000

The names, addresses and telephone number for the counsel for United States Trustee are:

(appeared and argued at the Bankruptcy Court hearing)

Kathleen Robb-Singer, Esq.
Office of the U.S. Trustee
319 Federal Building
1000 Liberty Avenue
Pittsburgh, PA 15219
(412) 644-4756

2. Belcufine v. Aloe, 112 F.3d 633 (3d Cir. 1997)

This case arose from claims of former employees of Shenango, Inc., a corporation which had successfully reorganized under Chapter 11 of the United States Bankruptcy Code. The former employees, after Shenango, Inc.'s plan of reorganization was confirmed, sued a former director of Shenango, Inc. and a current director who was also an officer of Shenango, Inc. based upon an assertion that the Pennsylvania Wage Payment and Collection law ("WPCL") made those individuals personally liable for the unpaid pre-petition benefits which had become payable after the bankruptcy filing. Those individuals in turn raised third-party indemnification claims against Shenango, Inc. The Third Circuit affirmed the decision of the District Court, which upheld a summary judgment in favor of the individual defendants and Shenango, Inc., and held that the WPCL did not apply to pre-petition claims or benefits that come due after a corporation's filing for bankruptcy protection. This case is significant because if the former employees' claims for personal liability against officers of a debtor corporation were upheld, the ability to reorganize a corporation that has Pennsylvania employees would have been seriously impacted. The WPCL makes only the officer and director who is in office at the time payment is due liable. Thus, to avoid personal liability, directors and officers would resign prior to a bankruptcy filing and it would be hard to imagine anyone

agreeing to serve post-petition. Without management there would be no opportunity to reorganize. Ultimately, employees, creditors and the community would suffer greater harm.

I was the chief counsel who represented Shenango, Inc., the debtor, and argued the case on behalf of Shenango, Inc. before the Bankruptcy Court, the District Court and the Third Circuit.

This case was originally filed in the Court of Common Pleas for Allegheny County in September, 1994 and was removed to the United States District Court for the Western District of Pennsylvania and then referred to the United States Bankruptcy Court for the Western District of Pennsylvania. The decision of the Bankruptcy Court which granted summary judgment in favor of my client and others was appealed to the District Court which affirmed the grant of summary judgment and then was appealed to the Third Circuit. The case was decided by the Third Circuit on April 28, 1997 and it upheld the grant of summary judgment in favor of my client.

After the reference, Bankruptcy Judge Joseph Cosetti granted summary judgment in favor of my client and others. The case was appealed to the District Court and District Judge Donetta Ambrose affirmed the Bankruptcy Court decision. The case was then appealed to the Third Circuit and was argued before Circuit Judges Greenberg, Alito and Roth. The Third Circuit in an opinion by Circuit Judge Alito, joined by Circuit Judge Roth, affirmed the District Court's decision. Circuit Judge Greenberg concurred and dissented.

The name, address and telephone number of my co-counsel are:

Wendy E. D. Smith, Esq.
Kirkpatrick & Lockhart
1500 Oliver Building
Pittsburgh, PA 15222-2312
(412) 355-6500

The name, address and telephone number of counsel for the other Appellees, Mark Aloe and Andrew Aloe are:

Clem C. Trischler, Esq.
Raymond G. McLaughlin, Esq.
Pietragallo, Bosick & Gordon
38th Floor
One Oxford Centre
Pittsburgh, PA 15219
(412) 263-2000

The name, address and telephone number for the counsel for Appellants are:

Lee R. Golden, Esq.
Todd T. Zwikl, Esq.
Suite 660 USX Tower
Pittsburgh, PA 15219
(412) 227-5950

3. Sharon Steel Corporation and Caparo Steel Company v. Hatch Associates, Ltd. and Steltech, No. 97-3656 (3d Cir. Sept. 22, 1998)

This case arose from an adversary proceeding filed in the bankruptcy case of Sharon Steel Corporation ("Sharon") by Sharon and Caparo Steel Company ("Caparo") against Hatch Associates, Ltd. and Steltech, Ltd. (the "Defendants"). The adversary proceeding was filed for the purpose of obtaining a declaratory judgment that a license agreement (the "License") for the use of certain technology was not an executory contract and that the licensing rights under the License transferred to Caparo when Caparo purchased certain assets from Sharon. Before the completion of discovery, Defendants filed a motion for summary judgment. Caparo and Sharon responded by filing a cross motion for summary judgment. The bankruptcy court found in favor of Caparo and Sharon holding that the License was not an executory contract. Defendants appealed to the District Court, which affirmed the holding that the License was not an executory contract, and then appealed to the Third Circuit which also affirmed the holding. This case was significant because the technology in issue was critical to operation of Caparo's steel business and dealt with an analysis of executory contract issues, which is difficult because there is no precise definition of the term "executory contract."

I was the chief counsel who represented Caparo. I argued the case on behalf of Caparo before the Bankruptcy Court and had the primary responsibility for briefing the case on appeal. I represented Caparo in the appeals before the District Court and the Third Circuit. The grant of summary judgment by the Bankruptcy Court in favor of my client and Sharon was upheld by the District Court and the Third Circuit.

Bankruptcy Judge Warren W. Bentz granted summary judgment in favor of my client and Sharon. District Judge Robert J. Cindrich affirmed the Bankruptcy Court decision. The Third Circuit in an unpublished memorandum opinion by Judge Dolores K. Sloviter affirmed the District Court's opinion.

The name, address and telephone number of the counsel for the co-plaintiff, Sharon Steel Corporation is:

Herbert P. Minkel, Jr., Esq.
131 E. 62nd Avenue
New York, NY 10022
(212) 319-2797

The name, addresses and telephone number of counsel for the Defendants are:

Paul K. Stecker, Esq.
Jeremiah J. McCarthy, Esq.
Phillips, Lytle, Hitchcock
Blaine & Huber, LLP
Suite 3400
3400 HSBC Center
Buffalo, New York 14203-2887
(716) 847-8400

The name, address and telephone number of the associate counsel from my office is:

Frank B. Harrington, Esq.
Buchanan Ingersoll Professional Corporation
650 College Road East, 4th Floor
Princeton, NJ 08540
(609) 987-6815

4. In re Marcus Hook Development Park, Inc.
Marcus Hook Development Park, Inc. v. T.A. Title Insurance Co., 143 B.R. 648
(Bankr. W.D. Pa. 1992)

This case involved issues raised on remand from the Third Circuit. A title company challenged the validity of the County of Delaware, Pennsylvania's tax lien on property. There were two conflicting orders entered by the Bankruptcy Court. One order stated that a sale of certain property was free and clear of liens; the second order confirmed a plan which left intact the lien of the County against that property. The case is significant because it addressed the due process rights of holders of liens against property which is being administered in bankruptcy. The Bankruptcy Court held in favor of the County and found, among other things, that the County had not received adequate notice of the terms of the sale and thus the sale was not free and clear of its lien.

I was the chief counsel at Kirkpatrick & Lockhart representing the County of Delaware, the respondent in this case. On behalf of my client I handled the trial and was primarily responsible for the briefs that were filed. The court found in favor of the County. Ultimately the parties settled the matter.

The dates of this litigation occurred between December 4, 1991, the date of the title company's objections which raised the issue of divesting the County's lien, to August 14, 1992, the date of the opinion of the Bankruptcy Court.

This case was argued before Bankruptcy Judge Bernard Markovitz of the United States Bankruptcy Court for the Western District of Pennsylvania.

The names, addresses and telephone number for the counsel for the debtor, Marcus Hook Development Park, Inc. are:

Robert G. Sable, Esq. formerly of Sable, Makoroff & Gusky P.C.,
now at McGuire Woods
7th Floor, Frick Building
Pittsburgh, PA 15219
(412) 338-1555

The names, addresses and telephone number for the counsel for T.A. Title Insurance Co. are:

Eric A. Schaffer, Esq.
Reed, Smith, Shaw & McClay
435 Sixth Avenue
Pittsburgh, PA 15219
(412) 288-4202

The names, addresses and telephone number for the counsel for the Committee of Unsecured Creditors:

Gary M. Schildhorn, Esq.
Adelman, Lavin, Gold & Levin
Two Penn Center Plaza, Suite 1900
Philadelphia, PA 19103
(215) 568-7515

The names, addresses and telephone number for the counsel also representing the interests of the County of Delaware:

James DelBello, Esq.
Last known address:
323 West State Street
Media, PA 19063
(610) 565-3050

5. In re Busy Beaver Building Centers, Inc.
Maryland National Bank v. Busy Beaver Building Centers, Inc., 127 B.R. 343
(Bankr. W.D. Pa. 1991)

This case involves a Complaint for Declaratory Judgment filed in the Busy Beaver Building Centers, Inc. bankruptcy case. The secured lender in that case was concerned that a fraudulent conveyance action would be filed against it and sought a declaration that the matter would be barred by a statute of limitations. The debtor and the creditors committee objected. The court upheld the objections. This case is significant because it reaffirmed that even if a matter is ripe, when the declaration would not end the matter the court may deny the relief. Here the secured creditor was seeking relief to in effect

preempt an investigation into its conduct. The court correctly held that the relief requested would be inappropriate without an opportunity for the parties to contest facts and determine appropriate legal theories.

I was the chief counsel at Kirkpatrick & Lockhart representing the debtor, Busy Beaver Building Centers, Inc., and had primary responsibility on behalf of the debtor for arguing and briefing the case before the Bankruptcy Court. The case was ultimately settled through a plan of reorganization which was confirmed. Busy Beaver Building Centers, Inc. continues to operate a chain of home improvement stores in Western Pennsylvania.

This case was briefed and argued after the bankruptcy case was filed on December 12, 1990 and was decided on May 28, 1991.

This case was decided by Bankruptcy Judge Judith K. Fitzgerald of the United States Bankruptcy Court for the Western District of Pennsylvania.

The names, addresses and telephone number for the counsel for Maryland National Bank are:

Robert P. Simons, Esq.
Klett, Lieber, Rooney & Schorling, P.C.
40th Floor
One Oxford Centre
Pittsburgh, PA 15219
(412) 392-2000

The names, addresses and telephone number for the counsel for the Official Committee of Unsecured Creditors are:

David W. Lampl, Esq.
formerly of Sable, Makoroff & Gusky P.C.
Now at Leech, Tishman, Fuscaldo & Lampl
1800 Frick Building
Pittsburgh, PA 15219
(412) 261-1600

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

No.

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

No.

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

No.

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.

(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.

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.

No.

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

Conti v. Board of Supervisors of the Township of Pine. et al. - Petition for Allowance of Appeal filed in the Supreme Court of Pennsylvania, on February 19, 1997, No. 104 W. D. Allocatur Docket 1997. The Petition was denied. My husband and I asserted that the courts below erred in affirming the Board of Supervisors of Pine Township's decision to grant tentative approval to a planned residential development proposed to be developed on land adjacent to our home. A court reporter, Nancy G. Grega, who transcribed some of the testimony before the Board of Supervisors of Pine Township related to my challenge to the grant of tentative approval of a planned residential development sued me in 1995 in a local District Justice Court for the cost of transcribing a portion of the record which I had not ordered. The case was settled and dismissed. Since that was a minor matter I did not keep a copy of the pleadings and thus do not have the case number.

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.

PROFESSIONAL ACTIVITIES

United States Court of Appeals for the Third Circuit

1994 -1995; 1987

Activity: Chair of the Bankruptcy Judge Selection Committee for the
Western District of Pennsylvania

Supreme Court of Pennsylvania

1995

Activity: Member of Pennsylvania Futures Commission on Justice in the
21st Century

United States District Court for the Western District of Pennsylvania

1994 - 1995

Activity: - Member of the United States Magistrate Judge Merit
Selection Panels for the Western District of Pennsylvania

United States District Court for the Western District of Pennsylvania

1991 - 1993

Activity: Member of the District Court Advisory Committee

Corporation Bureau, Advisory Committee, Department of State,

Commonwealth of Pennsylvania

1991 - present

Activity: Member of Advisory Committee to the Corporation Bureau

Advisory Committee, Third Circuit

March 1982 - 1983

Activity: Member of four-person committee which was responsible for making a recommendation to the Third Circuit on the number of Bankruptcy Judges needed in the Third Circuit

Court of Common Pleas of Allegheny County, Pennsylvania
1985 - 1988

Activity: Member of 1988 Bicentennial Committee serving as a member of the Historical Reference Subcommittee

The Disciplinary Board of the Supreme Court of Pennsylvania
Harrisburg, Pennsylvania
July 1982 - 1988

Activity: Member of Hearing Committee with responsibility for making recommendations in disciplinary cases brought by the Disciplinary Board against attorneys

Commonwealth of Pennsylvania, Department of State,
Harrisburg, Pennsylvania 17120
May 1978 - June 1982

Activity: Hearing Examiner with responsibility for rendering final opinions in disciplinary cases brought by the Commonwealth against physicians

Allegheny County Bar Association, City-County Building
Pittsburgh, Pennsylvania 15219
December 1978 - March 1979

Activity: Administrator for project involving the revision of local rules of criminal procedure

Advisory Committee, Office of the Attorney General, Pennsylvania
Joint State Government Commission
1978

Activity: Advised the Joint State Government Commission on legislation needed to recognize and implement the powers of the new office of an elected Attorney General

PROFESSIONAL ORGANIZATIONS

ALLEGHENY COUNTY BAR ASSOCIATION

1994	Board of Governors, Immediate Past-President
1993	President
1992	President-Elect
1991	Governor

1990	Administrative Vice President
1987 - 1989	Treasurer
1983 - 1986	Board of Governors, Administrative Vice President
1981 - 1983, 1978	Board of Governors, Governor
1980	Board of Governors, Assistant Secretary - Treasurer
1980 - Present	Corporation, Banking & Business Law Section, Chairperson (1987 - 1988)
1980 - Present	Bankruptcy and Commercial Law Section, Member
1979	Young Lawyers Section, Chairperson
1978	Young Lawyers Section, Vice Chairperson
1976 - 1977	Young Lawyers Section, Executive Council, Member
1980 - 1994	Liaison to and member of, at various times, committees and sections, including Planning Committee, Women & the Law Committee, Public Relations, Bankruptcy and Commercial Law, Corporation, Banking and Business Law, Continuing Legal Education, Arts and the Law

PENNSYLVANIA BAR ASSOCIATION

1998 - 2001	Co-Chair - Legal Services for the Poor Task Force (Part II)
1993 - 1995	Governor-at-Large
1980 - 1995 1996 - Present	House of Delegates, Member
1993 - Present	Commission on Women in the Profession, Member
1986 - Present	Publications Committee, Member of Editorial Board
1981 - Present	Corporation, Banking & Business Law Section, Chair (1997 - 1999), Council Member (1984 - May, 1987, 1989, Treasurer, 1991 - 1993, Chair-elect, 1995-1996); Chair, Commercial Law Committee (1989 - 1993); Fraudulent Conveyance Task Force, Chair (1990 - 1993); Insolvency Law Task Force (1994 - present); Legal Opinions Drafting

	Committee, Chair (1991 - 1994); Member (1994 - present); Title 15 Revision Committee, Member (1981 - present)
1981 - 1995	Legal Ethics and Professional Responsibility Committee, Member
1979 - 1994	Civil Rights and Responsibilities Committee, Member; Chair (1986 - 1988)
1985 - 1988	Judicial Selection Reform Committee, Member
1986 - 1988	Constitution Bicentennial Committee, Member
1987	Task Force on Aids
1979 - 1981	Constitutional Law Committee, Member
1981 - 1983	PBA/YLS Law School Liaison Committee, Chairperson
1980 - 1981	PBA/YLS American Bar Association Liaison Committee, Chairperson
1980 - 1982	PBA/YLS Committee to Study the Proposed Model Rules of Professional Conduct, Member

PENNSYLVANIA BAR INSTITUTE

1991 - 1996	Director
1986 - 1997	Western Pennsylvania Curriculum Planning Committee, Member

AMERICAN BAR ASSOCIATION

2000	Nominating Committee, National Conference of Bar Presidents
1993 - 1997	Executive Council, National Conference of Bar Presidents
1991 - 1998	House of Delegates, Member (Representative of Allegheny County Bar Association)
1981 - 1986	House of Delegates, Member (Representing Pennsylvania Bar Association)
1975 - Present	Business Section; Member, Pro Bono Committee (1993 - 1999), Committee on Commercial Financial Services and Subcommittee on Creditor Rights (1984 - 1990); Business Bankruptcy Committee - Member Professional Ethics

	Subcommittee and Rules Subcommittee (1990 - 1995); Corporate Law and Taxation Committee (1982 - 1983)
1981 - 1982	ABA/YLD, Corporation, Banking & Business Law Committee Vice Chairperson
1979 - 1982	ABA/YLD, Corporation, Banking & Business Law Committee; Bankruptcy - Consumer and Commercial Subcommittee - Chairperson
1979 - 1981	ABA/YLD, Delegate (Representing Pennsylvania)
1980	ABA National Conference on the Role of Lawyers in the 1980's, Participant
1979 - 1983	ABA/YLD Judicial Selection, Tenure and Compensation Committee, Member
1986 - Present	Fellow of the Young Lawyers Division of the American Bar Association

AMERICAN BAR FOUNDATION

1992 -1997	Chair of Pennsylvania Fellows
1986 - Present	Fellow

PENNSYLVANIA BAR FOUNDATION

2000	Fellow
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ALLEGHENY COUNTY BAR FOUNDATION

1995 - Present	Trustee; Secretary (2000 - 2001)
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AMERICAN COLLEGE OF BANKRUPTCY

1995 - Present	Fellow
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AMERICAN LAW INSTITUTE

1993 - Present	Member
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THE HISTORICAL SOCIETY OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

1997	President
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1994 - 1996	Vice President, Executive Committee Member of Board of Directors
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AMERICAN JUDICATURE SOCIETY

1982 - 1985	Director
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1979 - Present	Member
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AMERICAN BANKRUPTCY INSTITUTE

1990 - Present	Member
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COMMERCIAL LAW LEAGUE

1984 - Present	Member
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EXECUTIVE WOMEN'S COUNCIL, GREATER PITTSBURGH, INC.

1994 - Present	Member
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INTERNATIONAL WOMEN'S INSOLVENCY & RESTRUCTURING CONFEDERATION

1994 - Present	Member
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1995 - 1996	Chair, Tri-State Network
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WOMEN'S BAR ASSOCIATION OF WESTERN PENNSYLVANIA

1993 - Present	Member
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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?

1994 - 2000	American Red Cross; Southwestern Pennsylvania Chapter, Member, Board of Directors
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1996 - 1997	Pennsylvania Business-Education Partnership, Member, Board of Directors
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1991 - 1997	Catholic Charities of the Diocese of Pittsburgh, Inc., Member, Board of Directors; President 1995, Vice President 1994
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1990 - 1997	Family & Youth Services of Western Pennsylvania, Member, Board of Directors
1994 - 1996	Duquesne Law Alumni Association, Member, Board of Governors
1994 - 1995	Duquesne University, Member, Search Committee for Liberal Arts Dean
1991 - 1995	Pine-Richland Football Mothers, Member; Co-President 1995
1987 - 1995	LEAP Advisory Board (law related education project affiliated with Temple University School of Law), Member
1987 - Present	St. Alphonsus Parish, Member and eucharistic minister (since at least 1997); St. Alphonsus Christian Mothers, Member (since at least 1997)
1988	Leadership Pittsburgh, Participant
1986 - 1989	Assistant Cubmaster, Cub Scouts, Pack 297
1984	Committee on Justice Education in Pennsylvania, Vice President
1979 - 1981	Attorneys' Section of the United Way of Southwestern Pennsylvania; Cabinet Counsel; Chairperson 1979-1980
1980 - 1981	Berkeley Hills Nursery School, Member, Board of Directors
Law School	Duquesne Law Review, Editor-in-Chief; Appellate Moot Court Board; Appellate Moot Court Representative to Regional Competition; Delta Theta Phi Fraternity, Master Scholar
College	Alpha Phi International Soroity, President; Varsity Cheerleader; Red Masquers Drama Club; Political Science Club
Social:	Duquesne Club; Treesdale Country Club

The listed organizations do not discriminate because of race, color, creed or national origin; however, to be a member of St. Alphonsus Parish I must be Roman Catholic.

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.

Since at least Best Lawyers in America
1997-Present

Several years- Who's Who in American Law; Who's Who in America
Present

1999, 1986, Pennsylvania Bar Association, Award of Achievement
1982

1999 Neighborhood Legal Services Association, 6.1 Award

1996 City of Peace Award for distinguished legal career presented by
the State of Israel Bonds

1995 Century Club of Duquesne University

1995 Vectors/Pittsburgh Award for 1995 Women of the Year in Law &
Government

1995 Anne X. Alpern Award given by the Pennsylvania Bar Association
to recognize an outstanding woman lawyer

1993 YWCA of Greater Pittsburgh Tribute to Women Award for
Professions

1993 Allegheny County Bar Association Pro Bono Award

1993 St. Barnabas Health Systems Leadership Award

1989 Triangle Award for Outstanding Women Professional in Allegheny
County

1981 One of the Ten Outstanding Young Women in America 1981;
Outstanding Young Woman in Pennsylvania 1981;

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.

During my legal career I have had the opportunity to serve in two quasi-judicial capacities:

- (1) Early in my career (1978 - 1982) while I was a professor at Duquesne University I had the opportunity to serve as one of the first hearing examiners in disciplinary cases brought by the Commonwealth of Pennsylvania against physicians. It was a

challenging opportunity because we designed the procedures and established precedent. I adjudicated several contested cases, including one that involved a trial of several days.

- (2) From 1982 to 1988 I served as a hearing examiner for the Disciplinary Board of the Supreme Court of Pennsylvania. During the last few years of my tenure I was the Chairman of the Hearing Committee. As a member of a hearing committee, I heard argument and testimony, reviewed briefs and made recommendations for opinions of fact and conclusions of law in disciplinary cases brought against attorneys licensed to practice in Pennsylvania.

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

I would be honored and humbled to have the opportunity as a Federal Judge to pursue and protect the interests of justice. In the practice of law I strive to represent my clients in an ethical and vigorous manner. While teaching law as a law professor, I strived to instill in my students a desire to understand the law and to pursue excellence in their profession. I have a sincere desire to serve my country and community.

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.

PUBLICATIONS

- Conti, "The Nonprofit Corporation in Bankruptcy", Law Education Institute, Inc. (February, 2000)
- Conti, "Anticipating and Avoiding Bankruptcy--Liability Exposure From Related Entities", Duquesne University -- Jubilee International and Ecumenical Canon Law Conference, co-sponsored by The Angelicum University in Rome and University of Wales, Cardiff (February, 2000)
- Conti, "Automatic Stay & Section 105 Injunctions", Chapter 11 Theory and Practice: A Guide to Reorganization, Ch. 8 (LRP Publications, 1994); Supp. (May, 1998)
- Conti, Kozlowski & Ferleger,
"Claims Trafficking in Chapter 11", 9 Bankr. Dev. Journal, 281 (1992)
- Conti, "Statutory Close Corporations", Pa. Bus. Corp. Prac., Ch. 8 (PBI 1991)
- Conti, "An Analytical Model for Substantive Consolidation of Bankruptcy Cases", 38 Business Lawyer 855 (1983)
- Conti, "Disciplining Physicians in Pennsylvania - Licensing Problems Involving Medicare Fraud Convictions", 18 Duq. L. Rev. 521 (1980)
- Conti, "The Role of Lawyers in the 1980's and Beyond - An Essay on the Future of Lawyers", Pittsburgh Legal J. 8 (April 1980)
- Comment, "Local Regulation of Air Pollution: The Allegheny County Experience", 11 Duq. L. Rev. 612 (1973)
- Conti & Wenzel,
"Protecting Directors, Officers, Members and Volunteers From Liability", Pennsylvania Tax Exempt Organizations, Lorman Education Services (November 2000) (course outline)
- Conti & Walent,
"Bankruptcy For Transactional Lawyers", Business Law Institute, Pennsylvania Bar Institute (November 2000) (course outline)
- Conti, "Recent Developments in Plan Confirmation and Other Issues", Pennsylvania Bar Institute (October 1999) (course outline)

Conti & Diggs,

"Fraudulent Transfers - Defenses", Fraudulent Transfers in Pennsylvania, Pennsylvania Bar Institute (March 1995) (course outline)

Conti & Schmeck,

"Representing Secured Creditors: Consequences of an Ailing Business Filing for Bankruptcy Protection", Chapter 11 Business Bankruptcy: Preserving Your Client's Interests, Pennsylvania Bar Institute (1994) (course outline)

Conti & Kozlowski,

"Representing Secured Creditors: Consequences of an Ailing Business Filing for Bankruptcy Protection", Saving the Ailing Business: Work-outs, Reorganizations & Bankruptcies, Pennsylvania Bar Institute (May 1991) (course outline)

Conti & Mason,

"Bankruptcy for Benefit Lawyers: An Introduction to Bankruptcy Proceedings", The Fourth National Institute on Employee Benefits in Bankruptcy and Lending Transactions, American Bar Association (Feb./Apr. 1991) (course outline)

Conti & O'Connell,

"Remedies and Exceptions", Legal Opinions, Pennsylvania Bar Institute (January 1991) (course outline)

Conti, "Statutory Close Corporations - A Useful Tool", Corporate Practice for the Non-Specialist, Pennsylvania Bar Institute (May 1990) (course outline)

Conti, O'Connell & Adelskoff,

"Real Estate Partnerships and Limited Partnerships in Bankruptcy", The Troubled Real Estate Project: Bankruptcy & Tax Implications, Pennsylvania Bar Institute (May 1989) (course outline)

Conti, Kozlowski & Krasik,

"Representing Secured Creditors: What Your Client Can Do and What to Expect", What Every Lawyer Must Know to Practice Bankruptcy in 1988, Pennsylvania Bar Institute (1988) (course outline)

Conti & Richardson,

"Fiduciary Obligations in Bankruptcy", Reorganization Problems in Depth, Pennsylvania Bar Institute (1987) (course outline)

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

I have been a frequent lecturer on bankruptcy law, corporate law and legal ethics. For example, during the last several years I have lectured as follows:

Lorman Education Services

"Protecting Directors, Officers, Members and Volunteers From Liability"

November 16, 2000 (Pittsburgh, PA)

audience—lawyers and accountants

Pennsylvania Bar Institute

"Acquisitions in Bankruptcy" and

"Bankruptcy For Transactional Lawyers"

November 9 - 10, 2000 (Philadelphia, PA)

audience—lawyers

Duquesne University School of Law

Jubilee International and Ecumenical Canon Law Conference

"Anticipating and Avoiding Bankruptcy--Liability Exposure From Related Entities"

February 4 - 5, 2000 (Pittsburgh, PA)

(This program was sponsored by Duquesne University School of Law, Cardiff University, Wales and the Angelicum, Rome, Italy, and its audience consisted of lawyers and representatives of hierarchical churches.)

Law Education Institute, Inc.

"The Nonprofit Corporation in Bankruptcy"

January 10 - 15, 2000 (Vail, CO)

audience—lawyers

Pennsylvania Bar Institute

"Confessions of Judgment"

June - July, 1999 (Philadelphia, Harrisburg and Pittsburgh, PA)

audience—lawyers

Pennsylvania Bas Association

"Issues Affecting Women Corporate Lawyer"

May, 1999 (Hershey, PA)

audience—lawyers

Pennsylvania Bar Institute
"Restructuring the Nonprofit Corporation in Bankruptcy"

October 7, 1998 (Philadelphia, PA)
audience—lawyers

Angelicum and Duquesne University School of Law - Colloquium
"Liability Issues for Church Related Entities"

April 24, 1998 (Rome, Italy)
audience—lawyers and religious organizations

American Bankruptcy Institute Seminar - "A Moment About Us: Emotional
Issues Facing Service Professionals" - Moderator

May 17, 1997 (Washington, D.C.)
audience—lawyers

Catholic Health Association Seminar for In-House Counsel - "The Role of the
Attorney General in Governance of Non-Profit Hospitals"

May 16, 1997 (Seattle, WA)
audience—lawyers

Pennsylvania Bar Institute - "Legislative Process for Changes in the UCC in
Pennsylvania" - Course Planner and Moderator

May 15, 1997 (Hershey, PA)
audience—lawyers

National Association of Legal Secretaries - Lecture on "The Courts"

March 11, 1997 (Pittsburgh, PA)
audience—lawyers

Pennsylvania Bar Institute Ethics Seminar - "Piercing the Veil of Ethical
Mysteries"

December 19, 1996 (Philadelphia, PA)
audience—lawyers

Carnegie Mellon University Seminar - Lecture on "Women in Negotiations"

November 19, 1996 (Pittsburgh, PA)
audience—students in graduate business program

Review of Pennsylvania Rules of Professional Conduct for the Attorney Liability
Assurance Society- Regional Meeting

November 15, 1996 (Pittsburgh, PA)
audience—lawyers

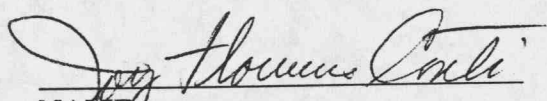
Pennsylvania Bar Institute Ethics Seminar - "Unraveling the Mystery of Ethics"

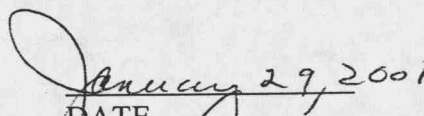
May 2, 1996 (Pittsburgh, PA)
audience—lawyers

Pennsylvania Bar Institute Program on Confessions of Judgment

March 21, 1996 (Philadelphia, PA)
March 26, 1996 (Philadelphia, PA)
April 12, 1996 (Harrisburg, PA)
audience—lawyers

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


NAME


DATE

Corporation Bureau, Advisory Committee, Department of State,
Commonwealth of Pennsylvania (1991 - present)

Activity: Member of Advisory Committee to the Corporation Bureau

J.A.M.S. Endispute
1996

Activity: Alternative Dispute Resolution; panel member to serve as
arbitrator in commercial disputes

United States Court of Appeals for the Third Circuit
1987

Activity: Chair of the Bankruptcy Judge Selection Committee for the
Western District of Pennsylvania

Advisory Committee, Third Circuit
March 1982 - 1983

Activity: Member of four-person committee which was responsible for
making a recommendation to the Third Circuit on the number
of Bankruptcy Judges needed in the Third Circuit

Court of Common Pleas of Allegheny County, Pennsylvania
1985 - 1988

Activity: Member of 1988 Bicentennial Committee serving as a member of
the Historical Reference Subcommittee

The Disciplinary Board of the Supreme Court of Pennsylvania
Harrisburg, Pennsylvania
July 1982 - 1988

Activity: Member of Hearing Committee with responsibility for making
recommendations in disciplinary cases brought by the
Disciplinary Board against attorneys

Commonwealth of Pennsylvania, Department of State,
Harrisburg, Pennsylvania 17120
May 1978 - June 1982

Activity: Hearing Examiner with responsibility for rendering final
opinions in disciplinary cases brought by the Commonwealth
against physicians

Allegheny County Bar Association, City-County Building
Pittsburgh, Pennsylvania 15219
December 1978 - March 1979

Activity: Administrator for project involving the revision of local
rules of criminal procedure

Advisory Committee, Office of the Attorney General, Pennsylvania
Joint State Government Commission 1978

Activity: Advised the Joint State Government Commission on legislation needed to recognize and implement the powers of the new office of an elected Attorney General

PROFESSIONAL ORGANIZATIONS

ALLEGHENY COUNTY BAR ASSOCIATION

1994	Board of Governors, Immediate Past-President
1993	President
1992	President-Elect
1991	Governor
1990	Administrative Vice President
1987 - 1989	Treasurer
1983 - 1986	Board of Governors, Administrative Vice President
1981 - 1983, 1978	Board of Governors, Governor
1980	Board of Governors, Assistant Secretary - Treasurer
1980 - Present	Corporation, Banking & Business Law Section, Chairperson (1987 - 1988)
1980 - Present	Bankruptcy and Commercial Law Section, Member
1979	Young Lawyers Section, Chairperson
1978	Young Lawyers Section, Vice Chairperson
1976 - 1977	Young Lawyers Section, Executive Council, Member
1980 - 1994	Liaison to and member of, at various times, committees and sections, including Planning Committee, Women & the Law Committee, Public Relations, Bankruptcy and Commercial Law, Corporation, Banking and Business Law, Continuing Legal Education, Arts and the Law

PENNSYLVANIA BAR ASSOCIATION

1998 - 2001	Co-Chair - Legal Services for the Poor Task Force (Part II)
1993 - 1995	Governor-at-Large
1980 - 1995 1996 - Present	House of Delegates, Member
1993 - Present	Commission on Women in the Profession, Member
1986 - Present	Publications Committee, Member of Editorial Board
1981 - Present	Corporation, Banking & Business Law Section, Chair (1997 - 1999), Council Member (1984 - May, 1987, 1989, Treasurer, 1991 - 1993, Chair-elect, 1995-1996); Chair, Commercial Law Committee (1989 - 1993); Fraudulent Conveyance Task Force, Chair (1990 - 1993); Insolvency Law Task Force (1994 - present); Legal Opinions Drafting Committee, Chair (1991 - 1994); Member (1994 - present); Title 15 Revision Committee, Member (1981 - present)
1981 - 1995	Legal Ethics and Professional Responsibility Committee, Member
1979 - 1994	Civil Rights and Responsibilities Committee, Member; Chair (1986 - 1988)
1985 - 1988	Judicial Selection Reform Committee, Member
1986 - 1988	Constitution Bicentennial Committee, Member
1987	Task Force on Aids
1979 - 1981	Constitutional Law Committee, Member
1981 - 1983	PBA/YLS Law School Liaison Committee, Chairperson
1980 - 1981	PBA/YLS American Bar Association Liaison Committee, Chairperson
1980 - 1982	PBA/YLS Committee to Study the Proposed Model Rules of Professional Conduct, Member

PENNSYLVANIA BAR INSTITUTE

1991 - 1996	Director
1986 - 1997	Western Pennsylvania Curriculum Planning Committee, Member

AMERICAN BAR ASSOCIATION

2000	Nominating Committee, National Conference of Bar Presidents
1993 - 1997	Executive Council, National Conference of Bar Presidents
1991 - 1998	House of Delegates, Member (Representative of Allegheny County Bar Association)
1981 - 1986	House of Delegates, Member (Representing Pennsylvania Bar Association)
1975 - Present	Business Section; Member, Pro Bono Committee (1993 - 1999), Committee on Commercial Financial Services and Subcommittee on Creditor Rights (1984 - 1990); Business Bankruptcy Committee - Member Professional Ethics Subcommittee and Rules Subcommittee (1990 - 1995); Corporate Law and Taxation Committee (1982 - 1983)
1981 - 1982	ABA/YLD, Corporation, Banking & Business Law Committee Vice Chairperson
1979 - 1982	ABA/YLD, Corporation, Banking & Business Law Committee; Bankruptcy - Consumer and Commercial Subcommittee - Chairperson
1979 - 1981	ABA/YLD, Delegate (Representing Pennsylvania)
1980	ABA National Conference on the Role of Lawyers in the 1980's, Participant
1979 - 1983	ABA/YLD Judicial Selection, Tenure and Compensation Committee, Member
1986 - Present	Fellow of the Young Lawyers Division of the American Bar Association

AMERICAN BAR FOUNDATION

1992 - 1997	Chair of Pennsylvania Fellows
1986 - Present	Fellow

PENNSYLVANIA BAR FOUNDATION

2000	Fellow
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ALLEGHENY COUNTY BAR FOUNDATION

1995 - Present	Trustee; Secretary (2000 - 2001)
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AMERICAN COLLEGE OF BANKRUPTCY

1995 - Present	Fellow
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AMERICAN LAW INSTITUTE

1993 - Present	Member
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THE HISTORICAL SOCIETY OF THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

1997	President
1994 - 1996	Vice President, Executive Committee Member of Board of Directors

AMERICAN JUDICATURE SOCIETY

1982 - 1985	Director
1979 - Present	Member

AMERICAN BANKRUPTCY INSTITUTE

1990 - Present	Member
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COMMERCIAL LAW LEAGUE

1984 - Present	Member
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EXECUTIVE WOMEN'S COUNCIL, GREATER PITTSBURGH, INC.

1994 - Present	Member
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INTERNATIONAL WOMEN'S INSOLVENCY & RESTRUCTURING
CONFEDERATION

1994 - Present Member

1995 -1996 Chair, Tri-State Network

WOMEN'S BAR ASSOCIATION OF WESTERN PENNSYLVANIA

1993 - Present Member

PUBLICATIONS

Conti, "The Nonprofit Corporation in Bankruptcy", Law Education Institute, Inc.
(February, 2000)

Conti, "Anticipating and Avoiding Bankruptcy--Liability Exposure From Related
Entities", Duquesne University -- Jubilee International and Ecumenical Canon
Law Conference, co-sponsored by The Angelicum University in Rome and
University of Wales, Cardiff (February, 2000)

Conti, "Recent Developments in Plan Confirmation and Other Issues", Pennsylvania
Bar Institute (October 1999) (course outline)

Conti, "Automatic Stay & Section 105 Injunctions", Chapter 11 Theory and Practice:
A Guide to Reorganization, Ch. 8 (LRP Publications, 1994); Supp. (May,
1998)

Conti, Kozlowski & Ferleger,

"Claims Trafficking in Chapter 11", 9 Bankr. Dev. Journal, 281 (1992)

Conti, "Statutory Close Corporations", Pa. Bus. Corp. Prac., Ch. 8 (PBI 1991)

Conti, "An Analytical Model for Substantive Consolidation of Bankruptcy Cases", 38
Business Lawyer 855 (1983)

Conti, "Disciplining Physicians in Pennsylvania - Licensing Problems Involving
Medicare Fraud Convictions", 18 Duq. L. Rev. 521 (1980)

Conti, "The Role of Lawyers in the 1980's and Beyond - An Essay on the Future of
Lawyers", Pittsburgh Legal J. 8 (April 1980)

Comment, "Local Regulation of Air Pollution: The Allegheny County Experience",
11 Duq. L. Rev. 612 (1973)

Conti & Wenzel,

"Protecting Directors, Officers, Members and Volunteers From Liability",
Pennsylvania Tax Exempt Organizations, Lorman Education Services
(November 2000) (course outline)

Conti & Walent,

"Bankruptcy For Transactional Lawyers", Business Law Institute,
Pennsylvania Bar Institute (November 2000) (course outline)

Conti & Diggs,

"Fraudulent Transfers - Defenses", Fraudulent Transfers in Pennsylvania,
Pennsylvania Bar Institute (March 1995) (course outline)

Conti & Schmeck,

"Representing Secured Creditors: Consequences of an Ailing Business Filing
for Bankruptcy Protection", Chapter 11 Business Bankruptcy: Preserving Your
Client's Interests, Pennsylvania Bar Institute (1994) (course outline)

Conti & Mason,

"Bankruptcy for Benefit Lawyers: An Introduction to Bankruptcy
Proceedings", The Fourth National Institute on Employee Benefits in
Bankruptcy and Lending Transactions, American Bar Association (Feb./Apr.
1991) (course outline)

Conti & Kozlowski,

"Representing Secured Creditors: Consequences of an Ailing Business Filing
for Bankruptcy Protection", Saving the Ailing Business: Work-outs,
Reorganizations & Bankruptcies, Pennsylvania Bar Institute (May 1991)
(course outline)

Conti & O'Connell,

"Remedies and Exceptions", Legal Opinions, Pennsylvania Bar Institute
(January 1991) (course outline)

Conti,

"Statutory Close Corporations - A Useful Tool", Corporate Practice for the
Non-Specialist, Pennsylvania Bar Institute (May 1990) (course outline)

Conti, O'Connell & Adelkoff,

"Real Estate Partnerships and Limited Partnerships in Bankruptcy", The Troubled Real Estate Project: Bankruptcy & Tax Implications, Pennsylvania Bar Institute (May 1989) (course outline)

Conti, Kozlowski & Krasik,

"Representing Secured Creditors: What Your Client Can Do and What to Expect", What Every Lawyer Must Know to Practice Bankruptcy in 1988, Pennsylvania Bar Institute (1988) (course outline)

Conti & Richardson,

"Fiduciary Obligations in Bankruptcy", Reorganization Problems in Depth, Pennsylvania Bar Institute (1987) (course outline)

REPRESENTATIVE LITIGATION MATTERS HANDLED BY THOMAS M. HARDIMAN

I. APPELLATE CASES

A. United States Supreme Court

Alexander v. Riga,
208 F.3d 419 (3d Cir. 2000), cert. den., 121 S.Ct. 757 (2001)

B. U. S. Court of Appeals for the Third Circuit

Borough of Edgewood, v. Henry Cisneros,
129 F.3d 1254 (3d Cir. 1997)

Hernandez v. Tassos,
135 F.3d 764 (3d Cir. 1997)

Alexander v. Riga,
208 F.3d 419 (3d Cir. 2000)

Hudson v. Housing Auth. of Pittsburgh,
2001 U.S. App. LEXIS 8648 (3d Cir. 2001)

C. Pennsylvania Supreme Court

Smith, v. Coyne,
722 A.2d 1022 (Pa. 1999)

Housing Auth. of Pittsburgh v. Beverly Powell,
No. 29 WAP 2001 (pending)

D. Pennsylvania Superior Court

Municipality of Murrysville v. Wendler Construction, Inc.,
685 A.2d 220 (Pa. Super 1996)

Ravin v. First City Co.,
692 A.2d 577 (Pa. Super. 1997)

Dyer v. Hirsch,
742 A.2d 215 (Pa. Super. 1999)

Staszak v. Erie Insurance,
764 A.2d 1074 (Pa. Super. 2000)

E. Pennsylvania Commonwealth Court

Cano v. Wilksburg-Penn Joint Water Auth.,
748 A.2d 803 (Pa. Cmwlth. 2000)

Beverly Powell v. Housing Auth. of Pittsburgh,
760 A.2d 473 (Pa. Cmwlth. 2000)

Broughton v. Housing Auth. of Pittsburgh,
755 A.2d 105 (Pa. Cmwlth. 2000)

Housing Auth. of Pittsburgh v. Brown,
770 A.2d 394 (Pa. Cmwlth. 2001)

Housing Auth. of Pittsburgh v. Linda Brown Roach,
770 A.2d 393 (Pa. Cmwlth. 2001)

II. CASES TAKEN TO VERDICT/JUDGMENT

A. State Court (Non-Jury)

Merlot Tarpaulin & Mfg. Co. v. Refuse Transfer,
No. AR98-5213

First City Company v. Hengelsberg,
No. GD99-6564

Smith, v. Coyne,
722 A.2d 1022 (Pa. 1999)

Comserv, Inc. v. First City South,
No. GD92-15659 (Allegheny Co.)

First City v. Richard Chynoweth,
No. GD94-8572 (Allegheny Co.)

First City v. Chrysler Financial Corp.,
No. GD93-11298 (Allegheny Co.)

First City v. Expressway to Fun,
No. GD93-17692 (Allegheny Co.)

Integra Bank/Pittsburgh v. Meadows Rehabilitation Institute, Ltd.,
No. GD95-6368 (Allegheny Co.)

McIntyre Square Associates v. Restaurant Specialties of North Hills, Inc.,
Nos. GD95-4732 and GD95-4698 (Allegheny Co.)

Richard Zappala, trading as First City South Associates v. Jerry Koch t/d/b/a Fabiana,
No. GD93-5419 (Allegheny Co.)

West Moon Twp. v. Pizza Joe's,
No. 5482 of 1993 (Allegheny Co.)

Rmax, Inc. v. Alliance General Insurance Company,
No. GD88-00251 (Allegheny Co.)

The A. G. Mauro Company v. The Stadium Authority of the City of Pittsburgh,
No. GD94-10832 (Allegheny Co.)

Thomas J. Clark v. The Language Center,
No. GD94-11616 (Allegheny Co.)

Tru-Rite, Inc. v. Codo Manufacturing, Inc.,
No.91-11582 (Allegheny Co.)

Hoffman v. Premos, Inc.,
No.AR96-4675 (Allegheny Co.)

First City v. Michael Barone t/d/b/a Moda,
No. AD93-5425 (Allegheny Co.)

First City, Agent for West View Associates v. Howard and Rose Bevan t/d/b/a Appetito Subs,
No. 233-94 (Allegheny Co.)

First City v. The Food Service East & Patricia Warehime,
No. GD93-9255 (Allegheny Co.)

Gilkeson Road Corporation v. The Forgotten Woman Collection,
No. LT-0000148-94 (Allegheny Co.)

First City v. Dominic Bologna,
No. 08471-93 (Allegheny Co.)

First City v. The Linen Korner, Inc.,
No. GD93-12702 (Allegheny Co.)

First City v. Namack,
No. GD94-8571 (Allegheny Co.)

First City v. Subway Real Estate Corp.,
No. 08893-93 (Allegheny Co.)

SDG, Inc. v. The Aiello-Nardelli Group, Inc.,
No. GD94-14566 (Allegheny Co.)

First City v. Malvone,
No. 1540 of 1994

First City v. Big Burrito, Inc.,
No.

Dyer v. Hirsch,
No. AR95-5634 (Allegheny Co.)

First City v. Dale Scott,
No. GD98-2431 (Allegheny Co.)

B. State Court (Jury)

Lokes v. Advance Gregg Security,
No. GD91-10964 (Allegheny Co.)

Ravin, Inc. v. First City Company,
692 A.2d 577 (Pa. Super. 1997)

Stanley v. Ohio River Collieries,
C. A. No. 99-CV-359 (Jefferson Co., OH)

C. Federal Court (Non-Jury)

Borough of Edgewood v. Henry Cisneros,
Civil Action No. 96-775 (W.D. Pa. 1996)

Hernandez v. Tassos,

Civil Action No. 95-1239 (W.D. Pa. 1995)

International Union of Operating Engineers v. Yeagle Excavating, Inc.,

Civil Action No. 92-1616 (W.D. Pa. 1993)

Omega Reimbursement Concepts, Inc. v. Shalala,

Civil Action No. 95-2033 (W. D. Pa. 1995)

PPG Industries, Inc. v United States,

1994 U.S. Dist. LEXIS 20220; 94-2 U.S. Tax Case. (CCH) ¶ 50,
617 (W.D. Pa. 1994)

Quantum Health Services, Inc. v. Samuel Lamey,

Civil Action No. 94-0061 (W.D. Pa. 1994)

United States v. Daum,

968 F. Supp. 1037 (W.D. Pa. 1997).

United States of America v. Certain Bank Accounts,

Civil Action No. 94-605 (W.D. Pa. 1994)

Goldman v. Ames Dept. Stores,

1994 U.S. Dist. LEXIS (S.D.N.Y. 1994) (reported on appeal)

Wheeling Nat'l Bank v. Student Loan Marketing Ass'n,

8 F.3d 823, 1993 U.S. App. LEXIS 34928 (4th Cir. 1993)
(reported on appeal)

Unsecured Creditors Comm. of Dollar Corp. v. Hyundai Motor Co.,

139 B.R. 192 (Bankr. E.D. Mich. 1992)

D. Federal Court (Jury)

Hudson v. Housing Auth. of Pittsburgh,

Civil Action No. 98-144 (W.D. Pa. 1998)

Alexander v. Riga,

208 F.3d 419 (3d Cir. 2000):

E. Federal Court (Grand Jury)

In Re: Celestial Waters, Inc.,
Civil Action No. 95-642 (W.D. Pa. 1995)

In Re: Swissvale Police Department

In Re: Calvary Baptist Church

F. Administrative Proceedings

In Re Omega Reimbursement Concepts, Inc.,
I.D. # P-4-11-73 et al.

Melton v. Penn Park Development,
U.S. Dept. of Housing and Urban Development,
No. 03-92-0825-8

Miller v. Chae,
Appeal No. 96-06-s-0852 & 96-06-s-0985
(Unemployment Comp.)

III. CASES SETTLED

A. State Court

Merlot Tarpaulin v. Tarp America,
No. GD97-18854 (Allegheny Co.)

First City v. Narsimha M. Reddy,
No. GD93-5029 (Allegheny Co.)

Kersting v. American National Red Cross,
No. GD90-10126 (Allegheny Co.)

K. Barchetti, Inc. v. First City South Associates,
No. GD94-7864 (Allegheny Co.)

St. George Group v. First City,
No. GD93-2311 (Allegheny Co.)

Penn Hills Associates v. Sun Life Assurance Company of Canada,
No. GD93-2884 (Allegheny Co.)

First City v. Tandy Corporation,
No. AD 00446-94 (Allegheny Co.)

Kloos v. Hanna,
Equity No. 218 of 1991 (Beaver Co.)

Wespax Co. v. Handerhan,
No. GD97-12829 (Allegheny Co.)

Williams Scotsman v. E. Smalis Painting Co, Inc.,
No. GD96-2635 (Allegheny Co.)

Graham Realty Company v. Miami Subs Corporation,
No. GD99-18261 (Allegheny Co.)

Zappala v. Torsell,
No. AR99-7116 (Allegheny Co.)

United Financial Technologies v. Klein,
No. GD99-12040 (Allegheny Co.)

Pennsylvania's Northern Lights Shoppers City v. Fashion Bug #2387,
No. 10229-1999 (Beaver Co.)

Centerpointe Station Development, Inc. v. Lutch,
No. 97-3583 (Washington Co.)

Duckett v. Vanadium Enterprises Corporation, Inc.,
No. GD99-016386 (Allegheny Co.)

Modular Contractors, Inc. v. Williams-Scotsman,
No. AR99-6262 (Allegheny Co.)

Graham Realty Company. v. Miami Sub Corporation,
No. GD99-18261

Modular Contractors, Inc. v. Gabriel,
No. AR96-4090

McKnight-Siebert Shopping Center, Inc. v. Cookie Bouquet of Pittsburgh, Inc.,
No. GD00-15709

B. Federal Court

Allegheny County Housing Auth. v. Fair Housing Partnership of Greater Pittsburgh, Inc.,
No. 6099-6666 (Allegheny County), removed to federal court, C.
A. No. 88-1261

Allegheny Commons Residents Advisory Council v. Cisneros,
Civil Action No. 94-1656 (W.D. Pa.)

Bloom Engineering Co, Inc. v. Certified Industrial Technologies, Inc.,
Civil Action No. 93-1665 (W.D. Pa.)

Securities Exchange Commission v. Wagner,
Civil Action No. 95-642 (W.D. Pa.)

C. Bankruptcy Court

First City v. LPK, Inc. t/d/b/a Pet-Mor,
No. 93-24473-WWB (W.D. Pa.)

In Re: Big Burrito, Inc.,
No. 98-27361 BM

In Re: Parkway Products, Inc.,
No. 99-21877-MBM

In Re: Nicholas Melnick, Jr.,
No. 99-28546-MBM

D. Administrative Proceedings

Baker GeoResearch, Inc. v. Richardson,
No. 16 M 168 00159 99 (American Arbitration Association)