

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

James Ray Knepp II

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

United States District Judge for the Northern District of Ohio

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

United States District Court for the Northern District of Ohio
James M. Ashley and Thomas W.L. Ashley U.S. Courthouse
1716 Spielbusch Avenue,
Toledo, Ohio 43604

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

1964; Akron, Ohio

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

1989 – 1992, University of Toledo College of Law; J.D., (*summa cum laude*), 1992

1986 – 1987, Bowling Green State University School of Mass Communication; M.A., 1987

1982 – 1986, Mount Union College; B.A., (*magna cum laude*), 1986

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

2010 – present

United States District Court for the Northern District of Ohio
James M. Ashley and Thomas W.L. Ashley U.S. Courthouse
1716 Spielbusch Avenue,
Toledo, Ohio 43604
United States Magistrate Judge

1994 – 2010
Robison, Curphey & O'Connell, LLC
433 North Summit Street,
Four SeaGate, Ninth Floor,
Toledo, Ohio 43604
Management Committee (2007 – 2010)
Partner (2000 – 2010)
Associate (1994 – 2000)

1992 – 1994
Hon. John W. Potter
United States District Court for the Northern District of Ohio
James M. Ashley and Thomas W.L. Ashley U.S. Courthouse
1716 Spielbusch Avenue,
Toledo, Ohio 43604
Law Clerk

1991 – 1992
University of Toledo College of Law
1825 West Rocket Drive, Suite 1015
Toledo, Ohio 43606
Teaching Assistant

1990 – 1992
Mead Data Central/LEXIS
9393 Springboro Pike,
Miamisburg, Ohio 45342
LEXIS Student Associate

Summer 1991
Buchanan Ingersoll
Union Trust Building
501 Grant Street, Suite 200
Pittsburgh, Pennsylvania 15219
Summer Associate

Summer 1990
Brouse McDowell
388 South Main Street,
Akron, Ohio 44311

Summer Associate

1987 – 1989; summer 1985
Kopperhead Productions Recording Studio
935 Schneider Road,
North Canton, Ohio 44720
Audio Production Engineer and Administration (1987 - 1989)
Intern (summer 1985)

1987 – 1989
WDJQ/WFAH Radio
393 Smyth Avenue,
Alliance, Ohio 44601
News Reporter

1983 - 1989
All-Pro Pullers Motorsports
6470 Oakhill Avenue Northeast,
Alliance, Ohio 44601
Public Address Announcer

1988
Mount Union College
1972 Clark Avenue,
Alliance, Ohio 44601
Adjunct Instructor

1986 – 1987
Bowling Green State University School of Mass Communication
Bowling Green, Ohio 43403
Graduate Assistant Television Producer WBGU-TV

1983 – 1986
WHBC Radio
550 Market Avenue South,
Canton, Ohio 44702
Part-time On-Air News and Sports Reporter

Other Affiliations (uncompensated):

To the best of my recollection:

2018 – present
Diocese of Toledo St. Thomas More Society
1933 Spielbusch Avenue
Toledo, Ohio 43604

Board of Directors

1995 – present
Northwest Ohio Hemophilia Foundation
P.O. Box 12606
Toledo, Ohio 43606
Board of Directors (1995 – present)
President of the Board of Directors (2012 – 2017)

1993 – present
Toledo Bar Association
311 North Superior Street
Toledo, Ohio 43604
Board of Directors (2002 – 2009)
Member (1993 – present)

2014 – 2018
St. Francis DeSales High School Brisson Association
2323 West Bancroft Street
Toledo, Ohio 43607
Board of Directors

2011 – 2014
Franciscan Academy of Lourdes University
5335 Silica Drive
Sylvania, Ohio 43560
The Academy is no longer in operation.
Board of Directors

2002 – 2010
Legal Aid of Western Ohio/Advocates for Basic Legal Equality
Center for Equal Justice
525 Jefferson Avenue, Suite 400
Toledo, Ohio 43604
Board of Directors

1998 – 2010
Toledo Legal Aid Society
555 North Erie Street
Toledo, Ohio 43604
President of the Board of Directors (2005 – 2009)
Member of the Board of Directors (1998 – 2010)

1997 – 2004
United Health Services
241 North Superior Street, 2nd Floor

Toledo, Ohio 43604
UHS is no longer in operation.
Board of Directors (1997 – 2004)
President of the Board of Directors (2000 – 2003)

1997 – 2002
Toledo Junior Bar Association
311 North Superior Street
Toledo, Ohio 43604
Executive Committee (1997 – 2002).
President of the Board of Directors (2002)

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

I have not served in the military. I registered with Selective Service upon turning 18.

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

Toledo Junior Bar Association Order of the Heel (2019)

Northwest Ohio Hemophilia Foundation Volunteer of the Year (2004)

Ohio State Bar Association District 4 Community Service Award for Attorneys under 40 (2001)

University of Toledo College of Law,
graduate *summa cum laude*, Order of the Coif (top 10%) (1992)
Class Valedictorian (highest G.P.A. in graduating class) (1992)
Technical Editor, Law Review (1991 - 1992)
Burton A. Maddock Scholarship (full tuition 1989 – 1992)

Bowling Green State University School of Mass Communication, Most outstanding M.A. candidate (1987)

Mount Union College
Academic and music scholarships (1982 – 1986)
Faculty Good Citizenship Award (1986)

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

and dates of any offices which you have held in such groups.

To the best of my recollection:

American Bar Association (1994 – present)

American Health Lawyers Association (1997 – 2007)

American Judicature Society (2010 – present)

Defense Research Institute (1995 – 2010)

Federal Bar Association (2010 – present)

Lucas County Bar Association (2011 – present)

Lucas County Republican Party Judicial Screening Committee (1997 – 2008)

Morrison R. Waite Inn of Court (1997 – present)
President (2018 – 2019)

National Association of Railroad Trial Counsel (1995 – 2010)

Northern District of Ohio Attorney Advisory Committee (2006 – 2010)

Ohio Association of Civil Trial Attorneys (1995 – 2010)

Ohio State Bar Association (1994 – 2010)
Federal Courts and Practice Committee Chair (2018 – present)

Saint Thomas More Society of Diocese of Toledo (2018 – present)
Board of Directors (2018 – present)

Sixth Circuit Judicial Conference (2006 – 2010)

Society of Ohio Hospital Attorneys (1997 – 2010)

State Bar of Michigan (2003 – 2010)

Toledo Bar Association (1993 – present)
Bar Admissions Committee (1995 – 2017)
Member (1995 – 2017)
Secretary (2002 – 2003)
Chair (2004 – 2006)
Board of Directors (2002 – 2009)
Federal Court Committee (1995 – present)

Member (1995 – present)
Secretary (1999)
Grievance Investigation Committee (2004 – 2008)
Junior Bar Association
Member (1993 – 2002)
Treasurer (2001)
President (2002)
Nominating Committee (2007)
Young Lawyers Committee (1993 – 2002)

10. Bar and Court Admission:

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Ohio, 1992

Michigan, 2003

When I took the bench in 2010, I registered “inactive” with the Ohio Supreme Court and resigned from the State Bar of Michigan because I was no longer engaged in the practice of law in either state.

There were no lapses in membership.

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

United States Court of Appeals for the Sixth Circuit Court of Appeals, 1996
United States District Court for the Eastern District of Michigan, 2008
United States District Court for the Northern District of Ohio, 1994
United States District Court for the Southern District of Ohio, 2009

There have been no lapses in admission.

11. Memberships:

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

To the best of my recollection:

Adams Conservation Club (approximately 2008 – present)

Diocese of Toledo St. Thomas More Society Board of Directors (2018 – present)

Federal Magistrate Judges Association (2010 – present)

Franciscan Academy of Lourdes University Board of Directors (2011 – 2014)

International Television Association (1986 – 1989)

Ladyfield School Parents Association Board (2000 – 2005)

Leadership Toledo (Class of 2007 and annual host for criminal justice experience)

Legal Aid of Western Ohio/Advocates for Basic Legal Equality Board of Directors
(2001 – 2010)

Legal Marketing Association (2005 – 2010)

Lucas County Republican Party Central Committee non-voting member (2006 –
2007)

National Rifle Association (2013 – present)

Northwest Ohio Hemophilia Foundation Board of Directors (1995 – present)
President (2012 – 2017)

Ohio Farm Bureau (1987 – 1992)

Ohio State Bar Association Foundation Class Fellow (2005)

Saint Francis DeSales High School Brisson Association Board of Directors (2014
– 2018)

Sylvania Franciscan Academy Board of Directors (2006 – 2011)

Toledo Bar Association Foundation Fellows (2000 – present)

Toledo Legal Aid Society (1998 – 2010)
Board of Directors (1998 – 2010)
President (2008 – 2010)

Toledo YMCA (1995 – 2002)

United Health Services Board of Directors (1997 – 2004)
President (2000 – 2003)

University of Toledo Alumni Association (1997 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Alumni Spotlight, Mount Union Magazine (Spring/Summer 2018). Copy supplied.

The Federal Court Reentry Program, TBA News (Toledo Bar Association Newsletter) (April 2015). Copy supplied.

A Magistrate Judge Reflects on Settlement, The Federal Lawyer (May/June 2014). Copy supplied.

A Remembrance of Judge John Potter, TBA News (Toledo Bar Association Newsletter) (November 2013). Copy supplied.

Don't Forget Your Life Preserver, Inter Alia (Newsletter of the Northern District of Ohio Chapter of the Federal Bar Association) (Fall 2012). Copy supplied.

Alumni Perspectives James R. Knepp '92, University of Toledo Law Transcript (Fall 2011). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association,

committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None

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

None

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

November 21, 2019: Presiding Judge, "Naturalization Ceremony," Bowling Green State University, Bowling Green, Ohio. Notes supplied.

November 12, 2019: Panelist, "Drafting Issues in Employment Cases," Toledo Bar Association Labor and Employment Law Committee's Continuing Legal Education Program, Toledo, Ohio. This panel discussed best practices for drafting employment documents. I have no notes, transcripts, or recordings. The address of the Toledo Bar Association is 311 North Superior Street, Toledo, Ohio 43604.

October 18, 2019: Panelist, "Challenges and Solutions for Case Management in Employment Cases," Midwest Labor and Employment Law Seminar, Columbus, Ohio. This panel discussed challenges and solutions to case processing and docket management. I have no notes, transcripts, or recordings. The address of the Ohio State Bar Association is 1700 Lake Shore Drive, Columbus, Ohio 43204.

August 26, 2019: Panelist, "Perspectives from the Judiciary on Social Security Disability Litigation," Social Security Law Bench Bar Forum, United States Attorney's Office for the Northern District of Ohio, Cleveland, Ohio. This panel discussed best practices in social security appeals. I have no notes, transcripts, or recordings. The address for the United States Attorney's Office for the Northern District of Ohio is 801 West Superior Avenue, Suite 400, Cleveland, Ohio 44113.

July 4, 2019: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied. Press coverage supplied.

November 13, 2018: Presiding Judge, "Naturalization Ceremony," Bowling Green State University, Bowling Green, Ohio. Notes supplied. Press Coverage supplied.

October 25 – 26, 2018: Panelist, "Management of E-Discovery in Litigation" and "E-Discovery Case Update," Working Group 1 of the Sedona Conference, Hollywood, California. This first panel discussed best practices for e-discovery and the second panel discussed updates on e-discovery case law at the Annual Meeting of Working Group 1 of the Sedona Conference, Hollywood, California. I have no notes, transcripts, or recordings. The address of the Sedona Conference is 301 East Bethany Home Road, Suite C-297, Phoenix, Arizona 85012.

October 11, 2018: Panelist, "Mediation: Practical Tips and Legal Aspects of Best Practices," Midwest Labor and Employment Law Seminar, Columbus, Ohio. This panel discussed best practices for successful mediations. I have no notes, transcripts, or recordings. The address of the Ohio State Bar Association is 1700 Lake Shore Drive, Columbus, Ohio 43204.

September 26, 2018: Panelist, "Brief Writing Panel," University of Toledo College of Law. I have no notes, transcripts, or recordings. The address of the University of Toledo College of Law is 1825 West Rocket Drive, Toledo, Ohio 43606.

September 13, 2018: Speaker, "Settlement Conferences in Federal Court," Toledo Bar Association Young Lawyers Committee, Toledo, Ohio. Outline provided.

July 4, 2018: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied. Press coverage supplied.

June 7, 2018: Presiding Judge, "Naturalization Ceremony," United States District Courthouse, Toledo, Ohio. Notes supplied.

May 16, 2018: Panelist, "Civil and Criminal Practice Before United States Magistrate Judges: A Primer," Sixth Circuit Judicial Conference, Nashville, Tennessee. This panel discussed the role of magistrate judges in the various districts of the Sixth Circuit. I have no notes, transcripts, or recordings. The address of the United States Court of Appeals for the Sixth Circuit, 540 Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202.

April 10, 2018: Presiding Judge, "Naturalization Ceremony," St. Francis de Sales High School, Toledo, Ohio. Notes supplied.

March 26, 2018: Speaker/Q&A, "Social Security Luncheon," Toledo Bar Association. I have no notes, transcripts, or recordings. The address for the Toledo Bar Association is 311 North Superior Street, Toledo, Ohio 43604.

March 9, 2018: Speaker, "Privileges and Responsibilities of Citizenship," Jefferson Junior High School Gifted Program. I have no notes, transcripts, or recordings. The address of Jefferson Junior High School is 5530 Whitmer Drive, Toledo, Ohio 43613.

January 29, 2018: Speaker, "Privileges and Responsibilities of Citizenship," Boy Scouts of America, at St. Joan of Arc School. I have no notes, transcripts, or recordings. The address of Boy Scouts of America – Erie Shores Council is 5600 West Sylvania Avenue, Toledo, Ohio 43623.

January 22, 2018: Panelist, "Brief Writing Panel," University of Toledo College of Law. I have no notes, transcripts, or recordings. The address of the University of Toledo College of Law is 1825 West Rocket Drive, Toledo, Ohio 43606.

December 1, 2017: Panelist, "The View from the Bench," An E-Discovery Primer, Toledo Bar Association. This panel discussed E-Discovery from a judicial perspective. I have no notes, transcripts or recordings. The address of the Toledo Bar Association is 311 North Superior Street, Toledo, Ohio 42304.

November 13, 2017: Presiding Judge, "Naturalization Ceremony," Bowling Green. Notes supplied. Press coverage supplied.

July 4, 2017: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied. Press coverage supplied.

May 12, 2017: Presiding Judge, "Naturalization Ceremony," Downtown Civic Mall, Toledo, Ohio. Notes supplied.

November 9, 2016: Presiding Judge, "Naturalization Ceremony," Bowling Green State University, Bowling Green, Ohio. Notes supplied. Press coverage supplied.

October 28, 2016: Panelist, "Update on Federal Rules of Civil Procedure, Northern/Southern District Federal Court Bench Bar Conference," Ohio State Bar Association, Columbus, Ohio. The presentation was about recent changes to the Federal Rules of Civil Procedure. I do not have any notes or outlines from that presentation. The address of the Ohio State Bar Association is 1700 Lake Shore Drive, Columbus, Ohio 43204.

September 16, 2016: Presiding Judge, "Naturalization Ceremony," University of Toledo College of Law, Toledo, Ohio. Notes supplied. Press coverage supplied.

August 26, 2016: Speaker, "1983 Litigation from the Other Side of the Bench," Governmental Liability Seminar of the Ohio Association of Civil Trial Attorneys. Notes supplied.

July 4, 2016: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied. Press coverage supplied.

May 10, 2016: Panelist, "Boot Camp at U.S. District Court for the Northern district of Ohio hosted by the Toledo Bar Association." This panel discussed district court practices for new attorneys. I have no notes, transcripts, or recordings. The address of the U.S. District Court for the Northern District of Ohio is 1716 Spielbusch Avenue, Toledo, Ohio 43604.

May 6, 2016: Speaker, "Miranda—More Than Words," Sandusky County Bar Association, Fremont, Ohio. Notes supplied.

December 15, 2015: Presiding Judge, "Naturalization Ceremony," Toledo Museum of Art Glass Pavilion, Toledo, Ohio. Notes supplied.

September 4, 2015: Panelist, "Upcoming Changes to The Federal Rules," Cleveland eDiscovery Roundtable and Cleveland-Marshall College of Law. The Ohio Association for Justice's account of the discussion is provided.

February 27, 2015: Presiding Judge, "Naturalization Ceremony," St. Francis De Sales School, Toledo, Ohio. Notes supplied. Press coverage supplied.

February 10, 2015: Speaker, "Practice in Federal Court," Toledo Intellectual Property Law Association. The topic of the presentation was developments at the federal court. I have no notes, transcripts, or recordings. The address for the Toledo Intellectual Property Law Association, is c/o MacMillan, Sobanski and Todd, 1 Maritime Plaza, Fifth Floor, Toledo, Ohio 43604.

November 14, 2014: Presiding Judge, "Naturalization Ceremony," Bowling Green State University, Bowling Green, Ohio. Notes supplied.

July 4, 2014: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied. Press coverage supplied.

July 4, 2013: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied.

May 9, 2013: Panel Member, "Practice in Federal Courts in Ohio," Ohio State Bar Association Annual Meeting, Cleveland, Ohio. The panel discussion was about practicing in the Northern and Southern Districts of Ohio. I have no notes, transcripts, or recordings. The address for the Ohio State Bar Association is 1700 Lake Shore Drive, Columbus, Ohio 43204.

March 21, 2013: Presiding Judge, "Naturalization Ceremony," Cardinal Stritch High School, Oregon, Ohio. Notes supplied. Press coverage supplied.

November 14, 2012: Speaker, "Introduction to Federal Court," Kiwanis Club of Toledo, Ohio. The presentation was on the operation of the federal court in Toledo. I have no notes, transcripts, or recordings. The address for the Kiwanis Club of Toledo is 4560 Heatherdowns Boulevard, Toledo, Ohio 43614.

October 25, 2012: Presiding Judge, Naturalization Ceremony, Clay High School, Oregon, Ohio. Notes supplied.

September 17, 2012: Speaker, "225th Anniversary of the United States Constitution," Regula Center for Public Service and Civic Engagement at the University of Mount Union, Alliance, Ohio. Notes provided.

August 9, 2012: Presiding Judge, Naturalization Ceremony, Monclova Community Center, Monclova, Ohio. Notes supplied. Press coverage supplied.

July 4, 2012: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes supplied.

May 2, 2012: Panelist, "Practice and Procedure Before Magistrate Judges," Ohio State Bar Association Annual Meeting, Cincinnati, Ohio. This panel discussed practicing before magistrate judges in the Northern and Southern Districts of Ohio. I have no notes, transcripts, or recordings. The address for the Ohio State Bar Association is 1700 Lake Shore Drive, Columbus, Ohio 43204.

February 24, 2012: Presiding Judge, "Naturalization Ceremony," Maumee High School, Maumee, Ohio. I have no notes, transcripts, or recordings, however, my comments were similar to those reflected in my other naturalization speeches. Press coverage supplied.

November 18, 2011: Panelist, "Practicing Law in a Time of Change: Current Technology and Practical Issues Affecting Lawyers," Toledo Bar Association Common Pleas Court Committee Continuing Legal Education Program, Toledo, Ohio. This panel discussed the use of technology in the courtroom and electronic filing. I have no notes, transcripts, or recordings. The address of the Toledo Bar Association is 311 North Superior Street, Toledo, Ohio 43604.

October 19, 2011: Presiding Judge, "Naturalization Ceremony," Rutherford B. Hayes Presidential Center, Fremont, Ohio. Notes provided. Press coverage supplied.

July 4, 2011: Presiding Judge, "Naturalization Ceremony," Sauder Village, Archbold, Ohio. Notes provided. Press coverage supplied.

May 4, 2011: Panelist, "Practice in Federal Courts in Ohio," Ohio State Bar Association Annual Meeting, Columbus, Ohio. This panel discussed practicing in the Northern and Southern Districts of Ohio. I have no notes, transcripts, or

recordings. The address for the Ohio State Bar Association is 1700 Lake Shore Drive, Columbus, Ohio 43204.

February 23, 2011: Presiding Judge, "Naturalization Ceremony," Maumee Valley Country Day School, Toledo, Ohio. Notes supplied.

February 3, 2011: Panelist, "Internships, Externships and Clerkships in Federal Court," University of Toledo College of Law, Toledo, Ohio. The panel discussed clerkship and internship opportunities for law students. I have no notes, transcripts, or recordings. The address of the University of Toledo College of Law is 1825 West Rocket Drive, Toledo, Ohio 43606.

January 21, 2011: Presiding Judge, "Naturalization Ceremony," United States District Courthouse, Toledo, Ohio. Notes supplied.

November 2, 2010: Presiding Judge, "Naturalization Ceremony," Notre Dame Academy, Toledo, Ohio. Notes supplied. Press coverage supplied.

September 22, 2010: Speaker, "Remarks at Investiture of James R. Knepp II," University of Toledo College of Law, Toledo, Ohio. I have no notes, transcripts, or recordings. The address of the University of Toledo College of Law is 1825 West Rocket Drive, Toledo, Ohio 43606.

August 27, 2010: Presiding Judge, "Naturalization Ceremony," U.S. District Courthouse, Toledo, Ohio. Notes supplied.

June 5, 2009: Speaker, "Taking and Defending Rule 30(b)(6) Depositions," Federal Bar Association Advanced Practice Seminar, Toledo, Ohio. This presentation was part of an advanced federal practice seminar and included practical pointers for giving notice for and taking depositions of corporate representatives, as well as preparing witnesses and defending these depositions. I have no notes, transcripts, or recordings. The address for the Federal Bar Association for the Northern District of Ohio is P.O. Box 14760, Cleveland, Ohio 44114.

September 28, 2007: Speaker, "If a Picture is Worth a Thousand Words . . . Can I Get Summary Judgment For My Video," General Claims Conference of the Association of American Railroads, Williamsburg, Virginia. The presentation was on using video evidence for motion practice in grade crossing litigation. I have no notes, transcripts, or recordings. The address for the Association of American Railroads is 425 3rd Street Southwest, Washington, DC 20024.

August 22, 2003, August 20, 2004, and August 22, 2008: Panelist, "Character Matters," University of Toledo College of Law, Toledo, Ohio. This is an annual program presented by the Toledo Bar Association to incoming law students on the need for ethics and professionalism. I have no notes, transcripts, or recordings. The address for the Toledo Bar Association is 311 North Superior Street, Toledo, Ohio

43604.

November 21, 2003, November 26, 2006, November 25, 2007, January 24, 2008, and January 22, 2009: Panelist, "New Lawyer Training," Civil Litigation, Toledo Bar Association, Toledo, Ohio. I have no notes, transcripts, or recordings. The address for the Toledo Bar Association is 311 North Superior Street, Toledo, Ohio 43604.

June 1, 2001, June 7, 2002, June 6, 2003, December 17, 2004, December 8, 2005, December 15, 2006, December 12, 2007, December 19, 2008, November 20, 2009, December 17, 2010, December 18, 2012, December 17, 2013, April 17, 2015, March 10, 2017, March 8, 2019: Panelist, "Nicholas J. Walinski Federal Court Practice Seminar," Civil Practice, Toledo Bar Association, Toledo, Ohio. Outline supplied.

March 3, 2000: Speaker, "How to Ice Berg," Winter Meeting of the National Association of Railroad Trial Counsel, Sea Island, Georgia. Handout supplied.

October 24, 1997, and September 17, 1998: Presenter, "The Investigating Officer's Role In Grade Crossing Accident Litigation," Owens Community College, Perrysburg, Ohio. Notes supplied.

May 16, 1992: Speaker, "Valedictory Address," University of Toledo College of Law, Toledo, Ohio. I have no notes, transcripts, or recordings. The address for the University of Toledo College of Law is 1825 West Rocket Drive, Toledo, Ohio 43606.

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

Alissa Widman Neese, *Still Fighting*, Sandusky Register, Nov. 29, 2014. Copy supplied.

Alissa Widman Neese, *Jayda Won, But They Hide Documents*, Sandusky Register, Nov. 26, 2014. Copy Supplied.

Erica Blake, *Area Lawyer to Take Seat as Federal Magistrate*, Toledo Blade, Aug. 3, 2010. Copy supplied.

Homer Brickey, *114-year-old City Law Firm is Disbanding*, Toledo Blade, Mar. 9, 2006. Copy supplied.

Erica Blake, *Effort to Keep Ladyfield Open Ends in Failure*, Toledo Blade, May 19, 2005. Copy supplied.

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

Since July 30, 2010, I have served as a United States Magistrate Judge for the Northern District of Ohio. I was re-appointed on July 30, 2018. The authority of the federal magistrate judges is defined by 28 U.S.C. § 631 and under 28 U.S.C. § 636.

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

As a United States Magistrate Judge, I am only able to preside over entire civil matters by consent of the parties and over criminal trials involving certain misdemeanor and petty offenses. I have presided over 8 cases that have gone to verdict or judgment: 5 jury trials (4 civil, 1 criminal) and 3 bench trials (2 civil, 1 criminal)

i. Of these, approximately what percent were:

jury trials:	62.5%
bench trials:	37.5% [total 100%]
civil proceedings:	75%
criminal proceedings:	25% [total 100%]

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

Please see Appendix 13(b).

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

1. *Smith v. Perkins Board of Education*, Case No. 3:11-cv-560 (N.D. Ohio) (copy of judgment supplied).

I presided over this civil trial by consent of the parties. The plaintiff, a teacher, alleged her employer failed to make a good faith effort to accommodate her disabilities, and ultimately fired her on the basis of that disability in violation of the Americans with Disability Act and Ohio law. I conducted a five-day jury trial after which the jury found in favor of plaintiff. The case was resolved while post-trial motions were pending.

Counsel for Plaintiff

Paul T. Belazis
Malone, Ault & Farell
7654 West Bancroft Street
Toledo, OH 43617
419-843-1333

Counsel for Defendant

Byron S. Choka & Teresa L. Grigsby
Spengler Nathanson
900 Adams Street
Toledo, OH 43604
419-241-2201

2. *Zilba v. City of Port Clinton*, Case No. 3:11-cv-1845, 924 F. Supp. 2d 867 (N.D. Ohio 2013)

I presided over this civil case by consent of the parties. The plaintiff challenged the City of Port Clinton's parking ordinances as violating due process because the ordinance mandated payment of a fine for parking ticket or subjected the recipient to a misdemeanor charge. I found that the plaintiff had standing to bring suit after he paid the ticket to avoid a misdemeanor charge. I held that the City of Port Clinton's practice violated procedural due process because it deprived the plaintiff of an opportunity to request a hearing (nor did the parking ordinance contemplated a hearing on the merits of an underlying parking citation). I therefore granted plaintiff's motion for summary judgment. There was no appeal.

Counsel for Plaintiff

Corey L. Tomlinson
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3. *Norfolk Southern Ry. Co. v. City of Toledo*, Case No. 3:14-cv-918, 2015 WL 45537 (N.D. Ohio Jan. 2, 2015)

I presided over this civil case by consent of the parties. The plaintiff, Norfolk Southern Railway Company, sought a declaration that various provisions of the Toledo Municipal Code related to land use, construction, and occupancy permits, when applied to transportation by a rail carrier, are preempted by the Interstate Commerce Commission Termination Act ("ICCTA"). The ICCTA vests exclusive jurisdiction over these issues to the Surface Transportation Board. I granted summary judgment to the plaintiff, finding the ICCTA categorically preempted the City's pre-construction and preclearance permitting and inspection requirements related to the use, construction, and occupancy of a Norfolk Southern building. There was no appeal.

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4. *Terek v. Finkbiner*, Case No. 3:14-cv-1391, 2015 WL 5542535 (N.D. Ohio Sept. 18, 2015)

I presided over this civil trial by consent of the parties. The defendant truck driver and his employer jointly filed a motion for summary judgment on three counts: negligent hiring, punitive damages against the defendant's employer, and punitive damages resulting from defendant's conduct the day of the accident. I held that based on the facts presented that no reasonable juror could conclude defendant was negligently hired; there was no evidence to support a finding of malice by the defendant as required under Ohio law; and that the defendant's employer did not authorize, participate in, or ratify the defendant's conduct. I also found that punitive damages were not appropriate under Ohio law. I granted the defendant's motion for partial summary judgment in its entirety. The remainder of the case went to a jury trial, where the jury returned a verdict for the plaintiff. There was no appeal.

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5. *Wheeler v. CSX Transp., Inc.*, Case No. 3:14-cv-2689, 2017 WL 3116701
(N.D. Ohio July 21, 2017)

I presided over this civil jury trial with consent of the parties. This case involved a claim by an employee against his employer under the Federal Employers' Liability Act ("FELA"), 45 U.S.C. § 51. The plaintiff was allegedly injured that while working for the defendant. I found that the defendant was entitled to summary judgment on its Locomotive Inspection Act ("LIA"), 49 U.S.C. § 20701 *et seq.*, claim because the plaintiff did not demonstrate a failure to comply with regulations issued by the Federal Railroad Administration or a violation of the broad duty to keep locomotives in proper condition and safe to operate. I also held that the LIA precluded plaintiff's argument under the FELA and distinguished the recent Supreme Court decision in *POM Wonderful LLC v. Coca-Cola Co.*, 134 S. Ct. 2228 (2014), which found an action under one federal statute (the Lanham Act) not precluded by another (the Food Drug and Cosmetic Act). Because the plaintiff could proceed on his general FELA negligence claim that the defendant was negligent, the remainder of the case went to jury trial, and the jury returned a verdict for the defendant. There was no appeal.

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6. *Livneh v. Vill. of Oak Harbor*, Case No. 3:15-cv-2323, 2017 WL 3575852
(N.D. Ohio Aug. 17, 2017)

I presided over this civil case, based on diversity jurisdiction under 28 U.S.C. § 1332, and by consent of the parties. The plaintiff sued the defendant-towns after sustaining injuries from a single-vehicle accident. The defendant-towns, the Village of Oak Harbor, Salem Township, and Ottawa County, each filed motions for summary judgment. The central issue in the case was whether any of the towns had breached a duty by failing to install a warning sign leading up to the curve in the road where the accident occurred. I found that each defendant-town was entitled to summary judgment because there was no requisite duty or because the town was shielded by qualified immunity under Ohio's qualified immunity statute. I granted summary judgment to all three defendant-towns. There was no appeal.

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7. *Gold v. City of Sandusky*, Case No. 3:15-cv-2001, 2018 WL 1468992 (N.D. Ohio Mar. 26, 2018)

I presided over this civil case by consent of the parties. Pursuant to 42 U.S.C. § 1983, the plaintiff asserted his constitutional rights were violated by medical

providers and police officers following an automobile accident. I held the police officers involved did not violate the plaintiff's Fourth Amendment rights after using the blood and urine samples taken by medical providers at the hospital. I also held the medical providers did not violate the plaintiff's Fourteenth Amendment right to privacy, because responding to a later-issued subpoena for medical records did not transform them into "state actors." Because the defendants were entitled to summary judgment on all federal claims, I declined to exercise jurisdiction over the remaining state law claims, and dismissed them without prejudice. There was no appeal.

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8. *United States v. \$46,340 in U.S. Currency*, Case No. 3:18-cv-86 (N.D. Ohio Nov. 14, 2018), *adopted*, 2019 WL 481168 (N.D. Ohio Feb. 7, 2019) (Memorandum Opinion and Order adopting Report and Recommendation, with text of Report and Recommendation contained therein).

I presided over this forfeiture case. The government filed a motion to strike a forfeiture claim, and for summary judgment. The government argued claimant had not met his burden to establish the Article III standing necessary to pursue the funds, primarily because claimant asserted his Fifth Amendment rights in response to each of the government's interrogatories and requests for production. I recommended the district judge find that claimant's bare ownership claim within his pleading, together with his interrogatory responses, were insufficient to establish standing. The district judge adopted my recommendation over an objection. The case is currently pending before the Sixth Circuit Court of Appeals in Case No. 19-3199.

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9. *Yoder v. City of Bowling Green*, Case No. 3:17-cv-2321, 2019 WL 415254 (N.D. Ohio Feb. 1, 2019)

I presided over this civil case by consent of the parties. Fraternity brothers and several landlords brought this case pursuant to 42 U.S.C. § 1983, challenging a the City of Bowling Green's zoning ordinance prohibiting the occupation of a single-family home by more than three unrelated individuals. The plaintiffs moved for partial summary judgment, arguing only the constitutionality of the ordinance under the Ohio Constitution. I held that the ordinance violated the Ohio Constitution, which is more protective of property rights than the federal Constitution, because the ordinance was overinclusive, underinclusive, and arbitrary. I enjoined Bowling Green from enforcing its zoning ordinances so as to prohibit, fine, or punish the occupancy of a home when the number of unrelated occupants does not exceed the number of bedrooms. There was no appeal.

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10. *Ashqar v. LaRose*, Case No. 4:18-cv-1141, 2019 WL 1793000 (N.D. Ohio Mar. 26, 2019), *adopted sub nom.*, *Ashqar v. Adducci*, 2019 WL 1790453 (N.D. Ohio Apr. 24, 2019)

I presided over this habeas case referred to me from a district judge. In this case the petitioner challenged his detention pending removal from the United States as violating the Due Process Clause as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). After full briefing, I held an evidentiary hearing. Before I issued a Report and Recommendation on the issue, the Government released the petitioner on an order of supervision pending his removal from the United States. The Government then moved to dismiss the case as moot, and the petitioner opposed. I issued a Report and Recommendation recommending the motion be granted because the petitioner had received the relief requested and the Court was no longer presented with an active case or controversy. I recommended the district judge deny injunctive relief against future detention. The petitioner did not file objections, and the district court adopted the recommendation. There was no appeal.

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

1. *HSBC Bank USA, Nat'l Ass'n v. Arnett*, Case No. 3:10-cv-2306 (N.D. Ohio Jan. 19, 2011), *adopted*, 767 F. Supp. 2d 827 (N.D. Ohio 2011) (Memorandum Opinion and Order adopting Report and Recommendation, with text of Report and Recommendation contained therein).

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2. *Zilba v. City of Port Clinton*, Case No. 3:11-cv-1845, 924 F. Supp. 2d 867 (N.D. Ohio 2013)

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3. *Norfolk Southern Ry. Co. v. City of Toledo*, Case No. 3:14-cv-918, 2015 WL 45537 (N.D. Ohio Jan. 2, 2015)

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4. *Terek v. Finkbiner*, Case No. 3:14-cv-1391, 2015 WL 5542535 (N.D. Ohio Sept. 18, 2015)

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5. *Wheeler v. CSX Transp., Inc.*, Case No. 3:14-cv-2689, 2017 WL 3116701 (N.D. Ohio July 21, 2017)

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6. *Livneh v. Vill. of Oak Harbor*, Case No. 3:15-cv-2323, 2017 WL 3575852 (N.D. Ohio Aug. 17, 2017)

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7. *Gold v. City of Sandusky*, Case No. 3:15-cv-2001, 2018 WL 1468992 (N.D. Ohio Mar. 26, 2018)

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8. *United States v. \$46,340 in U.S. Currency*, Case No. 3:18-cv-86 (N.D. Ohio Nov. 14, 2018), *adopted*, 2019 WL 481168 (N.D. Ohio Feb. 7, 2019) (Memorandum Opinion and Order adopting Report and Recommendation, with text of Report and Recommendation contained therein)

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9. *Yoder v. City of Bowling Green*, Case No. 3:17-cv-2321, 2019 WL 415254 (N.D. Ohio Feb. 1, 2019)

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10. *Ashqar v. LaRose*, Case No. 18-cv-1141, 2019 WL 1793000 (N.D. Ohio Mar. 26, 2019), *adopted sub nom.*, *Ashqar v. Adducci*, 2019 WL 1790453 (N.D. Ohio Apr. 24, 2019)

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

Jackson v. Smith, Case No. 5:09-cv-1467 (N.D. Ohio Sept. 21, 2010), *adopted in part*, 2011 WL 4478511 (Sept. 26, 2011), *aff'd*, 745 F.3d 206 (6th Cir. 2014), *cert. denied sub nom.*, *Jackson v. Lazaroff*, 135 S. Ct. 118 (Oct. 6, 2014)

Phillips v. Ohio, Case No. 1:11-cv-1630, 2012 WL 1899676 (N.D. Ohio Mar. 28, 2012), *adopted*, 2012 WL 1899672 (N.D. Ohio May 24, 2012), *appeal dismissed*, Case No. 13-3057 (6th Cir. Mar. 21, 2013), *cert. denied*, 134 S. Ct. 98 (Oct. 7, 2013)

Doremus v. Colvin, Case No. 3:13-217 (Doc. 22) (N.D. Ohio Jan. 15, 2014), *adopted*, 2014 WL 2772215 (June 18, 2014), *appeal dismissed*, 2017 WL 9619099 (6th Cir. 2017), *cert. denied sub nom.*, *Doremus v. Berryhill*, 138 S. Ct. 2581 (May 29, 2018), *reh'g denied*, 139 S. Ct. 316 (Oct. 1, 2018)

Majid v. Morgan, Case No. 1:13-cv-843 (N.D. Ohio June 22, 2015), *adopted*, 2016 WL 3574406 (N.D. Ohio June 25, 2016) Memorandum Opinion and Order adopting Report and Recommendation, with the text of Report and Recommendation contained therein), *aff'd sub nom.*, *Majid v. Noble*, 751 F. App'x 735 (6th Cir. 2018), *cert. denied*, 139 S. Ct. 1360 (Mar. 18, 2019)

Warmus v. LaRose, Case No. 4:14-cv-1925, 2015 WL 13719980 (N.D. Ohio Aug. 10, 2015), *adopted*, 2017 WL 392969 (N.D. Ohio Jan. 30, 2017), *cert. of appealability denied*, 2017 WL 7796291 (6th Cir. Sept. 26, 2017), *cert. denied*, 138 S. Ct. 1286 (Mar. 19, 2018)

Wheeler v. United States, Case No. 3:15-cv-366, 2016 WL 626498 (N.D. Ohio Jan. 25, 2016), *adopted*, 2017 WL 201452 (N.D. Ohio Jan. 18, 2017), *aff'd*, Case No. 17-3906 (6th Cir. Aug. 23, 2018), *cert. denied*, 139 S. Ct. 1341 (Mar. 18, 2019)

Terry v. Jackson, Case No. 1:15-cv-2008, 2016 WL 5477552 (N.D. Ohio Mar. 3, 2016), *adopted*, 2016 WL 5462968 (N.D. Ohio Sept. 29, 2016), *cert. of appealability denied*, 2017 WL 5664915 (6th Cir. July 17, 2017), *cert. denied*, 138 S. Ct. 561 (Dec. 11, 2017)

Howard v. DeWine, Case No. 5:14-cv-2587, 2016 WL 2637757 (N.D. Ohio Apr. 6, 2016), *adopted*, 2016 WL 2594200 (N.D. Ohio May 5, 2016), *cert. of appealability denied sub nom.*, *Howard v. Miller*, 2017 WL 6029171 (6th Cir. Jan. 26, 2017), *cert. denied*, 138 S. Ct. 185 (Oct. 2, 2017)

Hoffman v. Hooks, Case No. 3:15cv1200, 2016 WL 11384509 (N.D. Ohio Apr. 26, 2016), *adopted*, 2016 WL 4086788 (N.D. Ohio Aug. 2, 2016), *cert. of appealability denied sub nom.*, *Hoffman v. Harris*, 2017 WL 3951852 (6th Cir. Apr. 5, 2017), *cert. denied*, 138 S. Ct. 450 (Nov. 13, 2017)

Chappell v. Morgan, Case No. 4:15-cv-882, 2016 WL 8259330 (N.D. Ohio Nov. 30, 2016), *adopted*, 2017 WL 635475 (N.D. Ohio Feb. 16, 2017), *cert. of*

appealability denied, 2017 WL 3973960 (6th Cir. Aug. 16, 2017), *cert. denied*, 138 S. Ct. 931 (Jan. 22, 2018), *reh'g denied*, 138 S. Ct. 1322 (Mar. 19, 2018)

King v. Morgan, Case No. 1:12-cv-2000, 2017 U.S. Dist. LEXIS 51989 (N.D. Ohio Feb. 10, 2017), *adopted*, 2017 U.S. Dist. LEXIS 51987 (N.D. Ohio Apr. 5, 2017), *cert. of appealability denied*, *King v. Bracy*, Case No. 17-3408 (6th Cir. Mar. 27, 2018), *cert. denied sub nom.*, *King v. Erdos*, 139 S. Ct. 255 (Oct. 1, 2018).

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Harvey v. Comm'r of Soc. Sec., Case No. 5:14-cv-2466, 2016 WL 233711 (N.D. Ohio Jan. 20, 2016), *rev'd* 2017 WL 4216585 (6th Cir. Mar. 6, 2017)

I issued an opinion in this Social Security disability appeal finding the Commissioner of Social Security's decision that the plaintiff did not meet a "listed" impairment supported by substantial evidence. In so doing, I found that although the Administrative Law Judge ("ALJ") did not analyze the relevant evidence in the section of his opinion addressing the listing, he adequately analyzed it elsewhere in his opinion. The Sixth Circuit reversed, finding this to be improper *post hoc* rationalization.

Barclay v. Tibbles, Case No. 5:13-cv-124 (N.D. Ohio Feb. 10, 2014), *adopted* 2014 WL 809197 (N.D. Ohio Feb. 28, 2014) (Memorandum Opinion and Order adopting Report and Recommendation, with the text of Report and Recommendation contained therein), *remanded by In re: Mark Barclay*, Case No. 16-3282 (6th Cir. Oct. 5, 2016) (copy supplied).

I issued a Report and Recommendation recommending the district judge find the first two grounds in this habeas corpus petition "second or successive" within the meaning of 28 U.S.C. § 2244(b) because the petitioner had filed a previous habeas petition in 2005 challenging the same conviction, and find the third ground in the petition procedurally defaulted as it had not been fairly presented as a federal constitutional claim. The district judge adopted my recommendation and transferred the first two grounds to the Sixth Circuit. The Sixth Circuit remanded the case, finding that because the petitioner had received a *de novo* resentencing (which resulted in the same sentence plus a mandatory period of post-release control) after his first habeas petition, his petition was not successive based on the intervening decision in *In re Stansell*, 828 F.3d 412 (6th Cir. 2016).

Dovala v. Tim, Case No. 1:16-cv-2511, 2017 WL 3116687 (N.D. Ohio July 21, 2017), *adopted*, 2017 WL 4227820 (N.D. Ohio Sept. 22, 2017), *remanded by In re: Melissa Dovala*, Case No. 17-4009 (6th Cir. Mar. 15, 2018) (copy supplied).

The petitioner in this case first filed a habeas petition in 2005, which was referred to a different magistrate judge. The district judge adopted the magistrate judge's recommendation that five grounds of the petition be dismissed as untimely, and a sixth be dismissed without prejudice as unexhausted. The petitioner exhausted her sixth claim in state court, and returned, filing the petition at issue in 2016, raising only the claim previously dismissed. I issued a Report and Recommendation recommending the district judge grant the Respondent's motion to transfer the petitioner's habeas petition to the Sixth Circuit Court of Appeals as a second or successive petition under 28 U.S.C. § 2244(b). The district court adopted my recommendation. The Sixth Circuit vacated that decision, explaining that the petitioner did not make a choice to proceed only on her exhausted claims, and "both parties, as well as the magistrate and district judges made clear their erroneous assumption that dismissal of the unexhausted claim would preserve it, notwithstanding the dismissal with prejudice of the other claims." The court thus held that "because in the very unusual circumstances of this case Dovala never made the choice to forgo the merits of her previously unexhausted claim, this petition is not 'second or successive.'"

Crangle v. Tibbals, Case No. 5:13-cv-842 (N.D. Ohio Feb. 14, 2014), *adopted*, 2014 WL 1369606 (N.D. Ohio Mar. 31, 2014) (Memorandum Opinion and Order adopting Report and Recommendation, with text of Report and Recommendation contained therein), *rev'd sub nom.*, *Crangle v. Kelly*, 838 F.3d 673 (6th Cir. 2016)

I issued a Report and Recommendation in this habeas case, recommending the district judge dismiss the petition as time-barred under 28 U.S.C. § 2244(d)(1). I recommended the district judge find the petitioner's *nunc pro tunc* resentencing, conducted to add an erroneously-omitted period of post-release control, did not restart the habeas one-year statute of limitations, because the new sentence merely corrected the initial sentence. The district judge agreed and adopted my recommendation. The Sixth Circuit reversed. In so doing, it noted it had ordered further briefing on appeal in light of the recently-decided case of *King v. Morgan*, 807 F.3d 154 (6th Cir. 2015), which held that a new sentence leads to a new judgment that normally resets the statute of limitations clock. Following additional briefing on whether the *nunc pro tunc* order qualified a new judgment for purpose of the statute of limitations, the Sixth Circuit held that it was, and thus the petition was timely. On remand, I recommended the petition be denied on the merits, *Crangle v. Tibbals*, 2018 WL 1633018 (N.D. Ohio Mar. 5, 2018), the district court adopted my recommendation, *Crangle v. Eppinger*, 2018 WL 1621247 (N.D. Ohio Apr. 4, 2018), and the Sixth Circuit denied a certificate of appealability, *Crangle v. Eppinger*, Case No. 18-3438 (6th Cir.).

Phillips v. Houk, Case No. 5:09-cv-1848, 2012 WL 2191634 (N.D. Ohio Jan. 4, 2012), *adopted*, 2012 WL 2191324 (N.D. Ohio June 13, 2012), *rev'd*, 587 F. App'x 868 (6th Cir. 2014)

I issued a Report and Recommendation in this habeas case, recommending the district judge find first, that the state court decision on the petitioner's sufficiency of the evidence/judicial fact-finding claim was not contrary to, nor an unreasonable application of, clearly established federal law, and second, that the petitioner had procedurally defaulted his claim that his guilty plea was not voluntarily nor intelligently made. The district judge agreed and adopted the recommendation. The Sixth Circuit reversed on the second point, finding the claim not procedurally defaulted, and remanded for a review of the merits of the plea voluntariness claim. On remand, I recommended the plea voluntariness claim be denied on the merits, *Phillips v. Houk*, 2015 WL 13730928 (N.D. Ohio Apr. 7, 2015), the district court adopted my recommendation, *Phillips v. Houk*, 2016 WL 552422 (Feb. 12, 2016), and the Sixth Circuit denied a certificate of appealability, *Phillips v. Houk*, Case No 16-3199 (6th Cir. July 12, 2016).

Black v. Comm'r of Soc. Sec., 2010 WL 5129295 (N.D. Ohio Sept. 14, 2010), *adopted in part*, 2010 WL 5129287 (N.D. Ohio Dec. 10, 2010)

I issued a Report and Recommendation recommending the ALJ's consideration of medical opinion evidence be affirmed, but the ALJ's evaluation of the plaintiff's credibility be reversed and remanded for further consideration. The district judge adopted my recommendation as to the opinion evidence, but rejected the recommendation that the credibility determination be reversed, finding substantial evidence in the record supported that determination.

Jackson v. Smith, Case No. 09-cv-1467 (N.D. Ohio Sept. 21, 2010), *adopted in part*, 2011 WL 4478511 (Sept. 26, 2011)

In this habeas case, I recommended the district court deny the petition on several grounds, but grant the petition for the limited purpose of resentencing based on double jeopardy grounds. The district court adopted my recommendation as to the denial, and rejected my recommendation that it be granted on double jeopardy grounds, denying the petition in its entirety.

Goldberg v. Maloney, 2011 WL 864932 (N.D. Ohio Feb. 10, 2011), *rejected*, 2011 WL 864922 (N.D. Ohio Mar. 10, 2011)

This habeas case was before me on referral from the district judge to which the case had been remanded from the Sixth Circuit. The Sixth Circuit had remanded the case for a determination of whether the petitioner had shown cause and prejudice to overcome the procedural default of a claim. I issued a Report and Recommendation recommending the district judge find petitioner had shown such cause and prejudice through his ineffective assistance of appellate counsel claim. The district judge rejected this recommendation, finding that the ineffective assistance of counsel claim was itself procedurally defaulted and thus could not, itself, establish cause for a different procedural default.

Szymanski v. Comm'r of Soc. Sec., 2011 WL4541299 (N.D. Ohio Aug. 5, 2011) *adopted in part*, 2011 WL 4541294 (N.D. Ohio Sept. 29, 2011)

I issued a Report and Recommendation in this Social Security disability appeal recommending the district judge affirm the ALJ's decision denying disability benefits. The district judge adopted most of my analysis, but rejected my finding that the ALJ did not err in failing to include concentration limitations and remanded the case.

Simmons v. Comm'r of Soc. Sec., 2011 WL 4336997 (N.D. Ohio Aug. 11, 2011), *rejected*, 2011 WL 4344040 (N.D. Ohio Sept. 14, 2011)

I issued a Report and Recommendation in this Social Security disability appeal recommending the district judge find no error in the ALJ's consideration of a treating physician's medical opinion, but recommending remand for further explanation of the disability onset date selected by the ALJ. The district judge rejected the recommendation to remand, finding that there was no error in the ALJ's determination of the disability onset date.

Young v. Comm'r of Soc. Sec., 2011 WL 4067577 (N.D. Ohio Aug. 18, 2011), *rejected*, 2011 WL 4067529 (N.D. Ohio Sept. 13, 2011)

I issued a Report and Recommendation in this Social Security disability case recommending granting the defendant's motion to dismiss the case as untimely and finding equitable tolling inappropriate. The district judge rejected the recommendation, finding the circumstances demonstrated a basis for equitable tolling.

Irizarry ex rel. A.A. v. Comm'r of Soc. Sec., 2013 WL 7020526 (N.D. Ohio Dec. 13, 2013), *adopted in part*, 2014 WL 201508 (N.D. Ohio Jan. 17, 2014)

I issued a Report and Recommendation in this Social Security disability appeal recommending the district judge affirm the ALJ's decision denying disability benefits. The district judge accepted my recommendation as to four issues, but rejected the conclusion that the ALJ's failure to address two treating psychiatrists' opinions was harmless error, and remanded the case.

Ajumu v. Goodrich, 2014 WL 1238402 (N.D. Ohio Feb. 14, 2014), *adopted in part* 2014 WL 1236268 (N.D. Ohio Mar. 25, 2014)

I issued a Report and Recommendation in this habeas case recommending Respondent's motion to dismiss the petitioner's two petitions as untimely be granted as to one, and denied as to the other. The district judge adopted my recommendation as to dismissal one of the petitions, and rejected my recommendation as to denying the motion as to the other. The district judge found both petitions time-barred.

Colvin v. Comm'r of Soc. Sec., 2014 WL 8390552 (N.D. Ohio Nov. 5, 2014), *rev'd* 2015 WL 1471769 (N.D. Ohio Mar. 31, 2015)

I issued a Report and Recommendation in this Social Security disability appeal recommending the ALJ's decision be affirmed over plaintiff's argument that the ALJ failed to properly analyze whether his impairments met Listing. 1.04. The district judge rejected the recommendation and remanded the case, finding that the ALJ's analysis of the Listing was deficient.

Smith v. Comm'r of Soc. Sec., 2015 WL 5730259 (N.D. Ohio July 16, 2015), *rejected*, 2015 WL 5729480 (N.D. Ohio Sept. 28, 2015)

I issued a Report and Recommendation in this Social Security disability appeal recommending the ALJ's decision be affirmed over plaintiff's arguments that the ALJ failed to properly consider medical opinion evidence of record and failed to properly consider the effect of her obesity on her subjective symptom complaints. The district court found no error in the ALJ's consideration of the opinion evidence, but reversed and remanded the case because the ALJ did not properly consider the effect of plaintiff's obesity.

Caldwell v. Bunting, 2015 WL 12803701 (N.D. Ohio Nov. 24, 2015), *rejected*, 2016 WL 6995299 (N.D. Ohio Nov. 30, 2016)

Based on the briefing presented, I issued a Report and Recommendation in this habeas case recommending that a motion to dismiss the petition as untimely be granted. However, after objections the district judge noted that – although not previously identified as such – the petition was second or successive and required authorization from the Sixth Circuit to proceed. Therefore, the district judge ordered the petition transferred to the Sixth Circuit.

Little v. Comm'r of Soc. Sec., 2015 WL 10433466 (N.D. Ohio Dec. 30, 2015), *rejected*, 2016 WL 852569 (N.D. Ohio Mar. 4, 2016)

I issued a Report and Recommendation in this Social Security disability appeal recommending the ALJ's decision be affirmed. The district judge rejected my recommendation, finding that the ALJ had failed to properly explain consideration of the limiting effects of the plaintiff's incontinence when evaluating her symptoms.

Prater v. Comm'r of Soc. Sec., 2016 WL 8254791 (N.D. Ohio Dec. 29, 2016), *rejected*, 235 F. Supp. 3d 876 (Feb. 14, 2017)

I issued a Report and Recommendation in this Social Security disability appeal recommending the ALJ's decision be affirmed and that remand for consideration of a consultative examiner's opinion – obtained after the ALJ's decision – was not necessary. The district judge rejected this conclusion, holding that the consultative

examination was new and material evidence, and plaintiff had shown good cause for failure to present it earlier.

Caywood v. Comm'r of Soc. Sec., 2018 WL 4932501 (N.D. Ohio July 27, 2018), *rejected*, 2019 WL 3753235 (N.D. Ohio Aug. 8, 2019)

I issued a Report and Recommendation in this Social Security disability appeal recommending the district judge affirm the ALJ's decision denying disability benefits. The district judge rejected my recommendation, finding the ALJ failed to properly evaluate the opinion evidence of record, and remanded the case.

Chapman v. Comm'r of Soc. Sec., 2019 WL 5802366 (N.D. Ohio July 2, 2019), *adopted in part*, 2019 WL 3773736 (N.D. Ohio Aug. 12, 2019)

I issued a Report and Recommendation in this Social Security disability appeal recommending the district judge affirm the ALJ's decision denying disability benefits. Therein, I also held that the plaintiff had waived an argument by first raising it in reply, and therefore declined to address it. In her objections to the district judge, the plaintiff explained that her original attorney passed away in between the filing of her original brief, and her reply brief. The district judge agreed that the issue raised in reply was a new issue not raised in the original brief, but agreed, given the unique circumstances, that plaintiff should be permitted to raise the new issue. On referral back to me, I ordered further briefing and issued a supplemental Report and Recommendation, plaintiff did not object, and the district court adopted the recommendation. *See Chapman v. Comm'r of Soc. Sec.*, 2019 WL 5557525 (N.D. Ohio Oct. 23, 2019), *adopted*, 2019 WL 5557526 (N.D. Ohio Oct. 29, 2019).

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

Unless sealed, all of my opinions, as well as orders regarding non-dispositive matters are uploaded to, and available in, the Northern District of Ohio's CM/ECF (PACER) database under the docket page for the case. Most are also available on Westlaw and Lexis.

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

Zilba v. City of Port Clinton, Case No. 3:11-cv-1845, 924 F. Supp. 2d 867 (N.D. Ohio 2013)

Norfolk Southern Ry. Co. v. City of Toledo, Case No. 3:14-cv-918, 2015 WL 45537 (N.D. Ohio Jan. 2, 2015)

Gold v. City of Sandusky, Case No. 3:15-cv-2001, 2018 WL 1468992 (N.D. Ohio Mar. 26, 2018)

Nagy v. United States, Case No. 4:18-cv-416, 2018 WL 3999683 (N.D. Ohio June 19, 2018), *report and recommendation adopted*, 2018 WL 3996296 (N.D. Ohio Aug. 21, 2018)

Yoder v. City of Bowling Green, Case No. 3:17-cv-2321, 2019 WL 415254 (N.D. Ohio Feb. 1, 2019)

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

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

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

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

The United States District Court for the Northern District of Ohio has an automated conflict screening software program to identify conflicts of interest for each judge when a new case is assigned. I have *sua sponte* declined to be assigned matters in which my former law firm was representing one of the parties, which is distinct from a recusal. I am not aware of any requests by a party or litigant for me to recuse myself.

On two occasions, after conducting an unsuccessful settlement conference with a *pro se* litigant, I *sua sponte* recused myself from further participation in the case to avoid confusion to the *pro se* litigant from my engaging in *ex parte* settlement negotiations and then presiding over the case for motion practice or trial. Those two cases are: *Flores-Adalpe v. Kamash*, Case No. 3:15-cv-2076 (Doc. 24) (N.D. Ohio Apr. 1, 2016) and *Bauer v. City*

15. Public Office, Political Activities and Affiliations:

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

I have never held public office.

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

I volunteered for several judicial candidates in Lucas County Court of Common Pleas and Toledo Municipal Court. Those candidates were Hon. Jack Zouhary, Hon. Lynn Schaefer, Hon. Linda Jennings, and Hon. Patrick Foley. I have no recollection of the dates of their campaigns.

I was appointed for one term to a vacant seat on the Lucas County Republican Central Committee as a non-voting member in the late 2000s. In approximately 2008, I served as counsel to the Lucas County Republican Party Central Committee in two small litigation matters filed in Lucas County Court of Common Pleas.

16. Legal Career: Answer each part separately.

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

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

I clerked for the Honorable John W. Potter in the United States District Court for the Northern District of Ohio from 1992 to 1994.

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

I never practiced alone.

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

of your affiliation with each.

1994 – 2010

Robison, Curphey & O'Connell, LLC

433 North Summit Street,

Four SeaGate, Ninth Floor,

Toledo, Ohio 43604

Associate (1994 – 2000)

Partner (2000 – 2010)

Management Committee (2007 – 2010)

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

I served as a volunteer in the Toledo Municipal Court Citizens Dispute Mediation Program in the 1990s. I served as a mediator approximately 10-15 times, and in each instance, the disputes, while important to the *pro se* litigants, were typically relatively simple neighborhood property and interpersonal matters.

b. Describe:

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

As a law clerk from 1992 to 1994, I helped prepare my judge for pretrial conferences and court hearings, and assisted in drafting opinions. From 1994 to 2010, I was in private practice at Robison, Curphey & O'Connell. At Robison, my practice involved civil defense litigation. I specialized in defending transportation and medical malpractice claims. I served as the national coordinating counsel for a locomotive video program of a Class 1 railroad. In this capacity, I served as the designated national outside counsel and coordinated with all other outside counsel for the railroad. I also oversaw responses to requests for production, 30(b) depositions of the locomotive video custodian and trial presentation of this evidence. I also defended environmental, construction and class action litigation matters.

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

At Robison, Curphey & O'Connell, my typical clients were railroad companies, hospitals and construction companies.

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

appearances in court varied, describe such variance, providing dates.

My practice was 100% litigation until 2010. Throughout my legal career I appeared in court frequently.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 60% |
| 2. state courts of record: | 40% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 100% |
| 2. criminal proceedings: | 0% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

During my fifteen years in private practice, I estimated that I have tried over 25 jury trials. Of those 25 jury trials, I was first chair for two of them. I have tried at least two non-jury trials in municipal court. I have argued at least 12 appeals in the United States Court of Appeals for the Sixth Circuit and at least 15 appeals in the Ohio Court of Appeals, which is the intermediate state court for Ohio.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 95% |
| 2. non-jury: | 5% |

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

None.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case

was litigated; and

- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Gilbert ex rel. Clore v. Norfolk Southern Ry.*, Case No. CI-06-3774 (Lucas Co. Ct. of Com. Pl.), *aff'd*, 2010-Ohio-2618, 2010 WL 2333773 (Ohio Ct. App. June 10, 2010), *appeal not allowed*, 126 Ohio St. 3d 1601 (2010).

I was lead counsel for the defendant Norfolk Southern Railway in this wrongful death and property damage action arising from a collision between a car hauler operated by the plaintiff Gilbert's decedent and owned by the plaintiff URS Midwest and a Norfolk Southern train. Plaintiffs claimed the railroad and its crew were negligent in the manner in which the train was occupying a grade crossing as part of a switching maneuver. The case proceeded to a jury trial in November 2008. Because punitive damages remained in the case, a "high-low" settlement agreement was reached with the plaintiff Gilbert during the trial. The jury returned a unanimous verdict in favor of my clients. Plaintiff URS, which was seeking several hundred thousand dollars in property loss, plus punitive damages, appealed. I briefed and argued the appeal, in which the trial court judgment was affirmed. The Supreme Court of Ohio declined to exercise jurisdiction.

Trial Judge, Lucas County Court of Common Pleas:
Hon. James D. Bates

Appellate Panel, Ohio Sixth District Court of Appeals:
Hon. Mark L. Pietrykowski, Hon. Peter M. Handwork, and Hon. Thomas J. Osowik.

Co-counsel

Thomas J. Antonini
Diocese of Toledo
1933 Spielbusch Avenue
Toledo, Ohio 43604
(419) 214-4870
(formerly of Robison, Curphey & O'Connell)

Counsel for Plaintiff Gilbert

Donald Kral
Kisling, Nestico & Redick
1105 Schrock Road, Suite 600
Columbus, Ohio 43229
(614) 487-8669

Counsel for URS

Marshal Pitchford
DiCaudo, Pitchford & Yoder

209 South Main Street, Third Floor
Akron, Ohio 44398
(330) 762-7477
(formerly of Roetzel & Andress)

2. *Kirsch v. Firelands Counseling & Recovery*, Case No. CVC-2005-946 (Huron Co. Ct. Com. Pl. 2007).

I was sole defense counsel in this wrongful death action alleging that professional negligence by a counselor resulted in the suicide of a teenage girl. The case was tried to a jury for several days in October 2007, resulting in a unanimous verdict for my clients. There was no appeal.

Trial Judge, Huron County Court of Common Pleas:
Hon. Richard Markus (by assignment due to recusal)

Counsel for Plaintiff
Donna Taylor-Kolis
Dann Law
2728 Euclid Avenue, Number 300
Cleveland, Ohio 44115
(216) 452-1032

3. *Carpenter ex rel. Carpenter v. Norfolk and Western Ry.*, Case No. 3:95-cv-7203 (N.D. Ohio Jul. 5, 1996), *rev'd in part*, 1998 WL 199723 (6th Cir. 1998), *on remand*, 1999 WL 673386 (N.D. Ohio 1999), *aff'd*, 2000 WL 1785537 (6th Cir. 2000).

I was co-counsel in this grade crossing collision case arising from the deaths of two teenagers and injury to another in northwest Ohio. The trial court initially granted partial summary judgment in favor of my client and the remaining issues were tried to a jury which returned a defense verdict. In an initial appeal, the court reversed a portion of the grant of summary judgment and remanded for a new trial. I subsequently moved for summary judgment upon the new evidence plaintiff developed, which the trial court granted and the court of appeals affirmed.

Trial Judge, United States District Court, Northern District of Ohio:
Hon. John W. Potter
Hon. James G. Carr (on remand)
Appellate Panel, United States Court of Appeals for the Sixth Circuit:
Hon. Alan E. Norris, Hon. Eric L. Clay, Hon. Paul D. Borman
Hon. Alan E. Norris, Hon. Martha Craig Daughtrey, Hon. Eric L. Clay (second appeal)

Co-counsel
Hon. Jack Zouhary
United States District Court for the Northern District of Ohio

1716 Spielbusch Avenue
Toledo, Ohio 43604
(419) 213-5675
(formerly of Robison, Curphey & O'Connell)

Counsel for Plaintiff

Robert A. Bunda
Bunda Stutz & DeWitt, PLL
528 Riverside Drive
Rossford, Ohio 43460
(419) 346-1265

4. *Petre ex rel. Petre v. Norfolk Southern Ry.*, 458 F. Supp. 2d 518 (N.D. Ohio 2006), *aff'd*, 260 F. App'x 756 (6th Cir. 2007).

I was lead counsel in this multiple fatality wrongful death action arising from a railroad grade crossing collision in rural Williams County, Ohio. I removed the action to federal court on the basis that the non-diverse governmental defendant had been fraudulently joined and successfully defeated a motion to remand on that basis. I initially secured a ruling from the trial court that the plaintiff's claims regarding the type of warning devices at the crossing were preempted by federal law. This tragic accident was one of the first serious incidents captured by the RailView Locomotive Video Recorder. I employed the RailView evidence to demonstrate that there were no visual obstructions that would have prevented the driver from observing and yielding to the approaching train, had she complied with her duty to do so. I also demonstrated that a trivial apparent overspeed operation of the train and a slight delay in beginning to sound the train's horn on approach to the crossing could not have been, as a matter of law, proximate causes of the collision. The trial court granted my motion for summary judgment and the court of appeals affirmed.

Trial Judge, United States District Court, Northern District of Ohio:
Hon. David A. Katz
Hon. George J. Limbert (following transfer)
Appellate Panel, United States Court of Appeals for the Sixth Circuit:
Hon. David McKeague, Hon. Eugene Siler, and Hon. Julia Smith Gibbons

Counsel for Co-Defendant Florence Township

John D. Latchney
O'Toole, McLaughlin, Dooley & Pecora Co., LPA
5455 Detroit Road
Sheffield Village, Ohio 44054
(330) 930-4001
(formerly of Tomino & Latchney)

Counsel for Plaintiff

Brian W. Palmer

614 West Superior Avenue, Suite 820
Cleveland, Ohio 44113
(216) 400-6290
(formerly of Landskroner and Associates)

5. *Bean v. Trans Nat'l Freight Sys.*, Case No. 3:98-cv-7474 (N.D. Ohio Aug. 20, 1999).

I was sole defense counsel in this personal injury action brought by a City of Lima police officer. The officer, while on duty and operating a marked patrol car but without lights and siren activated, claimed he was proceeding through a green traffic light when he collided with the defendants' semi tractor-trailer truck. I obtained summary judgment in favor of the defendants on the basis that there was no evidence that the signal for the truck had changed to red before the truck crossed the stop bar for the intersection. A confidential settlement was reached while the case was on appeal.

Trial Judge, United States District Court, Northern District of Ohio:
Hon. David A. Katz

Counsel for Plaintiff
Robert H. Muhlbaugh
Post Office Box 1141
Lima, Ohio 45802
(419) 229-5886

6. *Firelands Reg'l Med. Ctr. v. Jeavons*, Case No. CV-2005-393 (Erie Co. Ct. Com. Pl.), *aff'd*, 2008-Ohio-5031, 2008 WL 4408600 (Ohio Ct. App. Sept. 30, 2008).

When Firelands sued a former patient for not paying her bill, she filed a class action counterclaim alleging she represented a class of uninsured individuals who received treatment at the hospital and were "charged in excess of the reasonable, usual and customary rates" for the services provided. The trial court granted my motion to dismiss all of the class action allegations. The judgment was challenged on appeal, which I briefed and argued. The judgment in favor of my client was affirmed.

Trial Judge, Erie County Court of Common Pleas:
Hon. Tygh Tone

Appellate Panel, Ohio Sixth District Court of Appeals:
Hon. Mark L. Pietrykowski, Hon. Peter M. Handwork, and Hon. Arlene Singer

Counsel for Counter-claimant
Margaret M. Murray
Murray & Murray
111 East Shoreline Drive
Sandusky, Ohio 44870
(419) 624-3000

7. *Boyd ex rel. Boyd v. S.E. Johnson Co.*, Case No. CI-98-159 (Paulding Co. Ct. Com. Pl.), *aff'd*, 2001-Ohio-2223, 2001 WL 1031419 (Ohio Ct. App. Sept. 10, 2001).

This case arose from a workplace accident in which decedent Christina Boyd was killed when the asphalt roller she was operating left the roadway and overturned in a ditch in rural Paulding County, Ohio. Sales literature for the roller Boyd was operating listed falling object/rollover protection ("FOPS/ROPS") as standard equipment. However, for operational utility reasons, my construction company client, S.E. Johnson, deleted the FOPS/ROPS equipment for a credit when it ordered this roller. The wrongful death lawsuit alleged a workplace intentional tort claim against my client for requiring Boyd to operate the machine which it ordered without this safety equipment and product liability claims against the manufacturer and distributor for supplying the product in that condition. I obtained summary judgment in favor of my client, with the court finding no issue of fact as to whether S.E. Johnson's conduct placed it beyond the workers' compensation immunity typically applicable to workplace accidents. The judgment in favor of my client was affirmed on appeal.

Trial Judge, Paulding County Court of Common Pleas
Hon. John D. Webb

Appellate Panel, Ohio Third District Court of Appeals:
Hon. Ronald E. Hadley, Hon. Stephen R. Shaw, and Hon. Thomas F. Bryant

Counsel for Defendant Compaction America

Mark L. Schumacher
Freund Freeze & Arnold
65 East State Street, Suite 800
Columbus, Ohio 43215
(614) 827-7300

Counsel for Defendant McClean Co.

W. Charles Curley
Weston Hurd LLP
10 West Broad Street
Columbus, Ohio 43215
(614) 280-1122
(formerly of Curley, Patterson & Bush)

Counsel for Plaintiff

Peter O. DeClark
Williams DeClark Tuschman Co., L.P.A.
626 Madison Avenue, Suite 800
Toledo, Ohio 43604
(419) 241-7700

8. *Gary v. Grand Trunk Western R.R.*, Case No. 2:08-cv-13686 (E.D. Mich. March 15, 2010).

A gunman, who was never identified, stopped his car on a public street adjacent to a railroad yard where a Grand Trunk train had stopped. He fired approximately six rounds before returning to his car and speeding away. In this FELA action, the railroad conductor who was dismounting the locomotive sought to hold the railroad liable for its failure to protect him from this criminal assault by the unidentified third-party assailant. The court granted my motion for summary judgment from the bench, finding that the railroad owed no duty to protect its employees from third-party criminal activity at that location. No appeal was filed.

Trial Judge, United States District Court for the Eastern District of Michigan:
Hon. Marianne O. Battani

Counsel for Plaintiff

Richard A. Haydu
Hoey & Farina
123 North Upper Wacker Drive, Suite 250
Chicago, Illinois 60606
(312) 939-1212

9. *Rehoreg v. Stoneco, Inc.*, Case No. 98-CV-120887 (Lorain Co. Ct. Com. Pl), *rev'd*, 2005-Ohio-12, 2005 WL 19438 (Ohio Ct. App. Jan. 5, 2005).

I was co-counsel and then lead counsel in this putative class action alleging damages arising from the operation of my client's asphalt plant. We opposed plaintiffs' motion to certify the class and the court denied the motion for class certification. No appeal was taken from that denial. The case was transferred to the docket of an incoming judge who granted the plaintiffs leave to file a new motion for class certification. Nearly five years later, the motion for class certification was granted. My client lodged an appeal which I briefed and argued. The appellate court determined that the prior denial of class certification was a final appealable order and became the law of the case, barring the plaintiffs' subsequent attempt to proceed on a class-wide basis. On remand, the individual claims were amicably resolved.

Trial Judges, Loran County Court of Common Pleas:
Hon. Edward M. Zaleski/Hon. Mark A. Betleski

Appellate Panel, Ohio Ninth District Court of Appeals:
Hon. Donna J. Carr, Hon. Beth Whitmore, and Hon. Edna J. Boyle

Co-counsel

Hon. Jack Zouhary

United States District Court for the Northern District of Ohio
1716 Spielbusch Avenue
Toledo, Ohio 43604
(419) 213-5675
(formerly of Robison, Curphey & O'Connell)

Counsel for Plaintiff

Robert D. Gary
Gary, Naegele & Theado
401 Broadway Avenue, Unit 104
Lorain, Ohio 44052
(440) 244-4809

10. *Bickley v. Norfolk & Western Ry.* 60 F. Supp. 2d 732 (N.D. Ohio 1998), *aff'd*, 187 F.3d 634 (6th Cir. June 15, 1999) (unpublished table disposition).

I was primarily responsible for the defense of this action in which the plaintiff was severely injured when his semi tractor-trailer was hit by a train at a grade crossing. In a motion for summary judgment, I demonstrated that the crossing was not "extra-hazardous" under Ohio law and that the plaintiff's expert testimony was not admissible to create a genuine issue of fact for trial. The trial court granted my motion for summary judgment and the court of appeals affirmed.

Trial Judge, United States District Court for the Northern District of Ohio:
Hon. James G. Carr

Appellate Panel, United States Court of Appeals for the Sixth Circuit:
Hon. Alice M. Batchelder, Hon. James L. Ryan, and Hon. Eric L. Clay

Co-counsel:

Hon. Jack Zouhary
United States District Court for the Northern District of Ohio
1716 Spielbusch Avenue
Toledo, Ohio 43604
(419) 213-5675
(formerly of Robison, Curphey & O'Connell)

Counsel for Plaintiff:

Merritt W. ("Terry") Green, III
City of Toledo Department of Law
One Government Center, Suite 2250
Toledo, Ohio 43604
(419) 245-1020
(formerly of Nathan & Roberts)

18. Legal Activities: Describe the most significant legal activities you have pursued, including

significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I was selected as the national coordinating counsel for the locomotive video program for a class 1 railroad. In that capacity, I advised my client and other outside counsel regarding preservation, production and utilization of the locomotive video evidence in litigation and defended all Rule 30(b) depositions of the program manager.

I have never acted or registered as a lobbyist.

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

My only teaching experience (other than at continuing legal education programs) was as an adjunct instructor for an undergraduate radio broadcasting class at Mount Union College in the late 1980s. I have no further documentation available from that experience.

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

None.

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

No.

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

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

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation where I have ever played a role. I do not anticipate any family members, parties, categories of litigation, or financial arrangements that are likely to present potential conflicts-of-interest. I will carefully screen cases assigned to me for conflicts and recuse myself if such conflicts arise, in accordance with the Code of Conduct for United States Judges.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

For much of my career in private practice, I served as a director and officer of the Toledo Legal Aid Society ("TLAS"), a not-for-profit entity which provides free legal services to the poor. As an officer of TLAS, I was intimately involved in lengthy negotiations which resulted in TLAS merging its non-criminal client services into a newly-created LSC-funded regional entity, Legal Aid of Western Ohio ("LAWO"). I continued to serve as an active board member of LAWO up until taking the bench, at which time I resigned, as LAWO and its non-LSC-funded sister entity, Advocates for Basic Legal Equality ("ABLE"), (of which I was also a long-time director), routinely appear as counsel for litigants in federal court. Following the creation of LAWO, TLAS continues operation to this day as the contract provider of Public Defender Services in Lucas County, and I remained as president of TLAS for several years after the formation of LAWO. I resigned from that board as well upon taking the bench.

I have served as a board member (present) and president (2012 – 2017) of the Northwest

Ohio Hemophilia Foundation and of the former United Health Services ("UHS"), a United Way funded entity set up as an umbrella agency to provide administrative support and fundraising for six member agencies in benefitting children and adults with autism, developmental disabilities, mental health issues and bleeding disorders, which disbanded some years after my board service when the United Way changed its funding model. I routinely served as legal counsel to those agencies without compensation.

Early in my career, I regularly volunteered for the Toledo Municipal Court Citizens Dispute Resolution Program, mediating civil matters pending before that court, typically between parties of very limited economic means. I also regularly volunteered throughout my career for the Toledo Bar Association-sponsored "Ask the Attorney" programs at local television stations, in which attorneys fielded phone calls, off the air, from citizens in Northwest Ohio and Southeast Michigan, each week.

From time to time I represented individuals of limited means on a pro bono basis, typically in consumer matters.

Since taking the bench, I have devoted hundreds of hours as the co-president at the Western Division Reentry Court, assisting violent felons returning from typically lengthy federal prison terms who are assessed as having a high likelihood of recidivism.

26. Selection Process:

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

In the spring of 2019, I learned that a bipartisan judicial advisory commission was being formed to recommend candidates to Senators Portman and Brown for the vacancy created when District Judge Jack Zouhary took senior status. I submitted my application to Senator Portman's office on April 12, 2019. On September 2, 2019, I received an email from the commission chair informing me that I had been selected for an interview before the commission. I interviewed with the commission at the Ohio State Bar Association offices in Columbus on October 3, 2019. On October 6, 2019, I received a call from Mr. Walker indicating that I was one of three individuals the bipartisan commission was recommending to the senators. On October 14, 2019, I interviewed with Senator Portman.

On October 25, 2019, I received a call from White House Counsel's Office to

schedule an interview. On November 4, 2019, I interviewed with the White House Counsel's Office and U.S. Department of Justice. Since October 25, 2019, I have periodically communicated with individuals in the White House Counsel's Office and the U.S. Department of Justice.

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

No.