

APPLICATION FOR NOMINATION TO THE CIRCUIT COURT

(Please attach additional pages as needed to respond fully to questions.)

DATE: Sept. 13, 2018 Florida Bar No.: 0356387

GENERAL: Social Security No.: _____

1. Name Kurt Erlenbach E-mail: kurterle@yahoo.com

Date Admitted to Practice in Florida: 11/30/1982

Date Admitted to Practice in other States: [none]

2. State current employer and title, including professional position and any public or judicial office.

General Magistrate, 18th Judicial Circuit

3. Business address: Moore Justice Center, 2825 Judge Fran Jamieson Way

City Viera County Brevard State FL ZIP 32940

Telephone (321) 637-5641 FAX (321) 637-5655

4. Residential address: _____

City _____ County _____ State _____ ZIP _____

Since 1992 Telephone _____

5. Place of birth: Columbus, Ohio

Date of birth: 9/1/1956 Age: 62

6a. Length of residence in State of Florida: 36 years

6b. Are you a registered voter? Yes No

If so, in what county are you registered? Brevard

7. Marital status: Married

If married: Spouse's name, _____

Date of marriage _____

Spouse's occupation _____

If ever divorced give for each marriage name(s) of spouse(s), current address for each former spouse, date and place of divorce, court and case number for each divorce.

[none]

8. Children
Name(s) *Age(s)* *Occupation(s)* *Residential address(es)*

9. Military Service (including Reserves)

Service *Branch* *Highest Rank* *Dates*
 [none]

Rank at time of discharge _____ Type of discharge _____

Awards or citations _____

Service *Branch* *Highest Rank* *Dates*

Rank at time of discharge _____ Type of discharge _____

Awards or citations _____

HEALTH:

10. _____

11a.

11b.

12a.

12b.

13.

14.

15.

16.

17.

EDUCATION:

18a. Secondary schools, colleges and law schools attended.

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
New London OH HS	4th	1970 - 1974	diploma
Cornell University	unk	1974-1978	B.A.
The Ohio State Univ.	top 1/3	1979-1982	J.D.

18b. List and describe academic scholarships earned, honor societies or other awards.

College; Beta Rho Beta Honorary; Dean's List. Law School; Law Journal, Articles Editor

NON-LEGAL EMPLOYMENT:

19. List all previous full-time non-legal jobs or positions held since 21 in chronological order and briefly describe them.

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
1978-79	counselor	Huron County, OH	2 E. Main St., Norwalk, OH 44857

PROFESSIONAL ADMISSIONS:

20. List all courts (including state bar admissions) and administrative bodies having special admission requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have been suspended or resigned.

Florida; November, 1982

Middle District FL; approx 1990

U.S. 11th Circuit; approx 1995

LAW PRACTICE: (If you are a sitting judge, answer questions 21 through 26 with reference to the years before you became a judge.)

21. State the names, dates and addresses for all firms with which you have been associated in practice, governmental agencies or private business organizations by which you have been employed, periods you have practiced as a sole practitioner, law clerkships and other prior employment:

<i>Position</i>	<i>Name of Firm</i>	<i>Address</i>	<i>Dates</i>
Asst. State Atty.	18 th Judicial Cir	P.O. Box 8006, Sanford, FL 32772	July, 1982- April, 1987
attorney	Jacobs & Goodman	890 FL 434, Altamonte Springs, FL 32714	March, 1987 - March, 1988
attorney	Erlenbach & Erlenbach, P.A.	[none]	March, 1988 - June, 2001

[See attachment
#1]

22. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

As a General Magistrate, I hear family matters referred to me by Circuit Judges in the

family division, including divorce, paternity, child support, parenting and timesharing, contempts and enforcement, name changes, and all other family matters except adoption and restraining orders. I also handle a majority of Baker Act mental health commitment hearings for Brevard County. Baker Act proceedings are actions brought by the state to place seriously mentally ill patients in involuntary inpatient mental health care.

23. What percentage of your appearance in courts in the last five years or last five years of practice (include the dates) was in:

Court		Area of Practice	
Federal Appellate	_____ %	Civil	_____ %
Federal Trial	_____ %	Criminal	_____ %
Federal Other	_____ %	Family	_____ 90 %
State Appellate	_____ %	Probate	_____ %
State Trial	_____ 100 %	Other	_____ 10 %
State Administrative	_____ %		
State Other	_____ %		
	_____ %		
TOTAL	_____ 100 %	TOTAL	_____ 100 %

24. In your lifetime, how many (number) of the cases you have tried to verdict or judgment were:

Jury? >100 Non-jury? [see attach. #1]
 Arbitration? _____ Administrative Bodies? _____

25. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No

26. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain in full.

No

(Questions 27 through 30 are optional for sitting judges who have served 5 years or more.)

27a. For your last 6 cases, which were tried to verdict before a jury or arbitration panel or tried to judgment before a judge, list the names and telephone numbers of trial counsel on all

sides and court case numbers (include appellate cases).

Questions 27 through 30 are not applicable because I have tried no cases before a judge, engaged in mediation or arbitration in the last five years.

- 27b. For your last 6 cases, which were settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

NA

- 27c. During the last five years, how frequently have you appeared at administrative hearings?
NA average times per month

- 27d. During the last five years, how frequently have you appeared in Court?
NA average times per month

- 27e. During the last five years, if your practice was substantially personal injury, what percentage of your work was in representation of plaintiffs? NA% Defendants?
NA%

28. If during any prior period you have appeared in court with greater frequency than during the last five years, indicate the period during which this was so and give for such prior periods a succinct statement of the part you played in the litigation, numbers of cases and whether jury or non-jury.

NA

29. For the cases you have tried to award in arbitration, during each of the past five years, indicate whether you were sole, associate or chief counsel. Give citations of any reported cases.

NA

30. List and describe the six most significant cases which you personally litigated giving case style, number and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant. Give the name of the court and judge, the date tried and names of other attorneys involved.

[See Attachment #2]

31. Attach at least one example of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach writing for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

[See Attachment #3]

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:

- 32a. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved and the dates of service or dates of candidacy.

No

32b. List any prior quasi-judicial service:

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
June 2001-Nov. 2013	18 th Judicial Circuit	Child Support Enforcement Hearing Officer
Nov. 2013 - present	18 th Judicial Circuit	General Magistrate

Types of issues heard: Family

32c. Have you ever held or been a candidate for any other public office? If so, state the office, location and dates of service or candidacy.

No

32d. If you have had prior judicial or quasi-judicial experience,

(i) List the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance.

See attachment #4

(ii) Describe the approximate number and nature of the cases you have handled during your judicial or quasi-judicial tenure.

As a Child Support Enforcement Hearing Officer, I presided over and entered Recommended Orders in over 48,000 cases. I entered over 52,000 Recommended Orders in total. Those cases all involved the establishment, enforcement or modification of child support. As a General Magistrate, since 2013, I have heard and entered orders in over 4,000 cases. Those cases were divorce, paternity, child support, modifications, contempt and enforcement, name change, and other family law matters. The total also includes Baker Act proceedings.

(iii) List citations of any opinions which have been published.

None

(iv) List citations or styles and describe the five most significant cases you have tried or heard. Identify the parties, describe the cases and tell why you believe them to be significant. Give dates tried and names of attorneys involved.

See attachment #5

(v) Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give date, describe complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

No

(vi) Have you ever held an attorney in contempt? If so, for each instance state name

of attorney, approximate date and circumstances.

No

(vii) If you are a quasi-judicial officer (ALJ, Magistrate, General Master), have you ever been disciplined or reprimanded by a sitting judge? If so, describe.

No

BUSINESS INVOLVEMENT:

33a. If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

Amadeas Legal Publications. I write and publish my newsletter under this business name. I expect to continue writing for publication upon appointment to judicial office.

33b. Since being admitted to the Bar, have you ever been engaged in any occupation, business or profession other than the practice of law? If so, give details, including dates.

Since 1985, I have written and published The Florida Criminal Cases Notebook and/or The Florida Criminal Law Weekly Report. In approximately 1988, my wife and I created Amadeas Legal Publications to be the publisher of my writings.

33c. State whether during the past five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization, or association of any kind. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved and the dates such compensation was paid and the amounts.

Amadeas Legal Publications, publication of the Florida Criminal Law Weekly Report

2017 - \$3,728 (shareholder share of profits)

2016 - \$7,225 (shareholder share of profits)

2015 - \$7,617 (shareholder share of profits)

2014 - (\$1,834) (shareholder share of losses)

2013 - \$1,952 (shareholder share of profits)

POSSIBLE BIAS OR PREJUDICE:

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you as a general proposition believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

None

MISCELLANEOUS:

35a. Have you ever been convicted of a felony or a first degree misdemeanor?

Yes _____ No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

35b. Have you pled nolo contendere or pled guilty to a crime which is a felony or a first degree misdemeanor?

Yes _____ No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

35c. Have you ever had the adjudication of guilt withheld for a crime which is a felony or a first degree misdemeanor?

Yes _____ No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

36a. Have you ever been sued by a client? If so, give particulars including name of client, date suit filed, court, case number and disposition.

Yes

Brevard County Civil; Tri-City Excavation v. Erlenbach & Erlenbach PA.; 05-1998-CC-18374; defendant, fee dispute; settled prior to trial

Brevard Circuit civil; Elizabeth Cereska v. Kurt Erlenbach; 2004 CA 25815; defendant and counter-plaintiff; malpractice; dismissed LOP

36b. Has any lawsuit to your knowledge been filed alleging malpractice as a result of action or inaction on your part?

Yes - see #36a above.

36c. Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the amounts involved.

No

37a. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you?

Yes - See Attachment #6

37b. Have you ever owned more than 25% of the issued and outstanding shares or acted as an officer or director of any corporation by which or against which a petition in bankruptcy has been filed? If so, give name of corporation, your relationship to it and date and caption of petition.

No

38. Have you ever been a party to a lawsuit either as a plaintiff or as a defendant? If so, please supply the jurisdiction/county in which the lawsuit was filed, style, case number,

nature of the lawsuit, whether you were Plaintiff or Defendant and its disposition.

Brevard Circuit, Toreihi v. Kurt Erlenbach; 05-1993-CA-397; auto negligence; defendant; settled by insurer prior to trial

Brevard County Civil; Tri-City Excavation v. Erlenbach & Erlenbach PA.; 05-1998-CC-18374; defendant, fee dispute; settled prior to trial

Brevard Small Claims; Cliff Shuler v. Kurt Erlenbach, Susan Erlenbach; 05-2001 CO 24913; rent dispute; settled

Brevard County civil; Kurt Erlenbach v. Christopher Hameister; 05-2002 CC 24310; plaintiff; fee collection suit; default judgment

Brevard Circuit civil; Elizabeth Cereska v. Kurt Erlenbach; 2004 CA 25815; defendant and counter-plaintiff; malpractice; dismissed LOP

Brevard Circuit civil; Wachovia Bank v. Kurt Erlenbach; 2008 CA 45185; defendant; foreclosure; settled and dismissed

39. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, give the particulars.

No

40. To your knowledge within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers or clients ever filed a formal complaint or formal accusation of misconduct against you with any regulatory or investigatory agency, or with your employer? If so, please state the date(s) of such formal complaint or formal accusation(s), the specific formal complaint or formal accusation(s) made, and the background and resolution of such action(s). (Any complaint filed with JQC, refer to 32d(v).

No

41. Are you currently the subject of an investigation which could result in civil, administrative or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation and the expected completion date of the investigation.

No

42. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No

- 43a. Have you filed all past tax returns as required by federal, state, local and other government authorities?

Yes

No

If no, please explain.

2017 personal taxes not filed -
extension granted

43b. Have you ever paid a tax penalty?
Yes No If yes, please explain what and why. See Attachment #6

43c. Has a tax lien ever been filed against you? If so, by whom, when, where and why?
Yes. See Attachment #6

HONORS AND PUBLICATIONS:

44. If you have published any books or articles, list them, giving citations and dates.
See Attachment #7

45. List any honors, prizes or awards you have received. Give dates.
Guardian ad Litem Award - approx 1986

46. List and describe any speeches or lectures you have given.
See Attachment #7

47. Do you have a Martindale-Hubbell rating? Yes If so, what is it? ___ No

PROFESSIONAL AND OTHER ACTIVITIES:

48a. List all bar associations and professional societies of which you are a member and give the titles and dates of any office which you may have held in such groups and committees to which you belonged.

Florida Bar

Florida Bar Family Law Section

48b. List, in a fully identifiable fashion, all organizations, other than those identified in response to question No. 48(a), of which you have been a member since graduating from law school, including the titles and dates of any offices which you have held in each such organization.

See Attachment #8

48c. List your hobbies or other vocational interests.

bicycling

48d. Do you now or have you ever belonged to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No

48e. Describe any pro bono legal work you have done. Give dates.

I have been prohibited from performing pro bono work since my employment as a CSEHO in 2001.

SUPPLEMENTAL INFORMATION:

- 49a. Have you attended any continuing legal education programs during the past five years? If so, in what substantive areas?

2018 American Academy of Marital Lawyers Educational Seminar. Since 2013, my CLE requirements have been met by lecturing on family law topics at seminars for judges and lawyers as listed in Question #46, Attachment #7, and by my other legal writing activities

- 49b. Have you taught any courses on law or lectured at bar association conferences, law school forums, or continuing legal education programs? If so, in what substantive areas?

Yes. See Attachment #9

50. Describe any additional education or other experience you have which could assist you in holding judicial office.

See Attachment #10

51. Explain the particular potential contribution you believe your selection would bring to this position.

See Attachment #11

52. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name of the commission and the approximate date of submission.

None

53. Give any other information you feel would be helpful to the Commission in evaluating your application.

I wish to point out to the Commission that with the elevation of Judge Harris, for the first time in many decades there are no circuit judges living in Titusville or north Brevard. I feel it is important that circuit judges come from all parts of a county as large as Brevard.

REFERENCES:

54. List the names, addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for judicial position and of whom inquiry may be made by the Commission.

The Honorable J. Dean Moxley, Jr.

The Honorable Vincent Torpy, Sr.,

t,

Thomas W. Deans,

Hernan Castro,

Andrea Larson, 2
0761

Kevin Berry, 1

Jan Lichtenwalter,

Marion Brady,

Catherine Riley ,

Linda Moore,

2

Lynne Bumpus Hooper,

CERTIFICATE

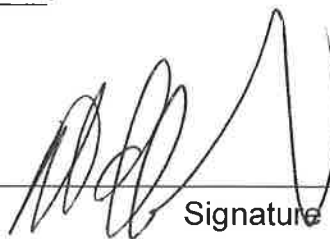
I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(I), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 13th day of September, 2018.

Kurt Edenbach

Printed Name



Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

Attachment #1

(Question #21, continued)

Position	Name of Firm	Address	Dates
Attorney	Kurt Erlenbach, P.A.	2532 Garden St., Titusville, FL 32796	June, 2001 - Oct. 2007
Child Support Enforcement Hearing Officer	18 th Judicial Circuit	2825 Judge Fran Jamieson Way, Viera, FL 32940	June, 2001 - November, 2013
General Magistrate	18 th Judicial Circuit	2825 Judge Fran Jamieson Way, Viera, FL 32940	November, 2013 - present

(Question 24, continued)

As a private attorney from 1987 to 2007, I tried more than 200 cases to a final judgment in family court. As a Child Support Hearing Officer from 2001 to 2013, I held over 48,000 quasi-judicial hearings and entered over 52,000 Recommended Orders. As a General Magistrate since 2013, I have presided over approximately 4,000 quasi-judicial hearings and entered approximately that many Recommended Orders.

Attachment #2
(Question #30)

1. *Mary Davis v. Junior Davis*, 842 S.W.2d 588 (Tenn. 1992). I represented Mary Davis in her appeals to the Tennessee Court of Appeals and the Tennessee Supreme Court. Ms. Davis and her husband during their marriage used in-vitro fertilization to fertilize eight of her ova. Two were implanted and failed to produce a pregnancy, and the other six were cryopreserved. Ms. Davis then filed for divorced in Maryville, Tennessee, and the trial court (I did not represent her in the trial court) awarded the frozen embryos to her. I represented her in Mr. Davis' appeal to the Tennessee Court of Appeal, and then in her appeal to the Tennessee Supreme Court. The Tennessee Supreme Court's decision, which went against Ms. Davis, is a landmark in the law of cryopreservation of human embryos. The case received worldwide attention. See, for example, <https://www.nytimes.com/1990/05/27/us/new-turn-in-a-couple-s-fight-over-embryos.html>; https://biotech.law.lsu.edu/cases/cloning/davis_v_davis.htm; <https://scholarship.law.edu/cgi/viewcontent.cgi?article=1469&context=jchl> p. See <https://embryo.asu.edu/pages/davis-v-davis-1992>; for a more detailed description of the case.
Courts: Tennessee Court of Appeals (September 1990); Tennessee Supreme Court (September 1992). The majority opinion was written by Justice Martha Daughtrey, now a Senior Judge for the U.S. Sixth Circuit Court of Appeals.
Opposing Counsel: Charles Clifford, Maryville TN
2. *State v. Charles DeGristine*, 05-1989 CF 2372. Mr. DiGristine was charged with second-degree murder in the death of a Titusville police officer occurring during the execution of a search warrant at his home. The police executed the search warrant using a "no-knock" warrant in which they entered the home by force at night, deploying multiple flashbang devices inside the home. In the confusion, Mr. DiGristine shot and killed Officer Stephen House. The police found almost no drugs. My wife and I represented Mr. DiGristine through trial, where he was acquitted. In part as a result of the DiGristine case, SWAT units throughout the country changed their tactics, requiring improved intelligence, better surveillance, and improved warrant execution procedures. The use of "no-knock" warrants was greatly reduced, improving safety for both officers and occupants.
Court: 18th Judicial Circuit, Brevard County
Judge: Charles Harris
Opposing Attorneys: Chis White, Russ Bausch, Jack Greisbaum

3. *State v. Chadwick Willacy*, 05-1990 CF 16062A; 640 So. 2d 1079 (Fla. 1994). Mr. Willacy was charged with the first-degree murder of his neighbor, Marlys Sather. He killed Ms. Sather when she unexpectedly returned to her house for lunch while Mr. Willacy was burglarizing it. I represented Mr. Willacy throughout pretrial proceedings, trial, and sentencing phase. He received a death sentence, and I represented him in his initial appeal to the Florida Supreme Court. I obtained the reversal of his death sentence. The opinion from the Florida Supreme Court is notable for its discussion of the law of death qualification of juries in capital cases and the rehabilitation of jurors, which is the point upon which the case was reversed. Upon resentencing (in which I did not participate), Mr. Willacy was again sentenced to death, and he remains on death row.

Court: 18th Judicial Circuit, Brevard County

Judge: Jere Lober

Opposing Counsel: Chris White and others.

4. *Sandra Cooper v. Karin Muccitelli*, 661 So. 2d 52 (Fla. 2d DCA 1995); and 682 So. 2d 77 (Fla. 1996). Karin Muccitelli and Thomas Pasquino married in 1984 and divorced in 1992. During the marriage, Mr. Pasquino bought two life insurance policies, naming Ms. Muccitelli as the beneficiary in both. Following their divorce, he changed the beneficiary designation on one policy but not the other, and he then died by suicide. Sandra Cooper was the contingent beneficiary in the second policy. She sued, arguing that the divorce acted to void the beneficiary designation regardless of his failure to change the designation after divorce. I represented Ms. Muccitelli in the trial court, obtaining a summary judgment in her favor. I then represented her in the Second DCA, which affirmed the decision for Ms. Muccitelli, I represented her before the Florida Supreme Court, which affirmed the Second DCA decision. This case established the principal that beneficiary designations in life insurance policies survive divorce unless the dissolution specifically states otherwise. The legislature has since changed that law.

Courts: Thirteenth Judicial Circuit, Hillsborough County; Second District Court of Appeal; Florida Supreme Court

Judge: Robert Bonnano (trial judge); Second DCA opinion by Judge John Blue; Florida Supreme Court opinion by Leander Shaw

Opposing Counsel: Lon Crow IV.

5. *Simeon Inc. v. Cox* 655 So. 2d 156 (Fla. 5th DCA 1995) and 671 So. 2d 158 (Fla. 1996). Mr. and Ms. Cox sued Simeon, Inc., alleging assault and other intentional torts. The complaint itself was verified, including the facts setting forth a punitive damages claim. The defendants sought to dismiss the punitive damages claim, arguing that signing the complaint under oath did not comply with the requirements of sec. 768.71, Florida Statutes (1993), requiring the proffer of evidence prior to pleading a claim for punitive damages. The trial court denied the Motion to Dismiss, and the defendant sought certiorari relief in the Fifth DCA. I represented Mr. and Ms. Cox in the Fifth DCA, which affirmed the trial court's decision. The Defendants then sought relief in the Florida Supreme Court, which reversed the Fifth DCA. The case is significant in that it established the principle that a plaintiff seeking punitive damages must first show his evidentiary basis before being allowed to make a punitive damages claim. That legal principle remains the law of Florida today.

Court: Fifth DCA; Florida Supreme Court

Judges: Fifth DCA opinion by Judge Gil Goshorn; Florida Supreme Court opinion by Justice Charles Wells.

Opposing Counsel: Shelly Leinicke

6. *State v. Dennis Calabrese*, 05-1995-CF-5626-C. Mr. Calabrese was 16 years old when he murdered Matthew Amos and Kris Miller during a drug deal. He was charged with two counts of first-degree murder and other crimes. I represented Mr. Calabrese in pretrial proceedings and through trial and penalty phase. My chief responsibility was handling the penalty phase in the event he was convicted of first-degree murder. At the time, the law allowed the state to seek a death sentence against a person who committed murder before turning 18 years old; the U.S. Supreme Court prohibited that practice in 2005. Mr. Calabrese was convicted of both counts of first-degree murder, and in the penalty phase I was able to secure a jury recommendation of life in prison on both counts. He remains in prison serving a life sentence, though he is set for resentencing pursuant to sec. 921.1401, Florida Statutes (2017), on October 17, 2018.

Court: 18th Judicial Circuit, Brevard County

Judge: Jere Lober

Opposing Counsel: Meryl Allawas