

**EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA
CIRCUIT COURT JUDICIAL APPLICATION**

FOR

LESLIE J. CASTALDI

NOVEMBER 10, 2021



APPLICATION FOR NOMINATION TO THE EIGHTEENTH JUDICIAL CIRCUIT COURT

Instructions: Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.

Full Name: Leslie J. Castaldi

Social Security No.: [REDACTED]

Florida Bar No.: 0489581

Date Admitted to Practice in Florida: June 13, 2001

1. Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number.

General Magistrate, Eighteenth Judicial Circuit, Brevard County, Florida

2. Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number), and your preferred email address.

[REDACTED], since September 2000

I have lived in Florida since December 1998.

Cell phone number: [REDACTED], e-mail: [REDACTED]

3. State your birthdate and place of birth.

[REDACTED]; Richmond, Virginia

4. Are you a registered voter in Florida (Y/N)? Yes.

5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

New Jersey, admitted 9/19/88 (voluntarily inactive, because I am not actively practicing law)
Pennsylvania, admitted 11/14/88 (voluntarily inactive, because I am not actively practicing law)
U.S. District Court, New Jersey, admitted 12/19/88 (voluntarily inactive, same reason)
U.S. District Court, Eastern District of Pennsylvania, admitted 2/22/89 (voluntarily inactive, same reason)

Florida, admitted 6/13/01

U.S. District Court, Middle District of Florida, admitted 2002-2004, 2009 to 8/31/17 (voluntarily inactive, same reason)

6. Have you ever been known by any aliases? If so, please indicate and when you were known by such alias.

No.

EDUCATION:

7. List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).

- a. Villanova Law School, n/k/a Charles Widger School of Law: attended August 1985 to May 1988; graduated May 1988; class rank: 45 of 228; GPA: 3.06
- b. Germanna Community College: attended 1982-1983; no degree, just three accounting classes; GPA: 4.0
- c. The University of Strasbourg, France: February to May 1980; no degree, this program was through the Pennsylvania State University as part of my undergraduate studies
- d. The Pennsylvania State University: August 1977 to August 1981; B.A. French and International Politics; Graduated with Distinction, but class standing unknown; GPA: 3.41
- e. York College: Fall 1976 approximately, took a high school class there

8. List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.

Phi Eta Sigma Honor Society (Pennsylvania State University)

Dean's List 6 terms and Graduated with Distinction (Pennsylvania State University)

Student Member of Faculty Curriculum Committee (Villanova Law School)

Member of Environmental Law Group (Villanova Law School)

EMPLOYMENT:

9. List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.

<u>Position</u>	<u>Employer</u>	<u>Address</u>	<u>Dates</u>
General Magistrate	Brevard County Board of County Commissioners	2725 Judge Fran Jamieson Viera, FL 32940	5/16-present
Attorney	Leslie J. Castaldi, P.A.	2401 W. Eau Gallie Blvd. Melbourne, FL 32935	6/06-5/16
Attorney	Douglas W. Tuttle, P.A.	3617 20 th Street Vero Beach, FL 32960	5/02-5/06
Attorney	Scott R. Dwyer, P.A.	4241 N. Harbor City Blvd. Melbourne, FL 32935	7/01-5/02
Attorney	McCandless & Associates	121 S. Broad Street, Ste. 310 Philadelphia, PA 19107	7/96 – 5/99
Attorney/ Partner	Ochroch & Blum/ Ochroch & Castaldi	318. S. 16 th Street Philadelphia, PA 19102	9/91 -7/96
Attorney	Manta & Welge	37 th Floor Commerce Square 2001 Market Street Philadelphia, PA 19103	9/88-9/90
Law Clerk	Galfand, Berger, Lurie & March	1737 Chestnut Street Philadelphia, PA 19103	5/87-6/88
Law Clerk For the Honorable John Kelly	Superior Court of Pennsylvania	Old Federal Courthouse 8 th and Market Streets Philadelphia, PA	5/86-5/87
Instructor - Paralegal	Keiser College, now Keiser University	900 S. Babcock Street Melbourne, FL 32901	3/99-7/01

Studies

Supervisor/ Fundraiser (supervised employees performing telephonic fundraising)	Public Interest Communications, Inc.	7700 Leesburg Pike Falls Church, VA 22043 (based upon my research, the current telephone number is (571) 463-9163)	10/84-8/85
Server	Manchester Country Club	180 South River Road Bedford, NH 03110 (603) 624- 4096	9/83-6/84
Administrative Assistant (job duties included bookkeeping and accounting, customer service, inventory, attending trade shows for a French linen company)	Le Jacquard Francais	200 Lovers Lane Culpeper, VA 22701 (current telephone number unknown and I cannot find one. I do not know if this company has an office in the U.S.A. now)	2/82-6/83

10. 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.

I currently serve as a General Magistrate in Brevard County, hearing family law matters (hearings and trials), involuntary placements ("Baker Act") under Chapter 394, Florida Statutes, and involuntary placements ("Marchman Act") under Chapter 397, Florida Statutes.

Before I was appointed as a General Magistrate, I operated my own law office from June 2006 until May 2016, practicing in family law, guardianship, and civil litigation. In family law, I represented spouses, parents, and, occasionally, grandparents. In guardianship matters, I represented private parties, professional guardians, and the public guardian (the last, on a pro bono basis). In civil litigation, I represented businesses and individuals in commercial disputes and breach of contract matters.

Previously, I had practiced in the areas of personal injury, products liability, and insurance coverage for both plaintiffs, who were individuals, and defendants, who were either businesses or insurance companies. After law school, I worked for a law firm that specialized in environmental and toxic tort litigation. I worked in the Superfund department representing

businesses; this representation involved complex litigation with many parties (sometimes hundreds) and sophisticated negotiations with the Department of Justice and Environmental Protection Agency in Pennsylvania and New Jersey, as well as toxic tort litigation, including class actions. During the first ten years of my legal career, a significant amount of my practice was in federal court.

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

Court		Area of Practice	
Federal Appellate	_____ %	Civil	<u>10</u> %
Federal Trial	_____ %	Criminal	_____ %
Federal Other	_____ %	Family	<u>70</u> %
State Appellate	_____ %	Probate	<u>20</u> %
State Trial	<u>98</u> %	Other	_____ %
State Administrative	<u>2</u> %		
State Other	_____ %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

I have been a General Magistrate for five-and-a-half years, so have not appeared in any court as an attorney.

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	<u>Approx. 2-3</u>	Non-jury?	<u>Approx. 50</u>
Arbitration?	<u>Approx. 12</u>	Administrative Bodies?	<u>Approx. 3</u>
Appellate?	_____		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument,

and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

None.

14. 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.

15. 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 full.

No.

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

In Re: the Marriage of Karen Braynard and Herbert Hayes Braynard, III, case number 05-2008-DR-007629-XXXX-XX, pro se Respondent

In Re: the Marriage of Ashley Cobley and Jesse Coble, case number 05-2015-DR-037971-XXXX-XX, pro se Respondent

In Re: the Interest of A.J.P., case number 05-2015-DR-01778-XXXX-XX, pro se Respondents

In Re: the Marriage of Sansanee Scott v. Richard E. Scott, III, case number 05-2013-DR-22515-XXXX-XX, opposing counsel: Michele A. Biecker, Esquire, (321) 693-0850; e-mail: blaw224@gmail.com

In Re: Faith Cason v. Brevard County Board of Commissioners, case number 05-2014-CC-026218-XXXX-XX, opposing counsel: Becky Behl-Hill, Esquire, (321) 622-1507; e-mail: unknown and I cannot find it

In Re: the Marriage of Susan Vance and Stephan Vance, case number 05-2012-DR-057495-XXXX-XX, opposing counsel, Tino Gonzalez, Esquire, (321) 751-9675, tino@tinolegal.com

17. For your last six cases, which were either 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). *This question is optional for sitting judges who have served five years or more.*

In Re: the Marriage of David W. Patterson and Joann Renee Patterson, case number 05-2016-DR-018338-XXXX-XX, Ric Woodward, Esquire, (321) 254-0006; e-mail: ricwood@bellsouth.net

In Re: the Marriage of Michelle Garrett and Andrew R. Garrett, case number 05-2015-DR-41743-XXXX-XX, pro se Respondent (Jeffrey Boston, Esquire, before he withdrew, (321) 795-4232; e-mail: jeffbostonlegal1@gmail.com)

In Re: the Marriage of Maurice Van Vugt and Danielle Elizabeth Denney-Van Vugt, case number 05-2015-DR-041050-XXXX-XX, Kelly McCormack Ingram, Esquire, now the Honorable Kelly McCormack Ingram, (321) 952-4702

In Re: the Former Marriage of Elisa Ulibarri-Yoho and Norman Fontan, case number 05-2007-DR-26543-XXXX-XX, Charles L. Dorfman, Esquire, (321) 259-0560; e-mail: chuck@weaverdorfmanlaw.com

In Re: the Marriage of Danielle Baker and Justin Baker, case number 05-2015-DR-018944-XXXX-XX, pro se Respondent

In Re: the Former Marriage of Melanie Anne Schrader and Trevor Martin Vander, case number 05-2008-DR-51513-XXXX-XX, Melissa Peat, Esquire, (321)775-3694; e-mail: melissa@coastallegalteam.com

In Re: the Marriage of Jimmie Riblet and Michelle Riblet, case number 05-2015-DR-34554-XXXX-XX, Billie Jo Hopwood, Esquire, (321)725-3425; e-mail: billie@plattlawoffices.com

In Re: the Marriage of Patricia Greenia and Randall Greenia, case number 05-2015-DR-13278-XXXX-XX, Deana Bell, Esquire, (321) 952-2522; e-mail: deana@uneedalawyernow.com

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain.

None other than as a General Magistrate, a position I have held for five-and-a-half years. Before assuming that position, I estimate that I was in court at least 5 times or more a month.

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel.

Not applicable.

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants?

Not applicable.

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, 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.

- (1) John B. MacNeill v. James A. Yates and Amy B. Van Fossen, n/k/a Amy B. Jackson
 - a. United States District Court, Middle District Court of Florida, Orlando Division
 - b. Case number 6:09-cv-706-Orl-31DAB
 - c. Judge: The Honorable Gregory A. Presnell
 - d. Dates of litigation: 4/2009 – 1/2011
 - e. Opposing Counsel: Joel Rosenblatt, Esquire, (current telephone and e-mail address unknown) and Douglas Marks, Esquire, ((321) 419-0948; dmarks@markslawbrevard.com) for Plaintiff; Francis H. Sheppard, Esquire, (407) 872-7300; fsheppard@rumberger.com) for Defendant Van Fossen

This case involved copyright issues as well as business issues. My co-counsel, Mark Malek (telephone: (321) 255-2332; e-mail: mark@usalegalteam.com) and I represented the defendant Mr. Yates. The plaintiff alleged that he and Mr. Yates had formed a joint venture with the intent of rewriting a software program in an updated language. The plaintiff asserted multiple counts, including: copyright infringement; declaratory judgment that a joint venture had been formed; fraudulent inducement; breach of contract; breach of implied contract, unjust enrichment; and breach of fiduciary duty. Mr. Yates filed multiple counterclaims, alleging that he had created a new source code for an old program, that Mr. Yates was the sole owner of that source code, and that he was entitled to damages and recovery of fees and costs for prevailing on a copyright action. The Court entered judgment on the pleadings on several counts in the plaintiff's complaint. Much of the litigation focused on discovery issues and depositions. In addition, the Court granted summary judgment against the plaintiff in our client's favor on the plaintiff's counts for declaratory judgment, fraudulent inducement, breach of contract, breach of contract implied by law, unjust enrichment, and breach of fiduciary duty. I prepared much of the discovery, took the plaintiff's deposition, argued discovery motions before the Magistrate, and wrote a substantial portion of the motion for summary judgment. Ultimately, the case was settled. However, this case is significant, because we were able to protect our client, who spent hundreds of hours and his resources

developing the source code and protecting his ownership interest in it. It also demonstrates my ability to litigate complex issues, including copyright issues that were rather new to me.

(2) John Trahan v. Lou Exline and Orion Technology Services, LLC

- a. Originally filed in the United States District Court, Middle District of Florida as Orion Technology Services, LLC v. John Trahan, case number 6-09-CV-219-ORL-19GJK)
- b. Arbitration through JAMS: JAMS Reference number 1310017984
- c. Arbitrator: The Honorable Mark Whittington
- d. Dates of Arbitration: 8/3 and 8/4/10
- e. Opposing Counsel: Gregory L. Griffith, Esquire, Dallas, TX (214) 739-3500; greg@griffith-law.com

I represented Mr. Exline and Orion Technology Services, Inc., in this case, which we initiated in Brevard County as a breach of contract action regarding personal guarantees on a promissory note. The case was removed to federal court and Mr. Trahan invoked the arbitration clause in the promissory note. The case grew from a simple breach of contract case to a complicated commercial case. In arbitration, Mr. Trahan raised many issues relating to the business relationship between him and Mr. Exline and, thus, the case became quite complex. In addition to breach of contract, the legal issues and claims included: breach of fiduciary duties owed by officers and directors of a corporation; piercing the corporate veil; breach of a non-solicitation provision; conversion; demands for accountings; and damages. On behalf of Mr. Exline and Orion, I prepared and filed a Motion for Summary Judgment. The Arbitrator denied the Motion; however, in his Arbitration Award, the Arbitrator adopted much of the language and reasoning in the Motion. The arbitration hearing took place over two days and, ultimately, the Arbitrator found in favor of my clients on the original breach of contract issue based upon the promissory note, but denied their claim for breach of fiduciary duty and other claims for which they sought damages. In addition, the Arbitrator granted our request for attorney's fees.

This case was significant as it presented complex issues involving the relationship of business owners, the financing of a business, and sophisticated accounting principles. The case was significant to me, as I had to devote a substantial amount of time and resources to discovery, including multiple depositions, reviewing voluminous documents, and motion practice as well as the preparation for two days of arbitration. My client was an extremely intelligent businessman and I learned a lot about business accounting matters during this litigation.

(3) In Re the Marriage of Karen Braynard and Herbert Hayes Braynard, III

- a. Eighteenth Judicial Circuit in and for Brevard County, Case number 05-2008-DR-007629-XXXX-XX
- b. Honorable Charles Crawford; The Honorable Morgan Reinman
- c. Dates of Final Trial: 12/16 and 12/17/14 and 1/8/15
- d. Opposing Counsel: none. Respondent was pro se

This dissolution of marriage case involved a related criminal case and, for a brief time, a related dependency case. I represented the Wife in the dissolution of marriage case. The husband was arrested, ultimately convicted for sexual assault of [REDACTED] and sentenced to 27 life sentences. While his criminal trial was pending and he was incarcerated in the local jail, the Wife began the dissolution of marriage. She had been granted sole custody of the four children in the related

dependency case. The Husband made every effort to have contact with the Wife and the children in violation of no-contact orders in the criminal case. The first phase of the dissolution of marriage trial could not be completed, so the trial judge bifurcated the case and granted the dissolution of marriage. The Husband filed an appeal, but the District Court of Appeal affirmed the entry of the Bifurcated Final Judgment. The trial judge abated the dissolution of marriage case until the resolution of the criminal case, which took several years. Throughout this time, I received countless telephone calls and written correspondence from the Husband, threatening to implicate the Wife and to have the children placed in foster care. I notified the State Attorney's office of these threats and cooperated with the investigation of his conduct. The criminal case eventually was tried before a jury and the defendant was convicted on 27 counts. I was present at the Husband's sentencing, during which [REDACTED] made a brave, moving statement. At the trial on the remaining issues in the family law case, the Husband represented himself from prison, continuously asserting his parental rights and demanding that he be permitted to communicate with the two remaining children. The trial took two-and-a-half days. The Judge awarded my client sole parental responsibility, child support (the Husband was receiving military retirement), and attorney's fees, among other relief. This case was significant to me, because I saw the judicial system work and help this family pick up its shattered pieces, heal, and grow; finally, they were whole again and the client was grateful for my support and representation of her and the family throughout this tragic case.

(4) In Re: Guardianship of Mary Jane Reynolds

- a. Eighteenth Judicial Circuit in and for Brevard County, Case number 05-2012-GA-72057-XXXX-XX
- b. Hearing date: 3/12/13
- c. Counsel for the Ward: Tino Gonzalez, Esquire, (321) 751-9675, tino@tinolegal.com

In this case, I represented a professional guardian, who ultimately was appointed as the plenary guardian for the Ward, Ms. Reynolds. Law enforcement officers had found Ms. Reynolds in a car in a rest area in Brevard County. Ms. Reynolds did not know where she was or how she had arrived there. We later learned that Ms. Reynolds owned a home in Lake County, Florida. However, the home was in such a state of disrepair that it was condemned as a hazardous waste site. All of Ms. Reynolds' children had died and she had no immediate family. She was diagnosed with dementia and the Court determined her to be incapacitated. Through the guardianship proceeding, we were able to place Ms. Reynolds in a safe living environment where she was well cared for and not alone. Her assets were protected and used for her care.

(5) Caruso, et al. v. The Coleman Company

- a. United States District Court, Eastern District of Pennsylvania, case numbers 93-CV-6733, 94-CV-2779
- b. United States Magistrate Judge: Edwin Naythons
- c. Litigation dates: 1993-1994
- d. Opposing Counsel: Edward Joseph, Esquire, Philadelphia, PA (current telephone number and e-mail address unknown)

In this case, my law partner and I represented the widow and three young sons of Mr. Caruso, who died of carbon monoxide poisoning while he was sleeping in a camping trailer during a hunting

trip. In the trailer were a Turner propane heater and a Coleman propane lantern, both using Coleman propane cylinders and both turned on when Mr. Caruso was found. The Turner heater had been sold in the 1960s and had a known defect that caused excessive carbon monoxide to be produced. Therefore, we settled early in the case with Turner. The case against Coleman Company was based upon an inadequate warning theory. This case involved extensive discovery, including some interesting issues. For example, we obtained a court order that required the in-house counsel to testify, as he had knowledge of pertinent facts that were not protected by attorney-client privilege. In addition, we learned through depositions that there was a "smoking gun" memorandum drafted by an engineer at Coleman, who believed the warning to be inadequate. We obtained an order compelling the production of documents (this issue was the subject of published decision at 157 F.R.D. 344 (E.D. Pa. 1994)) for which we had to travel to Wichita, Kansas and review voluminous documents in a roomful of boxes brought by a U-Haul truck. We found the memorandum and were able to settle the case for a substantial sum of money (seven figures). In addition, subsequently, the warning labels on Coleman propane cylinders were changed to provide a more specific warning about the dangers of using the propane-powered equipment in enclosed spaces.

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

See attached.

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE

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

No.

24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.

Yes. Twice: (1) 1/29/20, Eighteenth Circuit Judicial Nominating Commission; yes, my name was submitted; (2) 3/17/20, Eighteenth Circuit Judicial Nominating Commission; yes, my name was submitted.

25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard.

<u>Dates</u>	<u>Name of Agency/Entity</u>	<u>Position</u>
May 2016-	Eighteenth Judicial Circuit,	General Magistrate

Present Brevard County

Oct. 2006 - City of Satellite Board of Adjustment Chairperson
May 2016

As a General Magistrate, I hear family law matters (dissolution of marriage, paternity, parental responsibility and timesharing, child support, alimony, equitable distribution of marital assets and liabilities, temporary custody by extended family members, name changes), mental health matters under Chapter 394, Florida Statutes, and substance abuse matters under Chapter 397, Florida Statutes.

On the Board of Adjustment, I heard primarily applications for variances, but also occasional appeals from decisions of the City building official.

26. If you have prior judicial or quasi-judicial experience, please list the following information:

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

Tiffani Cole, Esquire
Platt, Hopwood, Russell & Cole, PLLC
175 E. Nasa Boulevard, Suite 300
Melbourne, FL 32901
(321) 725-3425
tiffani@plattlawoffices.com

Michael Donnelly, Esquire
Albert & Donnelly, LLC
6032 Farcenda Place, Suite 101
Melbourne, FL 32940
(321) 777-1110
mike@albertdonnellylaw.com

Richard J. Feinberg, Esquire
Law Office of Richard J. Feinberg
325 5th Avenue, Suite 207
Indialantic, FL 32903
(321) 951-4545
feinberg-richard15@yahoo.com

Curtis N. Flajole, Esquire
Curtis N. Flajole, P.A.
5430 Village Drive, Suite 103
Viera, FL 32955
(321) 242-9777

cjflajole@aol.com

Joan Nassar, Esquire
Joan Berry Nassar, P.A.
3684 N. Wickham Road, Suite B
Melbourne, FL 32935
(321) 751-8110
jnassar@familylawfl.com

Ric Woodward, Esquire
Law Office of Ric Woodward
2627 W. Eau Gallie Boulevard, Suite 101
Melbourne, FL 32953
(321) 254-0006
ricwood@bellsouth.net

(ii) the approximate number and nature of the cases you handled during your tenure;

As a General Magistrate, approximately 3,783 family law hearings, trials, and case management conferences, approximately 411 Chapter 394 ("Baker Act") hearings, and approximately 38 Chapter 397 ("Marchman Act") hearings.

On the Board of Adjustment, approximately 50 cases. The Board of Adjustment hears applications for variances and, less frequently, appeals from decisions of the City building official. The variances typically addressed property line and setback issues involving fences, pools, other structures, docks, and homes being rebuilt on the beach. The cases regarding docks and home on the beach were the most contentious and usually created more public interest. When the Satellite Beach ordinance was amended to require businesses to have monument signs, we addressed many variances from businesses on Highway A1A due to the setback issue. The ordinary variance requests were presented most often by homeowners and, sometimes, their contractors, architects, or engineers. The dock and beach home cases more often involved attorneys.

(iii) the citations of any published opinions; and

None.

(iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

(1) In Re: the Former Marriage of Henry J. Pearson and Sonara Souza Pearson, case number 05-2015-DR-38892-XXXX-XX

- a. Dates tried: 2/19, 2/20, 3/5, and 3/29/18
 - b. Attorneys: Richard Feinberg, Esquire, for Petitioner, and Valerie Weaver, Esquire, for Respondent
 - c. Nature of Action: Modification of Parental Responsibility and Time-sharing
 - d. Significance: This case involved a minor child with special needs and the parents' inability to co-parent in an effective way and, in fact, in a way that was not detrimental to the child. In the original Final Judgment, the Court had awarded the parents shared parental responsibility and an equal time-sharing schedule. Unfortunately, the parties could not agree on any significant issue involving the child, including necessary medical treatment, schools, and special therapies. Moreover, the mother repeatedly unilaterally removed the child from schools, programs, and therapies and she was confrontational with teachers, doctors, and therapists. Consequently, the child was not progressing and, in many ways, regressing. Although, generally, the fact that parents do not get along does not constitute a substantial change of circumstances necessary to justify modifying parental responsibility and time-sharing, in this case, the parties inability to co-parent rose to such a level that a modification was necessary to serve the best interests of the child.
- (2) In Re: the Marriage of Mel Whitson and Stephanie Whitson, case number 05-2017-DR-023390-XXXX-XX
- a. Dates tried: 4/30 and 5/1/18
 - b. Attorneys: Ric Woodward, Esquire, for Petitioner, Lindsey Sharp, Esquire, for Respondent, and Daniel Freyberg, Esquire, Guardian Ad Litem
 - c. Nature of Action: Dissolution of Marriage with children
 - d. Significance: The issues of parental responsibility and time-sharing were hotly contested in this case. Before the breakdown of the marriage, both parties had been very involved with the children, but the Wife was a stay-at-home mother. After the parties separated, their roles switched, with the children living with the Husband and seeing the Wife only occasionally, which was curious to me. Therefore, a Guardian Ad Litem was appointed, performed a detailed investigation, and made recommendations to me. Without the Guardian Ad Litem, it would have been difficult to determine what really was happening with this family.
- (3) In Re: the Matter of Jeremy Lycke and Candace Neale, case number 05-2016-DR-028964-XXXX-XX
- a. Dates tried: 6/13, 6/22, 7/10, and 7/23/18
 - b. Attorneys: None. Both parties were pro se.
 - c. Nature of Action: Paternity and custody
 - d. Significance: This case probably is the most vitriolic case that I have heard. The parties had a long-term relationship, at one time intimate and then as friends. The child, who was 12 years old at the time of trial, had lived primarily with the Mother for most of his life. However, about a year and a half before the trial, after a hearing for temporary relief at which the Mother did not appear, the Father was awarded temporary majority time-sharing. The Father was withholding the child from the Mother and was trying to turn the child against the Mother, which, unfortunately, was happening. The Mother was extremely emotional throughout the proceedings and the Father was manipulative and

extremely disrespectful towards the Mother and, at times, towards me. Both parties presented evidence as well as their own testimony. The trial was an exercise in balancing the rights of the parties against maintaining control of the courtroom and the process. It was an excellent lesson on dealing with highly-charged pro se litigants.

- (4) In Re: the Former Marriage of Rolando Gomez, Jr. and Yesenia Gomez, case number 05-2011-DR-034230-XXXX-XX
- a. Dates tried: 10/21 and 10/22/19
 - b. Attorneys: Daniel Freyberg, Esquire, for Petitioner; Respondent was pro se
 - c. Nature of Action: Modification and Relocation, Child Support
 - d. Significance: In this case, the Father was forced to relocate for employment due to unusual circumstances. He wanted to maintain his current level of time-sharing, which was about 45% of overnights annually, even though he lived 4 to 5 hours away. The parties have a very hostile relationship; therefore, it was difficult to ascertain whether one party was interfering with the other party's relationship with the children, the other party was not exercising his time-sharing for valid reasons, or a little of both. Three of the children were teenagers with very active school and extra-curricular lives. Therefore, I interviewed each of those children. They all were mature, respectful, and accomplished and wanted to spend time with both parents, but also had lives of their own. Those interviews, while not controlling of the outcome, were extremely helpful to my ability to fashion a parenting plan that was in their best interests and feasible. This case also presented some complicated child support issues.
- (5) In Re: the Matter of Melissa Jane Wild and Angiela K. Wright, case number 05-2018-DR-05077-XXXX-XX
- a. Date tried: 1/6/20
 - b. Attorneys: Sean Harnage, Esquire, for Petitioner; Respondent, pro se.
 - c. Nature of Action: Dissolution of a civil union and parenting rights
 - d. Significance: Initially, both parties were pro se. In 2006, they had entered a civil union in Vermont, which has a civil union statute that provides that members of a civil union have the same parental rights as married persons. They moved to Florida and decided to have a child; the biological mother was inseminated pursuant to a donor contract. The parties raised the child together for a few years and then separated. The non-biological mother moved to another state for about five years, but maintained contact with the biological mother and the child. The parties were unable to seek a dissolution of their civil union due to residency requirements. Upon returning to Florida, the non-biological mother filed a dissolution of marriage action, asserting her parental rights to the child. The biological mother filed a counterpetition and alleged that she was the only legal parent. As a preliminary matter, based upon an analysis of the Full Faith and Credit Clause, case law in Vermont, and case law in Florida, I concluded that a Florida court could dissolve the civil union and that the non-biological mother had standing to assert her parental rights. I believe that this case presented an issue of first impression; Florida cases have held that unmarried non-biological women in a same-sex relationship do not have parental rights, because there is no legal relationship between them. The trial centered on parental responsibility and time-sharing.

27. Provide citations and a brief summary of all of your orders or opinions where your decision was 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, attach copies of the opinions.

Golchin v. Farzaneh, 230 So.3d 987 (Fla. 5th DCA 2017) – The Court held that I erroneously awarded retroactive child support before the date on which the mother filed her motion for child support.

28. 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, attach copies of the opinions.

None.

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

No.

30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances.

No.

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

No.

NON-LEGAL BUSINESS INVOLVEMENT

32. 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.

Not applicable.

33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received.

From March 1999 until July 2001, I was the paralegal instructor at Keiser College in Melbourne, Florida (I was not practicing law in Florida yet). I received compensation of \$18,600 in 2000 and \$13,252 in 2001. Subsequently, I was an adjunct instructor there from July 2001 through November 2002 in the evenings, during which time I taught business law and certification courses. I received compensation of \$1,900.

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.

I can think of no types of cases, groups of entities, or extended relationships or associations which would limit cases for which I could sit as a presiding judge. I have not recused myself from any cases other than those that involved former clients or opposing parties in a continuing family law matter.

PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed.

None.

36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed.

As the President-Elect and President of the Brevard County Bar Association, I prepared an annual report to the Eighteenth Judicial Circuit Professionalism Committee. Those reports are attached.

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a

summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

ABA Women Rainmakers panel member, October 2015, Melbourne, Florida

Voluntary Bar Leaders Conference, panel member on bar association communications and newsletters, July 2017, Orlando, Florida

Mental Health/Baker Act panel, Brevard County Bar Association, May 10, 2019

No known reports or recordings.

- 38.** Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide.

As mentioned above, I was the instructor for paralegal studies at Keiser College from March 1999 until July 2001; I taught: Torts; Criminal Law and Procedure; Legal Research and Writing; Contracts; Business Entities; Civil Litigation; Property; and Ethics. As an adjunct instructor, I taught Business Law and the certification course for paralegals.

- 39.** List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

2004 Brevard County Legal Aid, Supreme Court of Florida, and Florida Pro Bono Coordinators Association recognition for pro bono service

2005 Supreme Court of Florida, Young Lawyers Division of Florida Bar, and Florida Pro Bono Coordinators Association recognition for pro bono service

2008 Supreme Court of Florida, Young Lawyers Division of Florida Bar, and Florida Pro Bono Coordinators Association recognition for pro bono service

2009 Brevard County Legal Aid Outstanding Pro Bono Service Award

2010 Brevard County Legal Aid Outstanding Pro Bono Service Award

2011 Brevard County Legal Aid Outstanding Pro Bono Service Award

2011-2012 Brevard County Bar Association Board Member of the Year

2014 Vassar B. Carlton American Inn of Court Barrister of the Year Award

2015 Vassar B. Carlton American Inn of Court Best Presentation Award, "Once Upon a Time: Paternity, Foreclosure, and Bankruptcy", Team Captain

40. Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned?

No.

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

Florida Bar, 2001 to present

Florida Bar, Family Law Section, 2009 - present

Brevard County Bar Association, 2006 - present

Brevard County Bar Association, Board Member 2011 through 2016, Secretary 2012-2013, Treasurer 2013-2014, President-Elect 2014-2015, President 2015-2016

Florida Association for Women Lawyers, 2002, 2013-2016

Brevard County Association for Women Lawyers, 2003-2016

Vassar B. Carlton American Inn of Court, 2013 – 2020 (Master; inactive in 2020-2021 and 2021-2022)

Brevard County Bar Foundation, Lifetime Member

Brevard County Legal Aid, Board Member from 2006 - 2016 and Lifetime Partner

Association of Florida Magistrates and Hearing Officers, 2019 - present

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

Penn State Alumni Association, Lifetime Member

Space Coast Chapter, Penn State Alumni Association, Board Member and Secretary, 2010-2016

43. Do you now or have you ever belonged to a 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 (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state 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.

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

Between 2006 and 2016, I performed over 400 hours of pro bono work for Brevard County Legal Aid, including representing clients in family law, guardianship, and guardianship advocacy matters and volunteering at advice clinics.

45. Please describe any hobbies or other vocational interests.

Sailing, swimming, bicycling, reading, music, theater, solving crossword puzzles, travel

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge.

No.

47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

I have not used my LinkedIn for years, but here is the link: <https://www.linkedin.com/in/leslie-castaldi-34469023>.

FAMILY BACKGROUND

48. Please state your current marital status. If you are currently married, please list your spouse's name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

Divorced.

Former Spouse: [REDACTED], telephone number: [REDACTED]

Date of Divorce: June 11, 1988 in Philadelphia, Pennsylvania; Court of Common Pleas of Philadelphia County, Pennsylvania, Domestic Relations Division, Case no. 009424262

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number.

[REDACTED] yoga studio manager, [REDACTED], telephone number: [REDACTED]

CRIMINAL AND MISCELLANEOUS ACTIONS

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No.

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No.

52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction.

No.

53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter.

Yes.

Datacom Security Systems v. Leslie Castaldi and Raymond Samide
Philadelphia (Pennsylvania) Municipal Court
Case no. SC 91-08-29-02848
Breach of contract
Disposition: Partial judgment for Plaintiff (1991)

Earl Watson v. Leslie Castaldi
Philadelphia (Pennsylvania) Municipal Court
Case no. SC 91-02-01-00120
Automobile negligence
Disposition: judgment for Plaintiff

Leslie Castaldi v. Raymond Samide
Court of Common Pleas of Philadelphia County, Domestic Relations Division
Case no. 009424262
Dissolution of Marriage
Disposition: divorce decree entered

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part?

No.

55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved.

No.

56. 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, provide the particulars of each finding or investigation.

No.

57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition.

No.

58. 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.

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so,

please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No.

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

No.

61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

Yes. I have complied with all legally required tax return filings.

HEALTH

62. Are you currently addicted to or dependent upon the use of narcotics, drugs, or alcohol?

No.

63. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism? If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.] Please describe such treatment or diagnosis.

No.

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain.

No.

65. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed.

No.

66. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, provide full details as to court, date, and circumstances.

No.

67. During the last ten years, have you unlawfully used controlled substances, narcotic drugs, or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal or State law provisions.)

No.

68. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned, or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs, or illegal drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action

No.

69. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal, and the reason why you refused to submit to such a test.

No.

70. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No.

SUPPLEMENTAL INFORMATION

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

In the early part of my career, I served as an arbitrator in the mandatory arbitration program in the Philadelphia County (Pennsylvania) court system; this program required most civil cases involving amounts in controversy less than \$50,000 to submit non-binding arbitration before a panel of three attorneys.

As an instructor at Keiser College, I taught contracts, property, torts, business law, criminal law, family law, civil procedure, and research and writing. I created the curriculum and incorporated substantive law with practical application. The students were primarily adults who were returning to school to better their lives, most of whom had no experience with college-level courses, had diverse backgrounds, and needed confidence-building. I required the students to draft documents, do oral presentations, perform legal research, and prepare regular written assignments. I developed an excellent rapport with the students and they respected me and were enthusiastic about learning.

During my legal career, I have handled a wide variety of civil cases: complex environmental litigation that involved administrative law, statutory interpretation, and scientific issues; insurance litigation, including first party and civil arson cases; commercial litigation; personal injury and products liability on both sides; and, later in my career, family law and guardianship. I have represented individuals of various socio-economic backgrounds and businesses. Consequently, I have a solid understanding of procedural and substantive issues and have the ability to build on that foundation.

My experience as the Chairperson on the City of Satellite Beach Board of Adjustment was invaluable in preparing me for my current position as a General Magistrate. The issues impacted my community and it was crucial that I remain neutral and objective in applying the legal standards to the facts presented to me, despite any interest I may have had as a member of the community in a particular outcome. Most of the cases were presented by pro se parties and I developed an ability to listen to evidence and, at times, public outcry, while maintaining an environment of decorum and impartiality. I was well-respected by the other members of the Board and other city employees and volunteers, including the City Council and Mayor, and was honored at a brief ceremony when I resigned upon accepting the General Magistrate position.

As an officer of the Brevard County Bar Association, I was extremely productive and dedicated to providing the local legal community with opportunities to learn and improve their practices, socialize, and give back to the larger community of Brevard County. While I was President-Elect, I worked with the Clerk of Court staff to provide training for e-filing; over 200 people, including attorneys, paralegals, legal secretaries, and Clerk personnel, attended this training. In addition, as President, I, now-retired Judge Tonya Rainwater, and another BCBA Board member developed the guardian ad litem program for family law in Brevard County; we worked with the Honorable Jack Helinger from the Sixth Judicial Circuit to offer a free training session with continuing education credit, through the Bar Association, to attorneys. As a result, we now are able to appoint qualified guardians ad litem in high conflict family law cases. During my tenure as President, with the help of local attorneys, the Bar Association hosted a dinner honoring our local military members and veterans; officers from Patrick Air Force Base, veteran organizations, and attorneys involved in the Veterans' Court attended, as well as vendors who provide

resources for veterans. I have continued to provide continuing education opportunities to our local family attorneys by organizing quarterly Family Law Network luncheons with speakers on topics pertinent to the practice of family law.

As a General Magistrate hearing family matters, I interact daily with pro se litigants and attorneys. The pro se litigants, in particular, are often scared and emotional, and sometimes skeptical, when they enter my courtroom (or, now, when a remote proceeding begins). I try to make the parties feel at ease, while also explaining the rules of the courtroom and demanding civility and respect between the parties and toward the court. I carefully consider the parties' circumstances and am able to be neutral and objective when I weigh the evidence in making my recommendations. These family law hearings can become explosive and I maintain patience and a calm demeanor in the wake of the parties' emotions. I am always prepared; I review the court file before every hearing and case management conference. I try to anticipate problems or other procedural issues that might cause delay or confusion to the process. When dealing with attorneys, I am mindful of their desire to control the pace of a case, which must be balanced with the court's need for judicial efficiency and prevention of unnecessary delay. In the age of COVID-19, this balance has become even more delicate and challenging, but I have developed procedures and policies to address those challenges.

Mental health and substance abuse cases involve a unique set of circumstances and legal issues, including issues of due process. The mental health (Chapter 394) hearings are held at psychiatric facilities (except during COVID, when they were remote) and I ensure that the hearings proceed in a formal, appropriate manner. The substance abuse hearings under Chapter 397 ("Marchman Act") present difficult procedural and practical obstacles; the families look to the General Magistrate as the answer to what, surely, has been a long nightmare for them. There are distinct limitations to the ability of the courts to address the families' problems, but I am able to develop a discourse with the families and the respondent as to an appropriate and realistic course of action.

I also have participated in the OSCA Family Court Workshop in 2016, 2018, and 2019, which focuses on the concept of One Family, One Court. During these one-day workshops, the participants exchange ideas about successes and obstacles in achieving the goal of One Family, One Court.

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

My experience as a General Magistrate should facilitate a smooth transition to assuming the responsibilities of a judge. I have very good relationships and work well with the clerks, deputies, and other court staff. Since I have had this position for the past five-and-a-half years, I have worked with the Clerk, judges, magistrates, and other personnel in developing and improving procedures. I have a fountain of legal and life experience that allows me to be objective and fair to all participants in the process. My experience enables me to understand and assess a wide spectrum of legal matters and procedures; I am able to be flexible and continue to learn when I am assigned to an unfamiliar area of law. I understand the needs and challenges of attorneys as they represent their clients and I interact well with pro se litigants. I am extremely hard-working and conscientious and care about how the legal system impacts our society.

REFERENCES

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

The Honorable Lisa Davidson
Eighteenth Judicial Circuit, Brevard County
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, FL 32940
(321) 617-7281
[REDACTED]

The Honorable Tesha Ballou
Eighteenth Judicial Circuit, Brevard County
Titusville Courthouse
506 S. Palm Avenue
Titusville, FL 32796
(321) 264-6756
[REDACTED]

The Honorable Michelle Naberhaus
Eighteenth Judicial Circuit, Brevard County
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, FL 32940
(321) 617-7270
[REDACTED]

The Honorable Robert Segal
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, FL 32940
(321) 637-5641
[REDACTED]

The Honorable Jennifer Taylor
Eighteenth Judicial Circuit, Brevard County
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, FL 32940

(321) 617-7287

[REDACTED]
The Honorable Michael Rudisill
Eighteenth Judicial Circuit, Seminole County
Civil Justice Center
301 N. Park Avenue
Sanford, FL 32771
(407) 665-4218
[REDACTED]

Robert L. Johnson, Jr.
Executive Director
Brevard County Legal Aid, Inc.
1038 Harvin Way, Suite 100
Rockledge, FL 32955
(321) 631-2500
rob@brevardlegalaid.org

Michelle Pruitt Studstill, Esquire
Valentin & Studstill, PLLC
1361 Bedford Drive, Suite 103
Melbourne, FL 32940
(321) 425-2082
mstudstill@brevardfamilylawyers.com

Steven Casanova, Esquire
Steven G. Casanova, P.A.
2323 S. Babcock Street
Melbourne, FL 32901
steve@surferlaw.com

Jay R. Thakkar, Esquire
Cantwell & Goldman, P.A.
96 Willard Street, Suite 302
Cocoa, FL 32922
(407) 733-1601
jay@cfglawoffice.com

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(1), 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 10th day of November, 20 21.

Leslie J. Castaldi

Printed Name

Leslie J. Castaldi

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.

NUMBER 22

LEGAL WRITING SAMPLES

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.:05-2018-DR-037889-XXXX-XX

In Re: The Matter of:

DEZMON JARROD LANE,

Petitioner,
and

MELVA ROSE ALEXANDER,

Respondent.

**GENERAL MAGISTRATE'S REPORT AND RECOMMENDATION ON
AMENDED PETITION TO ESTABLISH PATERNITY
AND FOR OTHER RELATED RELIEF AND PETITION FOR RELOCATION**

This matter came before the General Magistrate on April 1, 2021, for a non-jury trial on Petitioner Dezmon Jarrod Lane's Amended Petition to Establish Paternity and for Other Related Relief and Petition for Relocation (filed on November 5, 2020, docket no. 62). The trial was by videoconference through Microsoft Teams due to the coronavirus pandemic. Mr. Lane and his counsel, Heather Harris, and Respondent Melva Rose Alexander and her counsel, R. Rudy Ramjeawan, appeared. This matter was referred to the undersigned on June 17, 2019. Having reviewed the record and heard testimony and argument, the General Magistrate finds and recommends that:

FINDINGS

1. The parties have one minor child, [REDACTED], born on [REDACTED], 2018 (three years old). Mr. Lane's paternity of the child is undisputed.
2. Mr. Lane filed his original Petition on July 24, 2018 (docket no. 1). In his Amended

Petition, Mr. Lane requests the following relief:

- a. Adjudication of his paternity of the minor child;
- b. Shared parental responsibility with Mr. Lane having ultimate decision-making authority;
- c. A timesharing schedule in the best interests of the child/adoption of his proposed Long-Distance Parenting Plan;
- d. Child support according to Florida Child Support Guidelines;
- e. Mr. Lane to provide the child's medical insurance;
- f. Equal allocation of the child's uncovered medical, dental, and vision expenses;
- g. Alternating the right to claim the child as a dependent for income tax purposes;
- h. Relocation to Yulee, Florida due to military transfer;
- i. Each party to be responsible for that party's own attorney's fees, unless there is undue delay or bad faith in this litigation.

3. On September 7, 2018, Ms. Alexander filed her Answer to the original Petition (docket no. 5) and, on November 20, 2020, Ms. Alexander filed an Answer to the Amended Petition (docket no. 66). She has not filed a Counterpetition.

4. On September 10, 2019, the Court entered an Order on the Report and Recommendation of the Hearing Officer (docket no. 36), authorizing the Department of Revenue to intervene in this matter and to establish child support, but reserving jurisdiction on the amount of child support and on retroactive child support. In addition, the Court ordered the parties to share equally the child's uninsured medical expenses.

5. At trial, the following witnesses testified:

- a. Ms. Alexander;
- b. Maya Lane, Mr. Lane's sister;
- c. Mr. Lane;
- d. Cynthia Lane, Mr. Lane's wife; and
- e. Constance Luckie Alexander, Ms. Alexander's mother.

6. The parties had dated for about three to four months before Ms. Alexander became pregnant. Because he had to travel out-of-state for work, Mr. Lane attended only two or three doctor appointments while Ms. Alexander was pregnant. Their relationship ended before the child, [REDACTED], was born, although the parties dispute when Ms. Alexander notified Mr. Lane before her labor was to be induced and he did appear at the hospital on the day [REDACTED] was born. He had to leave the hospital for work, but then he returned and spent time with the newborn baby.

7. Until the temporary relief order was entered in November 2019, the parties had not been able to agree on timesharing. Despite Mr. Lane's repeated requests, Ms. Alexander refused to allow Mr. Lane to have overnight timesharing and had restricted Mr. Lane's contact with the child to visits at her home, which either she or her mother supervised. Indeed, Mr. Lane did not see the child for about one year until July 2019, because he felt uncomfortable going to Ms. Alexander's home. On the one occasion that Ms. Alexander allowed Mr. Lane to take the child, Mr. Lane returned the child hours after the parties had agreed, further frustrating the situation. Much of Ms. Alexander's behavior was motivated by her anger at Mr. Alexander for terminating their relationship and becoming involved with another woman.

8. On November 4, 2019, the Court entered a temporary relief Order (docket no. 46), adopting the General Magistrate's Report and Recommendation dated November 4, 2019 (docket no. 42)

and awarding shared parental responsibility and establishing a temporary timesharing schedule, specifically, an alternate-week schedule with exchanges on Saturdays in Kissimmee. The Court also ordered temporary holiday timesharing, provisions regarding communication, and required Ms. Alexander to provide the child's health care providers with Mr. Lane's name and contact information.

9. On May 16, 2020, the parties entered a Joint Stipulation Regarding Exchange Location for Timesharing (filed on November 4, 2020, docket no. 61). Mr. Lane had received transfer orders to Kings Bay Naval Base in Georgia, and, therefore, he was relocating to Yulee, Florida. Consequently, the parties agreed that they would exchange the child at Scott Springs Park in Ocala, Florida. The parties agreed to other modifications, such as the time of the exchanges and communications between the parties and the child. The Stipulation was not submitted to the Court for an Order. Ms. Alexander's cousin accompanied her to the first exchange in Ocala in June 2020 and he threatened Mr. Lane, who then called law enforcement. Otherwise, the parties have been following the temporary timesharing schedule without any significant problems.

10. Mr. Lane lives in a four-bedroom, two-bathroom home in Yulee, Florida, with his wife, Cynthia Lane, her seventeen-year-old daughter, Mr. Lane's six-year-old son on alternate weekends, and [REDACTED] during his timesharing; Mr. Lane owns the home. [REDACTED] has her own bedroom there. Mr. and Mrs. Lane have been married for a year and have lived together for three years. Mr. Lane admitted that he had not provided his current address to Ms. Alexander due to her cousin's threat at the exchange in June 2020. Ms. Alexander knows only that Mr. Lane lives in Yulee and she testified that she does not know where Yulee is.

11. Mr. Lane has served in the United States Navy for ten years; upon receiving transfer orders

to Kings Bay Naval Base in Georgia, Mr. Lane moved to Yulee in June 2020. He works as a navigation electronic technician on submarines and is on student status. Mr. Lane works Monday through Friday from 8:00 a.m. until 5:00 p.m. and attends evening classes from 6:00 p.m. until 8:00 p.m., during which Mrs. Lane watches [REDACTED]. Although Mr. Lane did travel regularly for one-month periods at his last command, in his current position, it is unlikely that he would be deployed on a vessel very often. When he is deployed, he receives two months' notice and the deployments are for three months. Mr. Lane testified that he will remain stationed at his current assignment for the next ten years.

According to his March 23, 2021 Financial Affidavit (Petitioner's Exhibit 2), Mr. Lane has a gross monthly income of \$5,444.00. He also lists deductions of \$30 for his health insurance, \$170 for mandatory retirement, \$409 for court-ordered child support for another child, and \$30 for [REDACTED]'s health insurance. No other evidence or testimony was presented on Mr. Lane's income and deductions.

12. Ms. Alexander lives in a three-bedroom trailer in Davenport, Florida, with her mother, [REDACTED], and Ms. Alexander's nine-year-old son, where Ms. Alexander has lived for six years. Ms. Alexander and [REDACTED] share a bedroom in which [REDACTED] has her own bed. Ms. Alexander's son lives with her during the school year and with his father in Michigan for holidays and summers. The monthly rent for the trailer is \$850 monthly, of which Ms. Alexander pays \$300; she also contributes \$100 per month to the electric bill and pays \$250 monthly for the cell phone bill for herself, her mother, and her son. Ms. Alexander receives \$410 per month in child support for her son.

13. Ms. Alexander is employed as a pharmacy technician at Walgreens, where she has worked

for six years. She earns \$11.50 an hour; her last raise was in January 2020. Since the COVID pandemic, Ms. Alexander has been working 20 hours per week; she was scheduled to return to a full-time schedule (30 hours) in mid-April 2021. Ms. Alexander works from 7:00 a.m. to 2:30 p.m. on Monday and Tuesday and either 9:00 a.m. to 9:00 p.m. or 3:00 p.m. to 10:30 p.m. on Wednesday and Thursday. She only works on weekends occasionally. Ms. Alexander receives food stamps for both of her children.

14. In addition to timesharing, a significant issue in this case is parental responsibility and decision-making regarding the child, who has special needs. Ms. Alexander has had difficulty acknowledging the child's special needs and has not been willing to address them.

15. ██████ is three years old. According to Mr. Lane and his sister, Maya Lane, ██████ is developmentally delayed. For the past two years, Mr. Lane has scheduled ██████'s medical appointments and he has taken the child to most of those appointments, including to ██████'s pediatrician in Davenport, where Ms. Alexander lives. Mr. Lane testified that Ms. Alexander rarely attends the appointments. Ms. Alexander testified that Mr. Lane never notifies her of the appointments. However, both parents receive notifications of appointments from the doctor's office. Ms. Alexander testified that she does not attend appointments, because they conflict with her work schedule. At Mr. Lane's request, Ms. Alexander recently took ██████ to the doctor to follow-up on the child's bronchitis.

The child's doctor in Davenport has evaluated child and referred her to a speech therapist in Kissimmee and to occupational therapy. Mr. Lane asked Ms. Alexander to schedule the speech therapy. However, Ms. Alexander denied that ██████ needed the therapy and did not follow through on the recommended treatment; consequently, Mr. Lane obtained another referral for a

speech therapist near his home. Since June 2020, [REDACTED] has been receiving speech therapy and occupational therapy, during Mr. Lane's timesharing only. Ms. Alexander testified that she was unaware until trial that the child was receiving occupational therapy. It is beneficial for the parents to participate in the therapy, as [REDACTED] is required to perform exercises and other assignments at home; Mr. Lane has shared this information as well as the evaluations and speech therapy reports with Ms. Alexander. However, Ms. Alexander has shown little interest in participating in the therapies and has not spoken to the speech therapist. Mr. Lane also has scheduled testing with a pediatric neurologist to determine whether [REDACTED] has a learning disability. Ms. Alexander's lack of involvement in the child's treatment and therapy appears to be related more to Ms. Alexander's difficulty accepting that [REDACTED] has any special needs than to a lack of concern.

Mr. Lane has investigated several schools in his area. For VPK, he favors Early Impressions, a Head Start program, which has a certification for speech therapy; the school also accommodates Mr. Lane's work schedule, as [REDACTED] can stay there after 5:00 p.m. Ms. Alexander would like the child to attend Cirtus Ridge Academy, commencing with VPK in August 2022. Neither party has [REDACTED] in daycare currently; however, Mr. Lane has access to a daycare facility if he needs it.

16. Mr. Lane, Mrs. Lane, and his sister, Maya Lane, expressed concerns about [REDACTED]'s hygiene and testified that [REDACTED] often is dirty when she arrives from Ms. Alexander's timesharing. Maya Lane testified in detail about the poor hygiene of the child on one occasion a few months ago. Ms. Alexander and her mother denied those allegations. Moreover, Mr. Lane expressed concerns about the condition of Ms. Alexander's home, which, in the past, he had observed to be very messy. Mr. Lane has not seen the home in several years and both Ms. Alexander and her mother testified that the home was clean.

17. Relocation: Mr. Lane has filed a Petition to Relocate, containing the statutorily-required language under Section 61.13001(3)(1)7, Florida Statutes. In paragraph 27, he alleges that Ms. Alexander has been advised as to the relocation and she has not objected. However, in her Answer (filed on November 20, 2020, docket no. 66), Ms. Alexander denies that allegation, as well as other allegations set forth in the Petition to Relocate. Section 61.13001(5), Florida Statutes, requires that an objection to a proposed relocation be verified and set forth a specific factual basis for reasons that the Court should prohibit relocation. Ms. Alexander's Answer is not verified and it does not set forth any facts to support a denial of the relocation. Moreover, at trial, she did not argue that the relocation should be denied; rather, the focus of the trial was the timesharing schedule and parental responsibility. The undersigned is mindful that Mr. Lane did not file his Petition to Relocate until five months after he already relocated and has considered the provisions of Section 61.13001(3)(e). However, Ms. Alexander did not argue at trial that Mr. Lane should be found in contempt for relocating, the parties already were exercising long-distance timesharing, and the undersigned does not consider that failure as a significant factor in its recommendations. Moreover, as there is not a valid objection to the relocation, it is presumed that the relocation is in the best interests of the child. See Section 61.13001(3)(d), Florida Statutes. This presumption does not necessitate acceptance of Mr. Lane's proposed parenting plan. Significantly, at trial, Ms. Alexander testified that she did not object to Mr. Lane's relocation, but to his proposed parenting plan.

18. In establishing the Parenting Plan, the undersigned must consider the best interests of the child in light of the following factors set forth in Section 61.13(3), Florida Statutes:

(a) The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

Before the Court established a temporary timesharing schedule, Ms. Alexander was restricting Mr. Lane's contact with the child and refusing him overnight timesharing. Since the temporary timesharing order was entered, the parties have followed the schedule. They did cooperate by adjusting the exchanges when Mr. Lane was transferred to Georgia. Early in the child's life, Ms. Alexander was inhibiting Mr. Lane's relationship with the child, because she was angry at him. There is no evidence that, currently, either party is interfering with the parent-child relationship of the other party. Similarly, there is no evidence as to whether either party makes an effort to foster the other party's relationship with the child other than by complying with the timesharing schedule.

(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

Mr. Lane has assumed the responsibility for the child's medical treatment and therapies. During their timesharing, each party provides the care for the child; Mr. Lane's wife assists him and Ms. Alexander's mother assists her. When he lived in Brevard County, Mr. Lane utilized day care when he worked and he has daycare available now, should he need it. The parties are likely to continue to perform these duties.

(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

Mr. Lane has not provided any regular financial support for the child to Ms. Alexander. Otherwise, he has placed the appropriate priority on the needs of the child. Ms. Alexander has placed her own personal feelings towards Mr. Lane before the needs of the child, although the situation has improved. Ms. Alexander has not addressed the child's special needs.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

Until the parties began to exercise temporary equal timesharing in November 2019, the child had lived with Ms. Alexander, the child's maternal grandmother, and the child's nine-year-old half-brother. Ms. Alexander has lived at her current address for six years. Ms. Alexander has maintained stable employment; she has worked full-time since the child was born.

Since November 2019, the child has lived also with Mr. Lane, first in Merritt Island, where Mr. Lane lived for three years, and now in Yulee, Florida, where he has lived since June 2020 and anticipates remaining for the next ten years, and the child has had substantial timesharing with both parents. The child's best interests would be served by maintaining

continuity, that is, substantial timesharing with both parents, with adjustments to address her educational and other needs.

(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

Mr. Lane lives in Yulee, Florida and Ms. Alexander lives in Davenport, Florida, which are about three-and-a-half hours apart. The Parenting Plan takes into account the geographical distance between the parties and travel time.

(f) The moral fitness of the parents.

Both parties are morally fit.

(g) The mental and physical health of the parents.

No evidence was provided on this factor as to Mr. Lane, but he appears to be healthy. Ms. Alexander has diabetes and has a history of depression after the child was born from which she claims she has recovered. There is no evidence that her diabetes or depression affects her ability to care for the child, but the depression may have impacted her ability to co-parent with Mr. Lane.

(h) The home, school, and community record of the child.

During Mr. Lane's timesharing, the child lives with Mr. Lane, his wife, her seventeen-year-old daughter, and Mr. Lane's six-year-old son, when he is there. The child has close relationships with her stepmother, stepsister, and half-brother. Mr. Lane's grandparents live about 45 minutes from the Lanes' home and his sister lives in Ocala. During Ms. Alexander's timesharing, the child lives with Ms. Alexander, the child's nine-year-old brother, and the child's maternal grandmother, with whom the child also has close relationships.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

Not a factor in light of the child's young age.

(j) The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

Mr. Lane has demonstrated an ability and a desire to be informed of all aspects of the child's life; he has assumed responsibility for the child's medical care and addressing the child's

special needs. He has been looking at various educational options for the child. Ms. Alexander has demonstrated less of a disposition to be informed of those matters. That does not mean that Ms. Alexander is not able to be informed about the child; rather, she has not acknowledged or accepted the child's developmental needs. As to the child's daily and ordinary circumstances (foods, daily activities, etc.), Ms. Alexander has the capacity to be informed.

(k) The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

Both parties are able to establish routines for the child. No evidence was presented on any routine that Mr. Lane has established, but he appears fully capable of doing so. The child has a set schedule for speech and occupational therapy. Mr. Lane and the child engage in activities such as playing, learning numbers and the alphabet, and going to the park, the pool, and the beach. Mr. Lane uses time-outs and discussion as discipline.

Ms. Alexander has established a routine for the child; in the morning, the child eats breakfast and brushes her teeth, goes back to bed, then plays school - learning her alphabet and having an outdoor recess period, takes a nap, watches cartoons, and plays with her half-brother. Ms. Alexander provides consistent mealtimes; she gets the child ready for bed at 8:00 p.m. and puts her to bed at 9:00 p.m. As discipline, Ms. Alexander yells, "No" and talks to the child; if the child spits, she smacks her mouth, but does not hurt her. When Ms. Alexander works late, the maternal grandmother puts the child to bed. In her free time, Ms. Alexander takes the child to parks or has dinners or movie nights with friends.

(l) The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.

The parties do not communicate regularly or effectively with one another. Mr. Lane has not informed Ms. Alexander of his address or the child's caregivers. It does not appear that he directly communicates with her about medical appointments, relying on the doctor's office to notify her. He also did not discuss his concerns about the child's hygiene issues, choosing to contact his attorney about them instead. For her part, Ms. Alexander has expressed hostility toward Mr. Lane during their communications. However, Ms. Alexander testified that she contacts Mr. Lane about major issues regarding the child. The parties really need to improve their communication with each other. They have not been able to adopt a united front about the child's special needs, which is not in the child's best interests. At trial, however, Ms. Alexander told the court that she would cooperate with the doctor's recommendations.

(m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must

specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

No such evidence was presented.

(n) Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

No such evidence was presented.

(o) The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

See factor (b) above.

(p) The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

See factor (j) above. The child is not yet in school or participating in extracurricular activities.

(q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

There is no evidence that substance abuse is an issue in this case.

(r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

There is no evidence that either party has discussed this litigation with the child or has disparaged the other party in the presence of the child.

(s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

The child is a three-year-old girl who has exhibited symptoms of developmental delay. Mr. Lane has taken affirmative action to address this issue, including by initiating recommended speech therapy and occupational therapy, and is in the process of determining whether the child may have any learning disabilities. Ms. Alexander has been unwilling and less able to address

the child's developmental needs, as she appears to be in denial about those needs. Moreover, she is reluctant to communicate with Mr. Lane about those needs.

(t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

None.

19. Both parties testified that they do not object to continuing the week-on/week-off timesharing until [REDACTED] starts VPK. However, they do not agree on the timesharing after that. Mr. Lane is requesting majority timesharing during the school year, with Ms. Alexander having alternate-weekend timesharing, and equal timesharing during the summer. Ms. Alexander is requesting majority timesharing with Mr. Lane having alternate-weekend timesharing and eight weeks of timesharing during the summer. Both parties are requesting ultimate decision-making authority.

20. The undersigned has developed a Parenting Plan, which is attached as Exhibit "A". This Parenting Plan serves the best interests of the minor child.

21. Ongoing child support: The Court has used the following information to calculate ongoing child support:

- a. Based upon his financial affidavit, Mr. Lane has a gross monthly income of \$5,444.00.
- b. According to his Financial Affidavit, Mr. Lane pays \$30.00 monthly for his own health insurance and \$30.00 per month for the child's health insurance.
- c. Also according to his Financial Affidavit, Mr. Lane pays \$170.00 per month for mandatory retirement and \$409 per month in child support for his son.

- d. Based upon her hourly wage of \$11.50 and working a full-time schedule of 30 hours, Ms. Alexander has a gross monthly income of \$1,495.00.
- e. Ms. Alexander does not have a health insurance cost.
- f. There are no day-care costs.
- g. Based upon the parenting plan, Mr. Lane has 50% and Ms. Alexander has 50% of overnight timesharing until the child begins VPK in August 2022.
- h. The parties will claim the child as a dependent for income tax purposes in alternating years. Federal law governs which parent can claim the child tax credit.
- i. As a result, as of July 1, 2021, Mr. Lane has a child support obligation of \$88.62 weekly (\$384.00 monthly). Mr. Lane has the ability to pay this child support. A Child Support Worksheet reflecting the alternating years income tax claim is attached as Exhibit "B".
- j. Commencing August 1, 2022, Mr. Lane will have 66% of overnights and Ms. Alexander will have 34% of overnights. Therefore, Mr. Lane's ongoing child support obligation will be \$27.92 weekly (\$121.00 monthly). See Child Support Worksheet, attached as Exhibit "C".

22. Retroactive Child Support: Although Mr. Lane purchased some clothing and diapers for Ms. Alexander, Mr. Lane has not paid any child support to Ms. Alexander since the child was born. Therefore, he owes retroactive child support for the period from April 10, 2018 (the date of the child's birth) calculated through June 30, 2021. Because the parties did not start exercising equal timesharing until November 2019, there are two retroactive periods (no evidence was presented on the parties' past incomes, health insurance costs, etc., so the current financial

information is used to calculate retroactive child support):

- a. April 10, 2018 through November 8, 2019 (Period 1): Mr. Lane's child support obligation was \$175.15 weekly (\$759.00 monthly). See Child Support Worksheet attached as Exhibit "D". Thus, he should have paid a total of \$14,421.00 ($\759.00×19 months) for Period 1;
- b. November 9, 2019 through June 30, 2021 (Period 2): Mr. Lane's ongoing child support applies for this period. Therefore, Mr. Lane should have paid \$7,573.68 ($[\384.00×19 months = \$7,296.00] + [$\12.62 per day $\times 22$ days = \$277.64]) for Period 2.
- c. In total, Mr. Lane owes a total of \$21,994.64 in retroactive child support ($\$14,421.00 + \$7,573.68$).

RECOMMENDATIONS

1. Jurisdiction

- a. This Court has jurisdiction over the parties, the child, and the subject matter.
- b. The United States is the country of habitual residence of the child.
- c. The State of Florida maintains the most significant contacts with the child and is the most appropriate forum for addressing parenting contact and timesharing.
- d. The State of Florida is the child's home state for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act.
- e. This report and recommendation, and any final judgment into which it is incorporated, is a child custody determination for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act, the International Child Abduction Remedies Act (42 USC §§11601 et. seq., the Parental Kidnapping Prevention Act, and the Convention on the Civil Aspects of International Child Abduction enacted at the Hague on October 25, 1980.

2. Mr. Lane is the natural and legal father of [REDACTED], born on [REDACTED], 2018.

3. Mr. Lane's request for relocation is granted in part, subject to the Parenting Plan attached as Exhibit "A".

4. The Court should approve and adopt the Parenting Plan attached as Exhibit "A" to this Report and order the parties to comply with all its provisions, including:

a. Shared Parental Responsibility: The parties will discuss and jointly decide all major issues regarding the child, including medical care, education, extra-curricular activities, childcare providers, and religious upbringing. Additional general principles of shared parental responsibility are attached as an Addendum to the Parenting Plan;

b. Timesharing: The child's best interests are served by preserving an equal week-on/week-off timesharing schedule until August 2022, when the child begins VPK. At that time, the child's best interests would be served by Mr. Lane having majority timesharing during the school year as he has shown that he is better able to address the child's special needs. Ms. Alexander shall make every reasonable effort to become educated about the child's therapies and to follow the recommendations of therapists, educators, and medical providers. During the summer, the parties will follow a one-week/two-week schedule as more specifically provided in the Parenting Plan. The Parenting Plan also outlines holiday timesharing. The objective of the Parenting Plan is to provide both parties with substantial timesharing while meeting the child's special needs.

5. Ongoing Child Support: Commencing July 1, 2021, Mr. Lane will pay the ongoing child support of \$88.62 weekly (\$384.00 monthly) by cash, check, or money order, payable to "Clerk of Circuit Court – Brevard County," and paid to the Florida Support Disbursement Unit,

PO Box 8500, Tallahassee, FL 32314-8500. All payments shall be clearly marked with the payor's name and the local case number (05-2018-DR-037889-XXXX-XX). All payments shall include an additional service charge in the amount 4% of the support payment which the party is obligated to pay, which service charge shall not exceed \$5.25.

Commencing August 1, 2022, Mr. Lane's ongoing child support obligation will be \$27.92 weekly (\$121.00 monthly).

Mr. Lane's child support obligation shall terminate on April 10, 2036, when the child reaches the age of 18 years. However, Mr. Lane's child support obligation will continue until the child graduates from high school if, at the time a child attains age eighteen (18), the child is enrolled in high school with a reasonable expectation of graduating before attaining age nineteen (19), or as otherwise provided by law.

6. Retroactive Child Support: In addition, Mr. Lane shall pay \$17.72 weekly (\$76.80 monthly) towards retroactive child support of \$21,994.64 until he pays that amount in full. If Mr. Lane has not paid off that balance when his ongoing child support terminates, Mr. Lane shall continue to make payments in the amount of his ongoing child support until he pays in full the retroactive child support. These payments shall be made through the Support Disbursement Unit, as instructed above.

7. Health Insurance: Mr. Lane is providing the child's health insurance through Tricare; he shall continue to provide that insurance as long as it reasonably accessible to him through his employment.

8. Uncovered Medical and Dental Expenses: The parties shall share all uncovered medical expenses (including medical, dental, orthodontic, prescription, counseling, and diagnostic testing

expenses) according to the parties' respective share of their combined net income (Mr. Lane 75% and Ms. Alexander 25%). A parent incurring an out-of-pocket expense shall so notify the other parent in writing by providing a copy of the billing statement and proof of payment within fifteen (15) days of incurring the expense. The other parent shall reimburse their share within fifteen (15) days of the notice. If the insurance company subsequently adjusts the amount it will pay, then any refund or amount due shall be split between the parties according to their income percentages (Mr. Lane 75% and Ms. Alexander 25%).

9. Income Taxes: The parties will claim the child as a dependent in alternating years, with Mr. Lane claiming the child for even-numbered years and Ms. Alexander claiming the child for odd-numbered years. Mr. Lane's right to claim the child as a dependent is expressly conditioned on his being current in his child support obligation. The parties will execute all necessary paperwork to effectuate this provision. The child tax credit is governed by federal law, as Section 61.30(11)(a)8, Florida Statutes, does not authorize any waiver of this credit.

10. Attorney's Fees: Each party is responsible for his or her own attorney's fees.

11. Mr. Lane's Address: On or before June 18, 2021, Mr. Lane will file a notice of updated address with the Court.

12. The Court retains jurisdiction for all lawful purposes.

13. It is further recommended that the Court approve and adopt these findings and recommendations.

REPORTED and RECOMMENDED at Viera, Brevard County, Florida, on June ____, 2021.

LESLIE J. CASTALDI
General Magistrate

This Report was furnished by e-mail to Heather Harris, Esquire, R. Rudy Ramjeawan, Esquire, and Hernan Castro, Esquire, this ____ day of June, 2021.

Administrative Assistant

IN THE CIRCUIT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.:05-2019-DR-045290-XXXX-XX

IN RE: The Marriage of:

CLINTON E. LEPKA,

Petitioner,
and

CYNTHIA LEPKA,

Respondent.

**GENERAL MAGISTRATE'S REPORT AND RECOMMENDATION ON
PETITION FOR DISSOLUTION OF MARRIAGE**

THIS CAUSE came before the General Magistrate on August 10, 2020 for a trial on Petitioner Clinton Lepka's Petition for Dissolution of Marriage (filed on September 9, 2019, docket no. 1). The trial was by videoconference through Microsoft Teams due to the coronavirus pandemic. Petitioner Clinton Lepka and his counsel, Andrew Steele, were present. Mrs. Lepka and her counsel, Michelle Meulke, were present. Having reviewed the record and heard testimony and argument, the General Magistrate makes the following findings of fact and recommendations:

FINDINGS OF FACT

1. The parties were married on October 9, 2004. Therefore, when Mr. Lepka filed his Petition, the parties had been married for 14 years and 11 months.
2. Mr. Lepka was a resident of the State of Florida for at least six months immediately before the Petition was filed, as confirmed by his driver's license.

3. The parties' marriage is irretrievably broken.
4. The parties have no minor children and none are expected.
5. At trial, the parties stipulated to the following:
 - a. The trade-in value of the Chevrolet Camaro is \$18,907.00 and the amount owed on the loan attached to that vehicle is \$13,465.82 as of August 14, 2020;
 - b. The value of the motorcycle is \$22,255.00 and the loan payoff through August 13, 2020 is \$27,608.41;
 - c. The trade-in value of the Ford Supercab is \$28,502 and the amount owed on the loan is \$21,713.33;
 - d. In regard to the sale of the marital home located at 4210 Hemlock Lane, Titusville, Florida, the parties agree to hire Donna Sprague as the realtor. If Ms. Sprague is not available, Mrs. Lepka will pick three realtors and Mr. Lepka will pick one realtor from those three. The parties will list the property for sale on or before August 21, 2020. The listing price will be the comparative market value. The parties agree to reduce the listing price by \$5,000 after 60 days and then every 30 days.
 - e. The mortgage balance on the home is \$169,049.00.
 - f. The "solar" debt owed to ISPC will be paid from the sale proceeds of the marital home before the proceeds are split between the parties;
 - g. Regarding personal property: Mrs. Lepka can take all household items except the leather sectional sofa. The parties will keep their respective personal items.
 - h. Mortgage on the Marital Home: If Mrs. Lepka remains in the marital home until it

is sold, each party will pay one-half of the mortgage payments. If Mrs. Lepka vacates the home, Mr. Lepka will be solely responsible for the mortgage payments.

6. The parties have stipulated that the only issue for trial is alimony.

7. On March 6, 2020, the Court entered an Order (docket no. 27), adopting the General Magistrate's Report and Recommendation dated February 24, 2020 (docket no. 24) and ordering Mr. Lepka to continue to pay specified recurring monthly bills, totaling approximately \$2,932.81, and to pay to Mrs. Lepka temporary alimony of \$500.00 per month, commencing March 1, 2020.

Mr. Lepka paid the household expenses, but he only made the \$500 payments for two months; thus, he owes four months of payments for a total of \$2,000 through the date of trial.

8. At the time he filed the Petition and at the time of the temporary relief hearing, Mr. Lepka worked as a supervisor for field service on transformers for North American Substation Services. He earned \$34.00 an hour, plus substantial overtime, bonuses, and a \$155 per diem for food and lodging, as he traveled for this job. He worked most weekends, which he testified negatively affected the parties' marriage. In March 2020, Mr. Lepka changed employment to his current employer, Service Electric Company, earning \$35.00 an hour. Mr. Lepka testified that he changed jobs, because he thought he would make more money, including overtime. At first, he did work overtime (during the week from March 2 through March 8, 2020, he earned \$1,522.50 in overtime pay and, during the week from June 22 through June 28, 2020, he earned \$420.00 in overtime pay), but, in July 2020, his employer informed him that, due to the coronavirus pandemic and a change in the nature of the company's work, the employer had eliminated

overtime. Therefore, Mr. Lepka now is working only 40 hours a week and does not expect to work overtime. The employer's main customer is Georgia Power, so Mr. Lepka must travel to Georgia for his job and he receives a per diem of \$40.00 for food. Thus, his gross monthly income, based only on his hourly wage, is \$6,067.67 (\$72,800 annually).

The parties stipulated to Mr. Lepka's income from 2016 through 2019, which included overtime, bonuses, and per diem, as follows:

2016: \$104,854.00
2017: \$100,374.00
2018: \$148,094.92 (including \$108,761.57 in wages, \$37,470.00 in per diem, and \$1863.35 other)
2019: \$161,336.92 (including \$117,121.95 in wages, \$42,224.51 in per diem, and \$1,990.46 for "other")

Mr. Lepka also works side jobs with his father, earning \$100 per day, working two or three days some weeks, but not consistently. In the month before the trial, he had earned \$200 performing those side jobs.

9. Since the parties separated, Mr. Lepka has been living with his father, but he is not paying rent to his father. Mr. Lepka testified that he is unable to live on his own if he is required to continue to pay the level of support required by the temporary relief order.

10. Currently, Mrs. Lepka continues to live in the marital home. She is cleaning houses, earning \$10 an hour and between \$100 and \$150 per week. She has not applied for unemployment compensation or disability, because she does not want to depend on the government and believes that Mr. Lepka has an obligation to provide her with support.

Mrs. Lepka worked at various jobs during the marriage until about three years ago. Her last job was a part-time job with Trucking Central. She left that job to take care of the parties' dog,

Thunder, who has special needs. Mr. Lepka testified that he had wanted Mrs. Lepka to return to work. Mrs. Lepka claims that she is unable to work full-time, because Thunder cannot be left alone for extended periods of time. Mr. Lepka has offered to take Thunder, but Mrs. Lepka will let Mr. Lepka have Thunder only upon satisfying certain conditions (air conditioning in the home, a fenced yard, and not leaving Thunder alone for more than 4 to 5 hours).

11. Alimony: Ms. Lepka is requesting durational alimony of \$4,600 per month until she reaches an age at which she can receive full Social Security retirement benefits. Mrs. Lepka has requested the Court to impute to Mr. Lepka his 2019 income. Mr. Lepka agrees that Mrs. Lepka is entitled to some amount of durational alimony, but objects to the length of time and amount that she is seeking; he has requested the Court to impute income to Mrs. Lepka on the ground that she is voluntarily underemployed.

In determining whether an award of alimony is appropriate, the Court first must find that Mrs. Lepka has the actual need for alimony and that Mr. Lepka has the ability to pay alimony. It was somewhat difficult to evaluate the issue of need and ability to pay, as the parties' expenses are contingent upon who lives in the marital home and Mrs. Lepka did not introduce a financial affidavit.

a. Mrs. Lepka's Actual Need for Support:

In February 2020, Mr. Lepka retained Ellen Fernandez to perform a wage analysis evaluation of Mrs. Lepka. According to Ms. Fernandez's report (Petitioner's Exhibit 3), Mrs. Lepka is able to earn between \$10 and \$12 an hour (\$20,800 to 24,960) (see discussion below). Therefore, based upon an hourly rate of \$10 and a 40-hour work week, Mrs. Lepka has an imputed gross monthly income of \$1,733.33 and a net monthly income of \$1,532.00.

Mrs. Lepka did not introduce her financial affidavit at trial, but she testified that she has the following recurring monthly expenses:

\$ 100	cell phone
585	car payment
400	massages not prescribed by a doctor
300-400 (350 average)	dog
222	car insurance
500-600 (550 average)	food
400	health supplements (vitamins, CBD, collagen)
200	clothes
<u>200</u>	
\$2,807.00	

In addition, Mrs. Lepka estimates that, based upon her research, she would have to pay \$2,000 per month for rent, utilities, and cable and \$359.00 for health insurance. If she remains in the marital home until it is sold, her share of the monthly mortgage would be \$678.90 and she would pay approximately \$390 for electricity, water, sewer, trash, and cable. There is no evidence that the massages are medically required and the estimated health insurance cost is not an actual cost; therefore, these expenses are deducted. Based upon the evidence, Mrs. Lepka's total monthly expenses are between \$3,152.90 and \$4,048.00; therefore, Ms. Lepka has a monthly deficit ranging from \$1,620.90 and \$2,516.00. Although it is difficult to determine exactly what Mrs. Lepka's need is, the evidence supports a minimum actual need of \$1,620.90.

b. Mr. Lepka's Ability to Pay:

Mr. Lepka has a gross monthly income of \$6,067.67 plus \$866.67 in monthly per diem and \$200 monthly for income from side jobs, for a total gross monthly income of \$7,134.34. Deducting \$41.00 for mandatory union dues and \$70.00 for dental insurance, and applying current tax tables, Mr. Lepka has a net monthly income of \$5,762.00. Although Mr. Lepka worked substantial overtime in his previous employment, which included working most

weekends, overtime will no longer be available to him. In any event, Mr. Lepka should not be expected to work every weekend. See Nolan v. Nolan, 188 So.3d 977, 979 (Fla. 1st DCA 2016)(Makar and Osterhaus, JJ., concurring). Moreover, Mr. Lepka is employed in the same field and in a similar capacity and, therefore, he should not be considered to be underemployed. Therefore, the undersigned declines to impute Mr. Lepka's 2019 income to him.

Mr. Lepka's recurring monthly expenses are:

\$ 1,375 (\$687.50 if Mrs. Lepka continues to reside in the marital home)	mortgage
120.00	electricity
100.00	water, sewer, garbage
300.00	telephone
30.00	natural gas
140.00	cable
400.00	car insurance
1,940.00	car payments
20.00	life insurance
25.00	uncovered medical costs
460.00	pet
305.00	creditors
<hr/>	
\$ 5,215.00	Total ¹
(or \$4,527.50 if Mrs. Lepka remains in the marital home).	

Thus, Mr. Lepka has a surplus ranging between \$547.00 to \$1,234.50, depending upon whether Mrs. Lepka stays in the marital home until it is sold. Moreover, if he is no longer paying for the approximately \$390 for utilities in the marital home, his monthly surplus would be between \$937.00 and \$1,624.50, without consideration of any housing or utility expense he might have if he no longer lives with his father. Mr. Lepka has the ability to pay support.

12. Having so found, the court makes the following findings pursuant to §61.08(2), Florida Statutes.

a. The standard of living established during the marriage.

No evidence was presented on this factor.

b. The duration of the marriage.

The parties were married for fourteen years and eleven months. Thus, under Section 61.08(4), Florida Statutes, this marriage is presumed to be a moderate-length marriage.

c. The age and the physical and emotional condition of each party.

Mr. Lepka is 49 years old. No evidence was presented on Mr. Lepka's physical and emotional health, but he appears to be healthy. Ms. Lepka is 56 years old. She testified that she suffers from bulging and "smashed" discs in her lower back and arthritis in her hands and experiences a lot of pain. No other evidence was presented on these medical conditions and there was no evidence that these conditions impair Ms. Lepka's ability to work. Ms. Lepka has not applied for Social Security disability.

d. The financial resources of each party, including the nonmarital and the marital assets and liabilities distributed to each.

The parties resolved their equitable distribution issues without the intervention of the Court; therefore, there is little information about the assets and liabilities distributed to each party. The parties jointly own the marital home, which they have agreed to sell and share the sale proceeds. The one marital debt will be paid from the sale proceeds. If Ms. Lepka remains in the marital home until it is sold, the parties will share equally the monthly mortgage payments; if she moves out of the home, Mr. Lepka will be responsible for paying the mortgage. Ms. Lepka's car has an equity value as does Mr. Lepka's Ford. No other evidence was presented on this factor.

e. The earning capacities, educational levels, vocational skills, and employability of the parties and, when applicable, the time necessary for

¹ According to his Financial Affidavit, these expenses total \$9,398.06, which appears to be a mathematical error.

either party to acquire sufficient education or training to enable such party to find appropriate employment.

No evidence was provided as to Mr. Lepka's educational history or his work history before his previous employment at North American Substation, where he was a supervisor for field service on transformers. As mentioned above, his highest hourly wage at North American Substation was \$34.00 per hour plus overtime, bonuses, and a \$155 per diem. From 2016 through 2019, he had total gross income of \$104,854.00, \$100,374.00, \$148,094.92, and \$161,336.92, respectively; this income included overtime, bonus, and per diem. In his current job with Service Electric Company as a technical foreman, he earns \$35.00 an hour plus a \$40 per diem. His first paycheck reflects regular gross pay of \$1,400.00, overtime pay of \$1,522.20 (at the rate of \$52.50 an hour), "double time" pay of \$70.00, and \$280.00 for his per diem, for a total gross weekly income of \$4,042.50. However, he does not expect any more overtime.

Ms. Lepka testified that she has no education or computer skills. However, she was able to use her I-Pad to research rental properties and health insurance options. She described her efforts to find work as walking into the offices of a tow shop and a bus/shuttle company, but neither company was hiring.

Ms. Lepka worked at various jobs during the marriage. At the temporary relief hearing, she testified that she had worked until about three years ago when she stopped working for Trucking Central; however, according to the Wage Earning Capacity Analysis performed by Ellen D. Fernandez, Ms. Lepka had not worked since 2013. According to Dr. Fernandez's report, Ms. Lepka's work history included jobs in shipping and receiving, as a warehouse supervisor, in advertisement sales, and as a window-blind assembler. Her highest income was \$35,641 in 2000. Ms. Lepka currently cleans houses, earning \$10 an hour and working about three days per week

and earning between \$100 and \$150 per week (\$650 monthly). She testified that she can work only part-time due to the parties' special-needs dog, Thunder. According to Dr. Fernandez's report, Ms. Lepka is qualified and able to work as a cashier, a customer service representative, a desk clerk, an office clerk, and a receptionist, earning between \$10 and \$12 an hour (approximately \$20,800 to \$24,960 annually). The report lists ten positions available in Brevard County in late February 2020.

Based upon all the evidence, Mrs. Lepka is voluntarily underemployed and income of \$10.00 an hour should be imputed to her. Thus, Mrs. Lepka has imputed gross annual income of \$20,800 and monthly gross income of \$1,733.33.

f. The contribution of each party to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of the other party.

Mr. Lepka was the primary breadwinner during the marriage and traveled regularly for work. Mrs. Lepka worked during part of the marriage, took care of the home and, for the past three years, the parties' dog. The parties did not have children.

g. The responsibilities each party will have with regard to any minor children they have in common.

Not applicable in this case.

h. The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a nontaxable, nondeductible payment.

Neither party presented any evidence of the tax effect of any particular alimony award.

i. All sources of income available to either party, including income available to either party through investments of any asset held by that party.

Mr. Lepka's only source of income is the income from his job with Service Electric Company and some side work that he does with his father. Ms. Lepka's only source of income is from cleaning homes.

j. Any other factor necessary to do equity and justice between the parties.

None.

13. Attorney's Fees: The undersigned is not able to assess Mrs. Lepka's need for a contribution to her attorney's fees or Mr. Lepka's ability to contribute to her fees, because no evidence was produced as to the parties' other financial resources, including any marital assets or liabilities distributed to each party. Even if it were established that Mrs. Lepka has a need and Mr. Lepka has an ability to pay or contribute to her fees, the only evidence produced on the amount and reasonableness of fees and time expended was Mrs. Lepka's testimony. Such evidence is insufficient to support her claim for attorney's fees. See Ingram v. Ingram, 115 So.3d 1107, 1108 (Fla. 5th DCA 2013); Braswell v. Braswell, 4 So.3d 4, 5 (Fla. 2d DCA 2009).

14. Former Name: Mrs. Lepka requests that her former name, Cynthia Breeze, be restored for no ulterior purpose.

RECOMMENDATIONS

1. The Court has jurisdiction over the parties and the subject matter.
2. The parties' marriage should be dissolved and the parties restored to the status of being single.
3. The Court should approve and adopt the parties' stipulations listed above at paragraph 5.
4. Alimony: Mrs. Lepka is entitled to durational alimony of \$1,200.00 per month for seven (7) years at which time Mrs. Lepka should be eligible for Social Security retirement. Therefore,

commencing on September 15, 2020, Mr. Lepka shall pay \$1,200.00 per month in durational alimony for a period of seven (7) years. Mr. Lepka may pro-rate his payments so that he is paying alimony with the same frequency he is paid by his employer.

All payments shall be by cash, check, or money order, payable to "Clerk of Circuit Court – Brevard County," and paid to the Florida Support Disbursement Unit, PO Box 8500, Tallahassee, FL 32314-8500. All payments shall be clearly marked with the Husband's name and the local case number (05-2019-DR-045290-XXXX-XX). All payments shall include an additional service charge in the amount of 4% of the total installment paid, which service charge shall not be less than \$1.25 or more than \$5.25. Until the Final Judgment is entered, Mr. Lepka will pay the alimony directly to Mrs. Lepka and Mrs. Lepka will cooperate in Mr. Lepka's request for a credit for any such direct payments.

Mr. Lepka's last alimony payment shall be assessed and paid on August 15, 2027, following which his current alimony obligation will automatically terminate.

5. Temporary Alimony Arrearages: In addition, Mr. Lepka owes temporary alimony arrearages of \$2,500.00 through August 10, 2020. Therefore, he will pay an additional \$240.00 per month towards temporary alimony arrearages of \$2,500.00 until that amount is paid in full. If he has not paid temporary alimony for September 2020, he will owe another \$250.00. Mrs. Lepka is instructed to file an affidavit of payment or non-payment, as the case may be for the September 2020 payment and the arrearages will be adjusted accordingly.

6. Attorney's Fees: Mrs. Lepka's request for attorney's fees is denied.

7. Former Name: Mrs. Lepka's former name, Cynthia Breeze, should be restored.

8. The Court retains jurisdiction for all lawful purposes.

9. It is further recommended that the Court approve and adopt these findings and recommendations into an Order.

REPORTED and RECOMMENDED at Viera, Brevard County, Florida, on this _____ day of September, 2020.

LESLIE J. CASTALDI
General Magistrate

This Report has been furnished by e-mail on Andrew Steele, Esquire, and Michelle Meulke, Esquire, this _____ day of September, 2020.

Administrative Assistant

NUMBER 36

REPORTS PREPARED
FOR BAR ASSOCIATION

Brevard County Bar Association

The Brevard County Bar Association (BCBA) is comprised of approximately 650 attorneys who practice in Brevard County. (Approximately half of all licensed Florida Bar attorneys in Brevard County are also members of BCBA.)

On February 4, 6, and 8, 2014, the BCBA held its annual High School Mock Trial competition. Melbourne Central Catholic High School, Melbourne High School, Rockledge High School, St. Mary's High School (from Seminole County), and Titusville High School competed, with Melbourne High School winning the competition and, ultimately, participating in the State competition. Several judges participated in the Mock Trial Competition: Judge Tonya Rainwater; Judge John Murphy; Judge Robert Wohn; Judge Judy Atkin; General Magistrate Kurt Erlenbach; Judge Benjamin Garagozlo; and Judge David Silverman. Many local attorneys volunteered to be scoring judges and paralegals volunteered to be timekeepers.

On February 12, 2014, the BCBA held its annual Professionalism Awards Luncheon, at Suntree Country Club in Melbourne. The following awards were presented:

Judge T. Mitchell Barlow Young Lawyer:	Derrick Connell
Government Lawyer:	Michael M. Pirollo
Private Lawyer:	Harry C. Greenfield
Non-Lawyer:	Mark H. Swallow, Cave of Adullam Ministries
Judge Clarence T. Johnson Lifetime Achievement Award:	James Russo

On February 28, 2014, the BCBA participated in the Brevard County Legal Aid Gala, recognizing attorneys who have donated time and support to enable more people to have access to justice. The President of the BCBA introduced the Brevard County Legal Aid Board of Directors and Officers for the 2014-2015 year.

On May 1, 2014, the BCBA held its annual Law Day Luncheon at the Suntree Country Club, at which winners of the student essay and poster contest were recognized. The theme was "American Democracy and the Rule of Law: Why Every Vote Matters". The keynote speaker was Attorney Bruce Blackwell, the past President of the Florida Bar Foundation.

The BCBA Spring CLE seminar took place on May 9, 2014 at the Brevard County Government Building. The topic was Principles of Civility, Integrity, and Professionalism. The panel of speakers was from the American Board of Trial Advocates and included: Dennis O'Conner (Moderator); O. John Alpizar; Scott Kirk; and the Honorable Robert Burger. Approximately 50 attorneys attended the CLE seminar.

On May 15, 2014, the BCBA hosted a "Mix and Mingle with the Judges" at Amici's Beachside Bistro. The event was well-attended, with approximately 13 judges and over 90 attorneys attending. The Mix and Mingles is designed to promote a positive relationship between attorneys and judges.

Three of the BCBA officers and the executive director attended the Volunteer Bar Leaders Conference in Bonita Springs from July 10 through July 12, 2014. This conference offered workshops on membership, revenue-building, pro bono representation, CLE seminars, ethics, resources, and other topics related to running local bar associations and creating and putting on programs.

On July 17, 2014, the BCBA held its annual Installation Dinner at the Eau Gallie Yacht Club. The officers and directors of the BCBA and the Young Lawyers Division of the BCBA were sworn into office. The executive officers are: Mark Peters, President; Leslie Castaldi, President-Elect; Bryan Lober, Treasurer; and Michelle Studstill, Secretary. At the Dinner, the BCBA presented Pamela Bress with the A. Max Brewer Community Service Award.

On August 13, 2014, the BCBA sponsored, with Eastern Florida State College and Florida Today, a judicial forum at the Cocoa campus of Eastern Florida State College. The forum was open to the public. Former Florida Supreme Court Justice Charles T. Wells was the moderator for the forum.

The BCBA's College Pride Game Watch Party took place on September 18, 2014 at River Rocks, in Rockledge. Members were encouraged to dress in their favorite college team colors and gear. The event was well-attended and promoted collegiality among BCBA members.

On September 26, 2014, BCBA officers Mark Peters, Leslie Castaldi, and Bryan Lober as well as former BCBA President Ashley Hardee met with the officers of the Seminole County Bar Association and its former President Melanie Chase at Dixie Crossroads in Titusville. The purpose of the meeting was to share ideas and to establish a stronger relationship between the two bar associations with the hope that they might co-sponsor events in the future.

On October 9, 2014, the BCBA hosted another Mix and Mingle with the Judges at Amici's Beachside Bistro. Again, the event was well-attended by attorneys and judges.

On November 7, 2014, the BCBA put on its Fall CLE Seminar. The topic was "Ethics, Trust Accounting, Social Media and The Florida Bar: How to Avoid the Grievance Process." The speakers were: Warren R. Trazenfeld, Esquire; Jamie Billotte, Esquire, Clay Price, C.P.A., C.F.F.; and Patricia Ann Toro Savita, Florida Bar Counsel. Approximately 65 attorneys attended.

On December 12, 2014, the BCBA hosted its annual Holiday Party at the Melbourne Beach Hilton Oceanfront. More than 200 members and guests attended the festive occasion. Attorneys and local business donated prize baskets, which were raffled off at the party, raising \$1,250.00 for Genesis House and The Haven for Children. Guests also donated many toys to the Young Lawyers' Division's annual holiday toy drive.

In addition to these events, the BCBA publishes a newsletter, "the Ex Parte," ten times a year, which provides updates to members on events, activities of local attorneys, perspectives from the Bench, and articles on professionalism, volunteerism, and legal issues. The BCBA issues the Ex Parte both through e-mail and by U.S. Mail and posts the issues on its website.

The BCBA continues to encourage mentoring and community outreach throughout the year.

Brevard County Bar Association

The Brevard County Bar Association (BCBA) is comprised of approximately 593 attorneys who practice in Brevard County. (Approximately half of all licensed Florida Bar attorneys in Brevard County are also members of BCBA.)

On February 3, 5, and 7, 2015, the BCBA held its annual High School Mock Trial competition. Melbourne Central Catholic High School, Melbourne High School, Rockledge High School, St. Mary's High School (from Seminole County), and Titusville High School competed, with Melbourne High School winning the competition and, ultimately, participating in the State competition. Several judges participated in the Mock Trial Competition: Judge Lisa Davidson; James Earp; Judge Charles Roberts; Judge Judith Atkin; Judge Benjamin Garagozlo; Judge John Murphy; and General Magistrate Kurt Erlenbach. Many local attorneys volunteered to be scoring judges and paralegals volunteered to be timekeepers.

On February 12, 2015, the BCBA held its annual Professionalism Awards ceremony, honoring recipients at a reception at Duran Country Club, in Viera.. The following awards were presented:

Judge T. Mitchell Barlow Young Lawyer: E. Ashley Bonifant

Government Lawyer: Justin Keen

Private Lawyer: James L. Torres

Non-Lawyer: Deputy Don Eggert, Brevard County Sheriff's Office

Judge Clarence T. Johnson Lifetime

Achievement Award: Fernando Palacios

On February 20, 2015, the BCBA participated in the Brevard County Legal Aid Gala, recognizing attorneys who have donated time and support to enable more people to have access to justice. The President of the BCBA introduced the Brevard County Legal Aid Board of Directors and Officers for the 2015-2016 year.

On March 13, 2015, the BCBA honored the Honorable John Dean Moxley with a retirement party at the Crowne Plaza in Melbourne Beach.

On April 29, 2015, the BCBA held its annual Law Day Luncheon at the Suntree Country Club, at which winners of the student essay and poster contest were recognized. The theme was "Magna Carta: Symbol of Freedom Under Law". A group from the Vassar B. Carlton American Inn of Court, dressed in period costumes, performed a skit about the importance of the Magna Carta.

On May 14, 2015, the BCBA honored yet another retiring judge, the Honorable Robert A. Wohn, Jr., at the Rockledge Country Club.

Seven of the BCBA officers and directors, as well as outgoing BCBA President Mark Peters

and former BCBA President Ashley Hardee, attended the Volunteer Bar Leaders Conference in Palm Beach on July 10 and 11, 2015. This conference offered workshops on membership, revenue-building, pro bono representation, CLE seminars, ethics, resources, and other topics related to running local bar associations and creating and putting on programs.

On July 16, 2015, the BCBA held its annual Installation Dinner at the Brevard Zoo. The Honorable Tonya Rainwater installed into office the officers and directors of the BCBA, the Young Lawyers Division of the BCBA, and the Brevard Bar Foundation. The executive officers are: Leslie J. Castaldi, President; Bryan Lober, President-Elect; Michelle Studstill, Treasurer; and Michelle Naberhaus, Secretary. At the Dinner, the BCBA honored 50-year Florida Bar members. The BCBA presented Brooke Deratany-Goldfarb with the A. Max Brewer Community Service Award and the Honorable Charles J. Roberts with the Volie Williams Clarence Johnson Outstanding Jurist Award. In addition, John Edward Jones presented Clarence Johnson with a framed photograph which reflected a celebration on the night that Seminole and Brevard Counties joined as the 18th Judicial Circuit. The Honorable John Harris presented Pierre Mommers with the first annual J. Preston Silvernail Civility Award.

On August 28, 2015, the BCBA presented the Guardianship Update Sidebar Luncheon, which was a free CLE event for BCBA members. Local attorney, David Slonim, and John Pilley, an auditor from the office of the Clerk of Court, were the speakers.

The BCBA's College Pride Game Watch Party took place on September 17, 2015 at River Rocks, in Rockledge. Members were encouraged to dress in their favorite college team colors and gear. The event is designed to promote collegiality among BCBA members.

On October 16, 2015, the BCBA put on its Fall CLE Seminar. The speakers included: Barry Richards, who spoke about arguing First Amendment and constitutional issues before the United States Supreme Court; Mayanne Downs, who spoke about judicial ethics; Mark Geragos, whose topic was "How to Handle the Media in High-Profile Cases"; and Mark Nation, who discussed effective attorney advertising. Approximately 75 attorneys attended; judges from Brevard and Seminole Counties attended. The event included breakfast, snacks during breaks, lunch, and a cocktail and hors-d'oeuvres reception.

On November 5, 2015, the BCBA hosted a Mix and Mingle with the Judges at Matt's Casbah in downtown Melbourne. Again, the event was extremely well-attended by attorneys and judges.

On December 12, 2015, the BCBA hosted its annual Holiday Party at the Melbourne Beach Hilton Oceanfront. More than 150 members and guests attended the festive occasion. Attorneys and local business donated prize baskets, which were raffled off at the party, raising \$800.00 for Brevard County Legal Aid. Guests also donated many toys to the Young Lawyers' Division's annual holiday toy drive.

During 2015, five investitures of new judges took place. Then-President Mark Peters presented the incoming judges at each investiture with a judicial robe (for Brevard County Judges) or a gavel (for Seminole County Judges).

In addition to these events, the BCBA publishes a newsletter, "the Ex Parte," ten times a year, which provides updates to members on events, activities of local attorneys, perspectives from the Bench, and articles on professionalism, volunteerism, and legal issues. The BCBA issues the Ex Parte both through e-mail and by U.S. Mail and posts the issues on its website.

The BCBA continues to encourage mentoring and community outreach throughout the year.