

**APPLICATION FOR NOMINATION TO THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT, BREVARD COUNTY, FLORIDA**

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

DATE: January 30, 2020

Florida Bar No.: 484458

Social Security No.: [REDACTED]

**GENERAL**

1. Name: Michelle L. Naberhaus E-mail: michelle.naberhaus@flcourts18.org  
Date Admitted to Practice in Florida: April 25, 2001  
Date Admitted to Practice in Other States: N/A
2. State current employer and title, including professional position and any public or judicial office.  
State of Florida, Brevard County Court Judge
3. Business Address: 2825 Judge Fran Jamieson Way  
City: Viera County: Brevard State: FL ZIP: 32940
4. Residential address: [REDACTED]  
City: [REDACTED] County: Brevard State: FL ZIP: 32952  
Since: January 2010 Telephone: [REDACTED]
5. Place of Birth: Davenport, IA  
Date of Birth: 4/1/76 Age: 43
- 6a. Length of residence in State of Florida: 38 years
- 6b. Are you a registered voter?  Yes  No  
If so, in what county are you registered? Brevard
7. Marital Status: Married  
If married: Spouse's name [REDACTED]  
Date of Marriage [REDACTED]  
Spouse's occupation [REDACTED]

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

Never divorced (see #38 below).

8. Children:

<i>Name(s)</i>	<i>Age(s)</i>	<i>Occupation(s)</i>	<i>Residential address(es)</i>
[REDACTED]	■	■	[REDACTED]
[REDACTED]	■	■	[REDACTED]
[REDACTED]	■	■	[REDACTED]
[REDACTED]	■	■	[REDACTED]
[REDACTED]	■	■	[REDACTED]

9. Military Service (including Reserves):

<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>
N/A	N/A	N/A	N/A

Rank at time of Discharge: N/A Type of discharge: N/A

Awards or citations: N/A

HEALTH

10. Are you currently addicted to or dependent upon the use of narcotics, drugs, or intoxicating beverages? If yes, state the details, including the date(s).

No.

11a. 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?

Yes  No

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.

N/A

**11b. 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 2 or 3 nights**
- **Experiencing periods of hyperactivity**
- **Spending money profusely with extremely poor judgment**
- **Suffered 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**

Yes  No

**If yes, please explain.**

N/A

**12a. 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?**

Yes  No

**12b. If your answer to the question above is Yes, are the limitations or impairments caused by your physical or mental health impairment reduced or ameliorated because you receive ongoing treatment (with or without medication) or participate in a monitoring or counseling program?**

Yes  No  N/A

**Describe such problem and any treatment or program of monitoring or counseling.**

N/A

**13. 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, give full details as to court, date and circumstances.**

No.

**14. During the last ten years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by Federal or State laws? If you 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 law provisions.)**

No.

15. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned or terminated by an employer as a result of your alleged consumption of alcohol, prescription drugs or illegal use of 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.

16. 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.

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

No.

**EDUCATION:**

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

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
Apopka High School	N/A	8/1990 - 5/1991	N/A – attended through 9 <sup>th</sup> grade
Taylor County High School	4.2 GPA <i>*No.3 in graduating class</i>	8/1991 - 5/1994 <i>*dual enrollment at North Florida Junior College from 8/1993-5/1994</i>	High School College Preparatory Diploma
University of Florida	3.33 GPA	8/1994 - 8/1997	Associate of Arts (5/4/96) Bachelor of Arts in Political Science (8/9/97)
University of Florida College of Law	Top 50%	1/1998 - 12/2000 (12/23/00)	Juris Doctor

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

- National Honor Society (1994)
- Principal's Leadership Award for service as Student Body President (1994)
- Senior English Award (1994)
- Kiwanis Club Outstanding Leadership Award (1994)
- Taylor County Gator Club College Scholarship (1994)
- Taylor County Young Woman of the Year College Scholarship (1994)
- Florida Undergraduate College Scholarship (1994 -1997)
- Pro Bono Certificate, University of Florida College of Law (2000)

**NON-LEGAL EMPLOYMENT:**

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

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
1996–1998	Administrative Clerk and Legal Secretary <i>*not a law clerk</i>	Dell Graham, P.A.	203 N.E. 1 <sup>st</sup> Street Gainesville, FL 32601 (352) 372-4381

**PROFESSIONAL ADMISSION:**

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

<i>Court or Administrative Body</i>	<i>Date of Admission</i>
The Florida Bar	4/25/01 - Present
U.S. District Court, Southern District of Florida	1/9/04 - 3/2014

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

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

<i>Position</i>	<i>Name of Firm</i>	<i>Address</i>	<i>Dates</i>
Of Counsel	Dean Mead, P.A.	7380 Murrell Rd., Suite 200, Melbourne, FL 32940	5/1/15 through 12/31/16
Sole Practitioner	Michelle L. Naberhaus, P.L.	6767 N. Wickham Rd., Suite 400, Melbourne, FL 32940	1/1/13 through 4/30/15

Shareholder	Gray Robinson, P.A.	1795 W. NASA Blvd., Melbourne, FL 32901 (321) 727-8100	1/4/10 through 12/31/12
Sole Practitioner	Michelle L. Naberhaus, P.L.	708 S.E. Michaels Ct., Stuart, FL 34996	1/1/2006 through 12/31/09
Associate	Peterson Bernard	416 Flamingo Ave., Stuart, FL 34996 (772) 286-9881	March 2003 through Dec. 2005
Associate	Conroy, Simberg, Ganon, Krevans, Abel, Lurvey, Morrow & Schefer, P.A.	1801 Centrepark Dr. East, Suite 200, West Palm Beach, FL 33401 (561) 697-8088	March 2001 through Feb. 2003

***\*During law school and prior to admission to The Florida Bar:***

Summer Associate	Conroy, Simberg, Ganon, Krevans, Abel, Lurvey, Morrow & Schefer, P.A.	1801 Centrepark Dr. East, Suite 200, West Palm Beach, FL 33401 (561) 697-8088	May 2000 through Aug. 2000
Certified Legal Prosecutor Intern <i>*through UF College of Law</i>	Office of the State Attorney, Eighth Judicial Circuit, Juvenile Division	120 W. University Ave., Gainesville, FL 32601 (352) 374-3670	Aug. 2000 through Dec. 2000
Summer Law Clerk <i>*through UF College of Law</i>	Ninth Judicial Circuit, Orange County, Florida	425 N. Orange Ave., Orlando, FL 32801	May 1999 through Aug. 1999
Student Law Clerk	University of Florida Foundation, Legal Department	1938 W. University Ave., Gainesville, FL 32603	1/4/99-4/30/99 and 8/18/99-4/14/00

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

I was appointed to serve as a Brevard County Judge in May 2016. For two years, I presided over a misdemeanor criminal division and also served as the Administrative Judge for Mental Health Court. In January 2019, the Chief Judge assigned me to a full-time Family Division, and I have been serving as an Acting Circuit Judge since that time. I presently preside over cases involving dissolution of marriage, determinations of paternity, post-judgment enforcement issues, modifications, adoptions, and domestic violence injunctions. I have also been assigned to hear guardianship matters that Chief Judge Lisa Davidson has recused herself from due to various conflicts.

Prior to my appointment, I practiced in the areas of general civil litigation, insurance defense litigation, probate and trust litigation, fiduciary representation, complex guardianships, and guardianship litigation.

I began my practice with Conroy, Simberg, Ganon, Krevans, Abel, Lurvey, Morrow & Schefer, P.A., a State-wide insurance defense firm. As an associate, I represented insureds of various larger-scale insurance companies against claims of liability for personal injury and property damage. I handled a large volume of cases independently, and I assisted with complex cases involving catastrophic injuries and death. In 2003, while representing a defendant in a case involving Wal-Mart, I was recruited by Elizabeth Metzger (now a Circuit Judge in the 19<sup>th</sup> Judicial Circuit), who was representing a co-defendant in the case, to join Peterson Bernard, P.A. I joined the firm in March of 2003 and handled cases involving automobile and trucking negligence, personal injury and wrongful death claims, premises liability, construction defect liability, medical malpractice liability, and cases involving liability under errors and omissions policies. I was also the attorney in the office who was designated to handle the opening of estates and guardianships when settlement funds or jury awards needed to be disbursed in death cases or cases involving minors.

I continued to work for Peterson Bernard until half way through my pregnancy with my second child. Foreseeing the need for flexibility, I decided to open my own practice. This required a slight change in my practice area, and I was fortunate to have had my husband's help with the transition. At that time, he was practicing in the area of estates and trusts with Gunster Yoakley. His firm primarily handled taxable estates, and having become familiar with establishing probate and guardianship estates, I began to receive referrals from the firm to administer estates and represent fiduciaries in non-taxable estates. While developing that aspect of my practice, I provided litigation support to various civil litigators in the Martin County area on an independent contract basis, and I became an adjunct professor of Business Law at Florida Atlantic University. It was also during this period of time that I was asked by Sheila Biehl, Esq. (former partner of Gunster Yoakley) to co-counsel a case with her which culminated in a five-and-a-half-week jury trial in the 15<sup>th</sup> Judicial Circuit before the Honorable Jonathan Gerber, now an Appellate Judge at the 4<sup>th</sup> DCA.

In the latter part of 2009, my husband and I relocated to Brevard County, where he was born and raised, and I entered into discussions with Gray Robinson, P.A. about joining the firm. Prior to that time, I represented a party in a complex guardianship matter in which Gray Robinson, P.A. was also involved. My background experience with civil litigation and estate and guardianship work allowed me to develop a probate, trust and guardianship litigation practice to compliment the transactional estate planning practice in the firm's Melbourne office. This remained my focused area of practice until I took the bench in January 2017.

In trust and estate matters, I represented trustees and personal representatives in the administration of the estates of deceased individuals, and I defended those individuals against claims of breach of fiduciary duty. I also represented the interests of beneficiaries of estates in bringing actions against trustees and personal representatives for breach of fiduciary duty, as well as actions challenging the validity of a will or a trust document based on incapacity and/or undue influence. Often times, these cases required the filing of actions for intentional interference with an expected inheritance, quiet title actions, actions to recover property or claims belonging to estates, and partition actions.

In guardianship matters, I represented individuals and professional guardians in both adversarial and non-adversarial proceedings. I represented clients when petitioning the court for a determination of a person's legal capacity and in requesting the appointment of a legal guardian of the person and/or property of incapacitated individuals. I also represented family members as interested parties in the proceedings, and I was often times appointed by the court to represent the rights and interests of alleged incapacitated individuals in guardianship proceedings. When serving as the attorney for legal guardians, I was required to file inventories and financial accountings for guardianship estates, and I was required to initiate and defend separate legal actions on behalf of wards as needed.

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

<b>Court</b>		<b>Area of Practice</b>	
Federal Appellate	<u>0</u> %	Civil	<u>40</u> %
Federal Trial	<u>0</u> %	Criminal	<u>0</u> %
Federal Other	<u>0</u> %	Family	<u>3</u> %
State Appellate	<u>1</u> %	Probate	<u>55</u> %
State Trial	<u>99</u> %	Other	<u>2</u> %
State Administrative	<u>0</u> %		
State Other	<u>0</u> %		
<b>TOTAL</b>	<b>100 %</b>	<b>TOTAL</b>	<b>100 %</b>



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

Jury? 1 Non-Jury? 40-50 (approx.)

*\*The trial was five and a half weeks in length.*

*I did not include two additional jury trials in which I sat second chair while at Conroy Simberg.*

Arbitration? 1 Administrative Bodies? 0

*\*Real estate litigation matter*

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

No.

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

No.

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

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

(i) IN RE: GUARDIANSHIP OF SARAH LOUISE WISECARVER, Ward, CASE NO. 05-2016-GA-011225, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; adversary proceedings identified as SANDRA BINGHAM and DIANA WISECARVER, Petitioners v. WILLIS MARK WISECARVER and JOEL GOLDBERG, Respondents/Counter-Petitioners, involving competing petitions for the appointment of a plenary guardian for the Ward (*trial took place on September 27, 2016, September 29, 2016, October 21, 2016*).

Attorney for Petitioners: Michelle L. Naberhaus, Esq.  
(S. Bingham & D. Wisecarver)

Attorney for Counter-Petitioners: Jason M. Gordon, Esq.  
(W. Wisecarver & J. Goldberg) 257 N. Orlando Ave.  
Cocoa Beach, FL 32931  
(321) 799-4777  
[jgordon@brevardlegal.com](mailto:jgordon@brevardlegal.com)

Robin M.L. Cornell, Esq.  
1980 N. Atlantic Ave., Ste. 616  
Cocoa Beach, FL 32931  
(321) 450-2188  
*robincornell@beachsidelawyer.com*

Attorney for Petitioner:  
(Danica Scuderi)

David H. Jacoby, Esq.  
2111 Dairy Road  
Melbourne, FL 32904  
(321) 723-8388  
*d.jacoby@davidhjacobyelapa.com*

Attorney for Ward:  
(Sarah Louise Wisecarver)

Jay H. Fowler, Esq.  
25 McLeod St.  
Merritt Island, FL 32953  
(321) 453-8072  
*jfowler@fowlerfirm.com*

Judge:

Honorable Lisa Davidson

- (ii) IN RE: GUARDIANSHIP OF HELEN J. PARE, Ward, CASE NO. 05-2015-GA-034752, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; adversary proceedings identified as KAREN E. BISHOP, Petitioner v. GAYLE RANEA MACKEY, Respondent/Counter-Petitioner, involving competing petitions for the appointment of a plenary guardian for the Ward (*trial took place on October 15-16, 2016*).

Attorney for Petitioner:  
(Karen E. Bishop)

Christopher E. Broome, Esq.  
915 S. Washington Ave.  
Titusville, FL 32780  
(321) 269-5620  
*ceb@cfl.rr.com*

Attorney for Counter-Petitioner:  
(Gayle Ranea Mackey)

Michelle L. Naberhaus, Esq.

Attorney for Ward:

William A. Johnson, Esq.  
140 Interlachen Rd., Ste. B  
Melbourne, FL 32940  
(321) 253-1667  
*wjohnson@floridaelderlaw.net*

Judge:

Honorable Lisa Davidson

- (iii) IN RE: GUARDIANSHIP OF CARIDAD DOLORES HERNANDEZ, Ward, CASE NO. 05-2015-GA-021562, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; adversary proceedings identified as MARGARITA FORMENT, Petitioner v. ORESTES G. HERNANDEZ, Respondent/Counter-Petitioner, involving competing petitions for the appointment of a plenary guardian for the Ward (*trial took place on September 15, 2015*).

Attorney for Petitioner: Michelle L. Naberhaus, Esq.  
(Margarita Forment)

Attorney for Counter-Petitioner: Leslie Castaldi, Esq.  
(Orestes G. Hernandez) (now a Magistrate in the 18<sup>th</sup> Judicial Circuit, Brevard County, FL)

Attorney for Ward: Edmond L. Eley, Esq.  
(Caridad Dolores Hernandez) 1310 W. Eau Gallie Blvd., Ste. D  
Melbourne, FL 32935  
(321) 259-7822  
*eleylaw@cfl.rr.com*

Judge: Honorable Lisa Davidson

- (iv) IN RE: GUARDIANSHIP OF ELIZABETH JELLETT, Ward, CASE NO. 05-2013-GA-000061, Probate Division, 19<sup>th</sup> Judicial Circuit, Indian River County, Florida; second adversary proceedings identified as JAMES JELLETT and PETER JELLETT, Co-Petitioners v. CAROL JELLETT, Respondent, involving removal of Guardian of Property and Trustee of Ward's Trust for Breach of Fiduciary Duty (*order on this proceeding entered on November 20, 2014*).

Attorney for Co-Petitioner: E. Steven Lauer, Esq.  
(James Jellett) 3426 Ocean Drive  
Vero Beach, FL 32963  
(772) 234-4200  
*eslpa@verolaw.org*

Attorney for Co-Petitioner: Michelle L. Naberhaus, Esq.  
(Peter Jellett)

Attorney for Respondent: Thomas Tierney, Esq.  
(Carol Jellett) Rossway, Swan, Tierney, Barry,  
Lacey & Oliver, P.L.  
2101 Indian River Blvd., Suite 200  
Vero Beach, FL 32960-7701  
(772) 231-4440  
*ttierney@rosswayswan.com*

Attorney for Ward: Robin Peterson, Esq.  
321 Sixth Avenue  
Indialantic, FL 32903  
(321) 729-0087  
*elderlawcenterbrevard@gmail.com*

Judge: Honorable Robert Hawley

- (v) IN RE: GUARDIANSHIP OF JOSEPH G. LAMANNA, JR., Ward, CASE NO. 05-2012-GA-027323, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; adversary proceedings identified as SHARON LAMANNA a/k/a SHARON PATYNSKI, Petitioner v. ROBIN PHEMISTER, Respondent, involving Suggestion of Capacity to restore legal capacity of the Ward (*order on this proceeding entered on July 1, 2014*).

Attorney for Petitioner: Gregory J. Gore, Esq.  
(Sharon Patynski) P.O. Box 780384  
Sebastian, FL 32978-0384  
(772) 589-0055  
*gore-dawn@juno.com*

Attorney for Respondent: Michelle L. Naberhaus, Esq.  
(Robin Phemister)

Attorney for Ward: William A. Johnson, Esq.  
140 Interlachen Rd., Suite B  
Melbourne, FL 32940  
(321) 253-1667  
*wjohnson@floridaelderlaw.net*

Judge: Honorable John M. Harris

- (vi) SUSAN E. KARR, Appellant v. REBECCA KARR VITRY, Appellee, CASE NO. 5D12-4579, appealing an Order issued on August 8, 2012 in IN RE: GUARDIANSHIP OF NETTIE EVELYN PEARSON, Ward, CASE NO. 05-2010-GA-039184, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, adversary proceedings identified as SUSAN E. KARR, Petitioner v. REBECCA KARR VITRY, Respondent, resulting from an objection to Final Accounting and Petition for Discharge of Guardian and Petition for Order Authorizing Payment of Compensation and Expenses of Guardian; opinion filed on January 24, 2014 and cited as *Karr v. Vitry*, 135 So.3d 372 (Fla. 5<sup>th</sup> DCA 2014).

Attorney for Appellant: William A. Johnson, Esq.  
(Susan E. Karr) 140 Interlachen Rd., Suite B  
Melbourne, FL 32940  
(321) 253-1667  
*wjohnson@floridaelderlaw.net*

Attorney for Appellee: Michelle L. Naberhaus, Esq.  
(Rebecca Karr Vitry)

Judge (trial court): Honorable John M. Harris

Judge (appellate court): Honorable William D. Palmer  
Honorable C. Alan Lawson  
Honorable Jay P. Cohen

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

- (i) IN RE: GUARDIANSHIP OF GEORGE A. GILLETTE, JR., Ward, CASE NO 05-2015-GA-000043, Probate Division, 19<sup>th</sup> Judicial Circuit, Indian River County, Florida; second adversary proceedings identified as CHERYL CIOLINA, Petitioner v. KELLEY NOLAN, Respondent/Counter-Petitioner, involving competing petitions for appointment of guardian (*settlement reached on November 9, 2016*).

Attorney for Petitioner: Kevin S. Doty, Esq.  
(Cheryl Ciolina) 411 Holly Rd.  
Vero Beach, FL 32963  
(772) 234-9990  
*kevindotylaw@aol.com*

Attorney for Counter-Petitioner: Michelle L. Naberhaus, Esq.  
(Kelley Nolan)

Attorney for Foreign Guardian: Mary F. Courtney, Esq.  
(John S. Tuohy, Esq.) 75 S. Church St., Ste. 550  
Pittsfield, MA 01201  
(413) 443-6455 ext. 17

Attorney for Ward: Jennifer Hixson, Esq.  
2155 15<sup>th</sup> Ave., Ste. C  
Vero Beach, FL 32960  
(772) 577-9919  
*jenniferahixsonlaw@gmail.com*

- (ii) IN RE GUARDIANSHIP OF ALEXANDER L. MARTINSON, Ward, CASE NO. 05-2015-GA-019403, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; first adversary proceeding identified as DANICA SCUDERI, Guardian of the Ward, Petitioner v. RICHARD MARTINSON, Respondent, involving Petition for Order Directing Richard Martinson to Transfer Ward's Assets to Guardian (*settlement reached May 13, 2016*); second adversary proceeding identified as SUSAN MARTINSON, Petitioner v. DANICA SCUDERI, RICHARD MARTINSON, JULIE BROPHY and DIANE BRODERICK, Respondents, involving fee petitions and

disposition of assets of the guardianship estate (*settlement agreement entered into by the parties on September 8, 2016*).

Attorney for Petitioner:  
(Susan Martinson) David H. Jacoby, Esq.  
2111 Dairy Road  
Melbourne, FL 32904  
(321) 723-8388  
*d.jacoby@davidhjacobyelapa.com*

Attorney for Respondent:  
(Richard Martinson) Michelle L. Naberhaus, Esq.

Attorney for Guardian:  
(Danica Scuderi) Erik P. Shuman, Esq.  
1795 W. NASA Blvd.  
Melbourne, FL 32901  
(321) 727-8100  
*erik.shuman@gray-robinson.com*

- (iii) IN RE: GUARDIANSHIP OF ALFONSO MILITANO, Ward, CASE NO 05-2016-GA-017075, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; first adversary proceeding identified as PATRICIA M. MILITANO, Petitioner v. KYLE F. MILITANO and KRIS MILITANO, Respondents/Counter-Petitioners, involving competing petitions for appointment of guardian; CASE NO. 05-2016-DR-018662, Family Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, was consolidated with the MH and GA cases due to related capacity issues and division of marital assets (*settlement as to capacity, appointment of guardian, and related issues as to marital assets was reached on August 16, 2016; case proceeded up until the Ward's death to address specific issues related to distribution of marital assets*).

Attorney for Petitioner:  
(Patricia Militano) Steven C. Allender, Esq.  
719 Garden St.  
Titusville, FL 32796  
(321) 269-1511  
*sallender@allederlaw.com*

Christopher E. Broome, Esq.  
915 S. Washington Ave.  
Titusville, FL 32780  
(321) 269-5620  
*ceb@cfl.rr.com*

David J. Wolfman, Esq.  
(*attorney in consolidated dissolution case*)  
1300 Bedford Dr., Ste. 103  
Melbourne, FL 32940  
(321) 259-4293  
*surflawyer@mac.com*

Attorney for Counter-Petitioners: Michelle L. Naberhaus, Esq.  
(Kyle Militano & Kris Militano)

Attorney for Ward:  
(Alfonso Militano)

Erik P. Shuman, Esq.  
1795 W. NASA Blvd.  
Melbourne, FL 32901  
(321) 727-8100  
*erik.shuman@gray-robinson.com*

Alan H. Landman, Esq.  
(attorney in consolidated dissolution case)  
7195 Murrell Road, Ste. 102  
Melbourne, FL 32940  
(321) 242-9800  
*alandmanpa@gmail.com*

- (iv) IN RE: GUARDIANSHIP OF DONALD R. EGENDOERFER, Ward, CASE NO. 05-2015-GA-047019, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; adversary proceeding identified as PHILLIP EGENDOERFER, Petitioner v. NANCY MAGGART, Respondent/Counter-Petitioner, involving competing petitions for appointment of guardian (*settled at mediation resulting in orders entered on August 18, 2016*).

Attorney for Petitioner:  
(Phillip Egendoerfer)

Michelle L. Naberhaus, Esq.

Attorney for Counter-Petitioner:  
(Nancy Maggart)

Joe T. Caruso, Esq.  
190 Fortenberry Rd., Ste. 107  
Merritt Island, FL 32952  
(321) 453-3880  
*joec@jtchmspa.com*

Attorney for Ward:  
(Donald R. Egendoerfer)

Erik P. Shuman, Esq.  
1795 W. NASA Blvd.  
Melbourne, FL 32901  
(321) 727-8100  
*erik.shuman@gray-robinson.com*

- (v) SHAUNA SOLLBERGER, CHRISTINE K. NICKS and PAUL FAWCETT, Plaintiffs v. DEBORAH L. FAWCETT, Defendant, CASE NO. 05-2015-CA-045530, Civil Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, involving a partition action for sale of real property inherited by the parties as a result of the death of Nancy Fawcett; related action IN RE: ESTATE OF NANCY FAWCETT, Deceased, CASE NO. 05-2015-CP0022217 (*settlement agreement executed on July 28, 2016*).

Attorney for Plaintiffs:  
(Shauna Sollberger)  
(Christine K. Nicks)  
(Paul Fawcett)

Michelle L. Naberhaus, Esq.

Attorney for Defendants:  
(Deborah L. Fawcett)

Taylor K. Hughes, Esq  
Law Office of Benjamin Y. Saxon, III, P.A.  
111 S. Scott St.  
Melbourne, FL 32901  
(321) 951-2223  
*hughestlaw@gmail.com*

- (vi) COLLEEN MCWILLIAMS OSTERLING, Plaintiff v. JAMES D. MCWILLIAMS, Trustee of THE ROSEMARY K. MCWILLIAMS REVOCABLE TRUST, dated November 4, 1985), Defendant, CASE NO. 05-2015-CP-027377, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, involving a trust action for removal of trustee based on alleged breach of fiduciary duties (*settlement agreement executed by parties and Notice of Voluntary Dismissal with Prejudice filed on July 26, 2016*).

Attorneys for Plaintiff:  
(Colleen McWilliams Osterling)

Michael R. Riemenschneider, Esq  
Jeffrey L. DeRosier, Esq.  
175 E. NASA Blvd., Ste. 203  
Melbourne, FL 32901  
(321) 728-2800  
*jeffd@orwlaw.com*

Attorney for Defendant:  
(James D. McWilliams)

Michelle L. Naberhaus, Esq.

- 27c. During the last five years, how frequently have you appeared at administrative hearings?**

0 average times per month

- 27d. During the last five years, how frequently have you appeared in Court?**

10-12 average times per month (while practicing)

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

\_\_\_\_\_% N/A

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

N/A

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

The one case I tried in arbitration was greater than five years ago in St. Lucie County, Florida, 19<sup>th</sup> Judicial Circuit (real estate litigation).



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

[Cases are listed in chronological date order]

- (i) GEORGE GRAY and MARVETTE GRAY, his wife, Plaintiffs v. CSX TRANSPORTATION, INC., R.W. SUMMERS RAILROAD CONTRACTORS, INC. and JOE E. HILL, Defendants; CSX TRANSPORTATION, INC., Third-Party Plaintiff v. BAYSTATE MILLING COMPANY, Third-Party Defendant, CASE NO. 43-2000-365-CA, Civil Division, 19<sup>th</sup> Judicial Circuit, Martin County, Florida.

Client: CSX Transportation, Inc.

Nature of Case: Plaintiff, George Gray, was severely injured when he became pinned between two rail cars while unloading the first rail car at Baystate Milling. It was alleged that a mechanism in the railroad track failed to divert the second rail car to the loading track. Although the incident did not occur on property or track belonging CSX Transportation, Inc., it was alleged that CSX had a duty to properly inspect and warn of dangerous conditions on the track.

Participation: The case came into Peterson Bernard under my supervising partner at the time, Edwin E. Mortell III, Esq. I was charged with handling the case on behalf of the firm for CSX Transportation. I actively engaged in all forms of discovery, conducted a site visit, inspected plans and other related documents at CSX in Jacksonville, prepared and filed a third-party complaint, attended all hearings and depositions, prepared and argued a Motion for Summary Judgment, and placed the case in a posture for settlement which occurred after I left the firm.

Disposition: CSX Transportation, Inc. voluntarily dismissed Third-Party Defendant, Baystate Milling Company, on January 7, 2004 (Order of Voluntary Dismissal entered on April 29, 2004 and recorded in Official Records Book 1894, Page 1444, Martin County, Florida). Motion for partial Summary Judgment was entered in favor of CSX Transportation, Inc. on May 4, 2004 (Order recorded in Official Records Book 1898, Page 1043, Martin County, Florida). The remaining claims were settled between CSX Transportation, Inc. and the Plaintiffs on February 7, 2007 (after my departure from Peterson Bernard).

Significance: This case was significant to me at that point in my career because I was able to fully and independently engage in a complex case of potentially significant value with multiple issues related to catastrophic injuries, premises liability, product defects, and insurance coverage issues. A significant period of time was spent reviewing site plans, track maps, and maintenance reports and consulting with experts regarding product defect and failure of the track mechanism.

Other Attorneys: Michael A. Lewis, Esq., *Attorney for Plaintiffs*, Gary, Williams, et. al., 221 East Osceola Street, Stuart, FL 34994

Jason Glusman, Esq., *Attorney for R.W. Summers Railroad Contractors, Inc.*, Wicker, Smith, et. al., 1645 Palm Beach Lakes Blvd., Suite 700, West Palm Beach, FL 33402

Mark W. Hecktner, Esq., *Attorney for Joe Hill*, Law Offices of Capito and Polk, 400 Columbia Drive, Suite 105, West Palm Beach, FL 33409

George F. Bovie III, Esq., *Attorney for Baystate Milling*, Crary Buchanan, 555 Colorado Avenue, Stuart, FL 34995

Judge: Honorable William L. Roby

(ii) MARY BESINT and ZETTA BESINT, Plaintiffs v. ZEP CONSTRUCTION, GATOR CONCRETE COMPANY, INC., and ARTHUR MARK GILBERT, jointly and severally, Defendants, CASE NO. 56-2002-CA-1628, Civil Division, 19<sup>th</sup> Judicial Circuit, St. Lucie County, Florida.

Clients: ZEP Construction, Gator Concrete Company, Inc., and Arthur Mark Gilbert

Nature of Case: Plaintiffs, Mary Besint and Zetta Besint, sustained injuries after being involved in a motor vehicle accident with Arthur Mark Gilbert. There was significant exposure of liability because there were allegations that Zetta Besint sustained a closed head injury, resulting in permanent brain damage.

Participation: I independently handled the defense of all claims against the defendants. I fully worked the case up for trial, engaging in all forms of discovery and consulting with neurologists to determine the exact nature and cause of Zetta Besint's cognitive issues, and ultimately discovering evidence of fraudulent claims.

Disposition: The parties participated in mediation but did not settle the case at that point. Proposals for Settlement were served and filed, leading to a Stipulation and Order of Dismissal with prejudice reflecting that the Plaintiffs "take nothing by this suit" (Order of Dismissal with Prejudice was entered on June 27, 2005 and recorded in Official Records Book 2287, Page 568, St. Lucie County, Florida.

Significance: This case was significant because of the allegations of brain damage to the young Defendant created high-level exposure for the Defendants. There were questions related to liability for the accident, so a decision was made to move for bifurcation of liability and damages. The concern was that a jury would carry over sympathy for the Plaintiff with the alleged brain damage to find the Defendants at fault for the accident. A significant amount of time was spent consulting with neurologists and accident re-constructionists, and it was determined that certain claims were likely fraudulent. Facing the possibility of having the case dismissed for fraud, the Plaintiffs stipulated to entry of an Order of Dismissal with Prejudice. This eliminated the significant exposure for damages that my client was facing.

Other Attorneys: Dean F. Mosley, Esq., *Attorney for Plaintiffs*, Mosley and Mosley, 20 N. Orange Avenue, Suite 807, Orlando, FL 32801

Judge: Honorable Ben L. Bryan

(iii) ROBERT BORGER, LAWRENCE CILIOTTA, EILEEN COYLE, JOHN COYLE, ROBERT ESOLDI, DIANA ESOLDI, GABRIEL HAKIM, GARY HAMMOND, JEFFREY LEITER, ROBERT MASSIE, JOSEPH B. MCKENNA, CATHERINE ROMANO, SALVATORE SCHIAVONE, and GUNTER VONDORING, Plaintiffs v. OCEANCREST CONDOMINIUM APARTMENTS, INC., Defendant, CASE NO. 50-2006-CA-001503-XXXX-MB, Civil Division, 15<sup>th</sup> Judicial Circuit, Palm Beach County, Florida.

Clients: All 14 Condominium Owners

Nature of Case: This was an action for Declaratory Judgment, Temporary Injunction and Damages against Oceancrest Condominium Apartments, Inc. as a result of the Association's failure to act and mitigate significant damages sustained to the building during the hurricanes of 2004. Specifically, water intrusion led to mold throughout the building. There were issues related to the source of the water intrusion, liability of the Association under the governing documents, failure of the Association to act in the best interest of the unit owners, and failure of the Association to mitigate the damages in individual units and common areas of the building.

Participation: I was approached by Sheila Biehl, Esq. about helping her with this case before she made a decision to take it on. She knew that it would take at least two lawyers to handle the work up and trial of the case, and I agreed to assist on an independent contract basis. I drafted substantive pleadings and motions, and we worked the case up for trial together. We reviewed voluminous records from the Association and from each plaintiff's insurance company. We were required to scrutinize all of the Association's governing documents, and we equally divided responsibility in deposing all potential witnesses. We also spent a significant amount of time dealing with engineers to analyze the point of water intrusion, the maintenance of the structure, and the damage to the building. We also consulted with experts to address the issue of mold and remediation efforts. The case did not settle at mediation, and we eventually participated in a five-and-a-half week jury trial in Palm Beach County. Ms. Biehl and I shared responsibilities in the trial, from jury selection to closing arguments.

Disposition: Final judgment was entered in favor of Plaintiffs. The total amount of damages and attorneys' fees and costs awarded was \$1,101,924.26, collectively. The Final Judgment is recorded in Official Records Book 22717, Page 1215 in Palm Beach County, Florida, and the Final Judgment Awarding Plaintiffs' Attorneys' Fees and Taxation of Costs is recorded in Official Records Book 22882, Page 53 in Palm Beach County, Florida. Two appellate proceedings were initiated under Case No. 4D08-2946 and Case No. 4D08-4306, but each of them were ultimately dismissed.

Significance: This case was significant because of the numerous issues that were analyzed, the extensive labor required to prepare the case for trial, and the experience of participating in a jury trial for over five weeks. The presiding Judge, the Honorable Jonathan D. Gerber, noted in the Final Judgment Awarding Plaintiffs' Attorneys' Fees that, "*[t]he time and labor required during the discovery phase (was) necessarily extensive. The case was novel as it involved separate disputes and in-fighting between the residents and their association as to who would pay. The case was complex because of the length and detail of the factual history and the number of people involved. The questions presented were difficult because of the numerous different versions of facts and events. The case required a lot of skill on the part of both attorneys to handle and manage the case.*"

Other Attorneys: Sheila A. Biehl, Esq., *Co-Counsel for Plaintiffs*, 815 S.E. Osceola Street, Stuart, FL 34994

Barry A. Postman, Esq. and Rachel K. Beige, Esq., *Co-Counsel for Defendant*, Cole, Scott & Kissane, P.A., 1645 Palm Beach Lakes Blvd., Second Floor, West Palm Beach, FL 33401

Judge: Honorable Jonathan D. Gerber (now at 4<sup>th</sup> DCA)

- (iv) IN RE: ESTATE OF AIDEN MCLANE, Deceased, CASE NO. 05-2011-CP-010447, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; including adversary proceedings identified as BOBBY LYNN PARSONS, Petitioner v. JAMES MCLANE and MONICA MCLANE, Respondent, resulting from Competing Petitions for Administration and Petition to Establish Paternity in Probate Proceedings and Determine Beneficiaries of the Estate filed on May 2, 2011 (*Final Order entered on September 16, 2011; appellate proceedings filed by Respondents under Case No. 5D11-3323; Respondents voluntarily dismissed the appellate proceedings*).

Client: Bobby Lynn Parsons

Nature of Case: Aiden McLane was an infant who was killed in a motor vehicle accident in Arkansas, along with his mother. Aiden's father, Bobby Parsons, survived the accident, as did the couple's two other children, Alyssa and Aubrie. All three children were born out-of-wedlock. Paternity was legally established for the two girls, but it had not been established for Aiden. A wrongful death action was initiated in the Federal Court in Arkansas, while guardianships were put in place for the girls in Florida, and an estate was opened for Aiden in Florida. Mr. Parsons filed a Petition to Establish Paternity in Probate Proceedings and to Determine Beneficiaries of the Estate. Aiden's maternal grandparents objected, and the adversary proceeding was litigated.

Participation: I handled all aspects of the adversary proceeding, including the final evidentiary hearing.

Disposition: Based upon testimony and evidence establishing the chain of custody of DNA evidence, the Court determined that there was sufficient evidence to establish that Bobby Parsons is the natural father of Aiden McLane.

Significance: This case was significant due to the tragic facts and circumstances surrounding it. The family dynamics were extremely difficult and had to be carefully managed. There were four related actions pending in Brevard County at the

same time as this action, along with the wrongful death lawsuit that was filed in Federal court in Arkansas.

Other Attorneys: David A. Baker, Esq., *Co-Counsel for James and Monica McLane*, 1015 South Florida Ave., Suite B, Rockledge, FL 32955

William A. Johnson, Esq., *Co-Counsel for James and Monica McLane*, 140 Interlachen Road, Suite B, Melbourne, FL 32940

Judge: Honorable Preston J. Silvernail

- (v) IN RE: GUARDIANSHIP OF JAMES MONDELLO, Ward, CASE NO. 05-2007-GA-072092, Probate Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; includes adversary proceedings identified as CHRISTOPHER MONDELLO v. TAMARA CRIBBEN, Guardian of the Ward, and adversary proceedings identified as LORI FELLER, Co-Guardian of the Personal and Property of the Ward, Petitioner v. CHRISTOPHER MONDELLO, Co-Guardian of the Person and Property of the Ward, Respondent, resulting from a Petition for Removal of Co-Guardian filed on September 30, 2011.

Client: Lori Feller

Nature of Case: This was a complex guardianship matter which resulted in a related civil lawsuit for damages against various parties. James Mondello suffered a brain injury after being pinned between two cars while helping another driver who was involved in a motor vehicle accident. The Ward's wife worked with an attorney to reach a settlement with an insurance company, but she never had a guardian appointed prior to having the Ward execute the settlement documents. The wife used the settlement proceeds for her benefit and co-mingled what should have been guardianship funds with personal funds. She also purchased a larger house and set up a structured annuity in her name only. A guardianship was eventually put in place, but the wife was removed as guardian in favor of a professional guardian. The Ward's brother, Christopher Mondello, filed an adversary proceeding in the guardianship to have the professional guardian removed. The Ward's sister, Lori Feller, filed a competing petition. The case settled at mediation with Christopher Mondello and Lori Feller agreeing to serve as co-guardians. After their appointment, Christopher Mondello failed to cooperate in attempts to marshal the assets of the Ward, investigate a medical malpractice claim on behalf of the Ward, and investigate a civil lawsuit against the Ward's wife and the insurance companies that settled with an incompetent individual. As a

result, my client, Lori Feller, filed an adversary proceeding to have Christopher Mondello removed as co-guardian.

**Participation:** After the initial intake of the case, I became the attorney of record for Lori Feller and handled all matters related to this guardianship. I participated in the mediation resulting in the initial settlement agreement between the co-guardians, and I represented Lori Feller at the final hearing on the adversary proceeding to remove Christopher Mondello.

**Disposition:** The Court found evidentiary support for the claim that Christopher Mondello breached his duties as a guardian under *Chapter 744*, Florida Statutes, warranting removal. Lori Feller was appointed to serve as sole guardian and was given the authority to file an independent civil action against the Ward's wife, Christine Mondello, the attorney who handled the settlement of the personal injury claim, and the insurance companies that settled with James Mondello when it was known he was not competent to proceed.

**Significance:** This particular guardianship involved complex matters from the beginning, which later created numerous issues to be addressed by the guardians. There were issues related to legal malpractice, liability exposure of various insurance companies that settled with an incompetent individual, potential medical malpractice related to the care received by the Ward after his accident, misappropriation of assets by the Ward's wife, and dysfunctional family dynamics.

**Other Attorneys:** Brian Hurd, Esq., *Attorney for the Ward*, 100 Parnell St., Suite F, Merritt Island, FL 32953

William A. Johnson, Esq., *Attorney for Christine Mondello*, 140 Interlachen Road, Suite B, Melbourne, FL 32940

Keith S. Kromash, Esq., *Attorney for Christopher Mondello*, Nash & Kromash, LLP, 440 S. Babcock St., Melbourne, FL 32901

J. Rudi Trader, Esq., *Attorney for Tamara Cribben/Adult Advocacy & Representation*, 903 Strawbridge Ave., Melbourne, FL 32901

O. John Alpizar, Esq., *Attorney for Lori Feller for purpose of filing civil action for the benefit of the Ward*, Alpizar Law, LLC, 1528 Palm Bay Road, Palm Bay, FL 32905

**Judge:** Honorable J. Preston Silvernail  
Honorable John M. Harris

- (vi) SPACE COAST HEALTH FOUNDATION, INC., Plaintiff, v. BREVARD HMA HOLDINGS, LLC and HEALTH MANAGEMENT ASSOCIATES, INC., Defendants, CASE NO. 05-2016-CA-020653, Civil Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida; action seeking damages for breach of contract and, alternatively, seeking a declaration of rights under certain contracts.

Client: Space Coast Health Foundation, Inc.

Nature of Case: This was an action for damages in excess of \$3,000,000 resulting in the alleged breach of an escrow agreement. In September 2010, Health Management Associates, Inc. (HMA), purchased the assets of Wuesthoff Health Systems, Inc. for \$145,000,000. At closing, \$25,000,000 was held in escrow, and an Indemnity Escrow Agreement between Space Coast Health Foundation, Inc. (SCHF) and Brevard HMA Holdings, LLC provided that the funds were to be released to SCHF in three installments. Payment of the last installment in the amount of \$3,244,510 was blocked by Brevard HMA Holdings after it was billed by the State of Florida for certain hospital-specific taxes that finance the Public Medical Assistance Trust Fund (PMATF) and the Health Care Trust Fund (HCTF). SCHF alleged that, pursuant to the contract and Florida law, PMATF and HCTF tax liabilities billed after the date of the sale was the responsibility of the buyer.

Participation: Claudia Jones, Esq., my prior partner at Dean Mead, P.A., served as corporate counsel for SCHF. Once it was determined that a lawsuit needed to be filed to address the breach of contract by Brevard HMA Holdings, Michael J. Glazer Esq. and Steven M. Hogan, Esq. of Ausley McMullen in Tallahassee were brought in to handle the case because of the expertise that was needed to address the hospital-specific taxes at issue. I was asked by my partner to serve as local counsel for the purpose of this lawsuit.

Disposition: It was anticipated that the case would be costly to fully litigate, so the hope was that the case would settle early. A comprehensive Complaint was filed, and after settlement negotiations, the case eventually settled.

Significance: The significance of this case is a little different than the others cited above. This was not a long and drawn out litigation, but the issues were somewhat complex, and I was excited to take on the challenge of learning something new. It also meant a lot to me that my then-partner thought enough of me as an attorney to ask me to take on the role of local counsel for the purpose of this lawsuit.



Other Attorneys: Michael J. Glazer, Esq. and Steven M. Hogan, Esq., *Attorneys for SCHF*, Ausley McMullen, P.O. Box 391, Tallahassee, FL 32301

Claudia H. Jones, Esq., *Corporate Counsel for SCHF*, Dean Mead, P.A., 7380 Murrell Road, Suite 200, Melbourne, FL 32940

Martin B. Goldberg, Esq. and David Ruffner, Esq., *Attorneys for Brevard HMA Holdings, LLC*, Lash & Goldberg, LLP, 100 S.E. 2<sup>nd</sup> St., Miami, FL 33131

Judge: Honorable David Dugan

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

See the following attached writing samples which were authored by me:

- (a) STATE OF FLORIDA, Plaintiff v. KIM RENEE CRAWFORD, Defendant, Case No. 2016-CT-34201, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, *Order Granting Defendant's Motion to Suppress*, dated April 12, 2017 (*per curiam* affirmed in Case No. 2017-AP-30020 on February 26, 2019);
- (b) IN RE: GUARDIANSHIP OF GEORGE GILLETTE, JR., Case No. 2015-GA-000043, Probate Division, Circuit Court, Indian River County, Florida, *Motion to Dismiss Amended Petition for Appointment of Guardian Advocate* (exhibits omitted), dated July 7, 2015;
- (c) STATE OF FLORIDA, Plaintiff v. AARON LEE, Defendant, Case No. 2015-TR-024412, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, *Order Denying Defendant's Motion to Modify Adjudication of Guilt*, dated July 16, 2018;
- (d) BOBBY LYNN PARSONS, Petitioner, v. JAMES W. MCLANE and MONICA MCLANE, Respondents, Case No. 2011-CP-100447, Probate Division, Circuit Court of the 18<sup>th</sup> Judicial Circuit, Brevard County, Florida, *Post-Hearing Memorandum on Petition to Establish Paternity and to Establish Beneficiaries*, dated June 9, 2011 (*\*the clerk's imaging system omitted periods included as punctuation throughout the document*).

**PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:**

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

Brevard County Court Judge:

I was nominated by the JNC for appointment to the County Court of Brevard County in October 2013 and May 2016. I received the appointment to the County Court on May 26, 2016 and presided over a Criminal Division for two years and served as the Administrative Judge for the Mental Health Court during that time. I was elected without opposition to serve an additional six-year term in 2018. In January 2019, the Chief Judge assigned me to serve as an Acting Circuit Judge in the Family Division.

Circuit Judge, 18<sup>th</sup> Judicial Circuit:

I was nominated by the JNC for appointment to the Circuit Court in the 18<sup>th</sup> Judicial Circuit in October 2018 and April 2019.

**32b. List any prior quasi-judicial service:**

<b>Dates</b>	<b>Name of Agency</b>	<b>Position Held</b>
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None.

**Types of issues heard:**

N/A

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

No.

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

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

*[listed in alphabetical order]*

Ben Fox, Esq., Office of the State Attorney, 18<sup>th</sup> Circuit, 2725 Judge Fran Jamieson Way, Viera, FL 32940-6605, (321) 617-7510, [bfox@sa18.org](mailto:bfox@sa18.org)

James G. Kontos, Esq., 5430 Village Dr., Rockledge, FL 32955, (321) 242-9777, [jim@kontoslawoffice.com](mailto:jim@kontoslawoffice.com)

Mark Peters, Esq., 5450 Village Dr., Viera, FL 32955, (321) 504-0321, [markpeters@ebplaw.com](mailto:markpeters@ebplaw.com)

Michael M. Pirolo, Esq., Office of the Public Defender, 2725 Judge Fran Jamieson Way, Bldg. E, Viera, FL 32940-6605, (321) 617-7373, [mpirolo@pd18.net](mailto:mpirolo@pd18.net)

Elise A. Singer, Esq., 112 W. New Haven Ave., Melbourne, FL 32901, (321) 722-3060, [elise@singeroneil.com](mailto:elise@singeroneil.com)

Michelle Studstill, Esq., Valentin & Studstill PLLC, 1361 Bedford Dr., Ste. 103, Melbourne, FL 32940, (321) 425-2082, [michelle@brevardfamilylawyers.com](mailto:michelle@brevardfamilylawyers.com)

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

As a County Court Judge in the Criminal Division, I handled thousands of cases, including criminal traffic matters, non-criminal traffic matters, DUI cases, domestic violence cases, and a variety of general misdemeanor cases. I also handled over a hundred cases as the Mental Health Administrative Judge for Brevard County. In that capacity, I worked in conjunction with Circles of Care to provide services for certain individuals in the criminal system who had a qualifying mental health diagnosis. The goal was to stabilize those individuals mentally and socially in an effort to prevent repeat offenses.

Presently, as an Acting Circuit Judge in the Family Division, I handle dissolution proceedings, paternity cases, modifications, enforcement proceedings, adoptions, names changes, and domestic violence injunctions. I also handle guardianship cases that cannot be handled by the Chief Judge, Lisa Davidson, due to conflict issues. I have over two thousand cases assigned to my division, either through direct assignment to me or through assignment to magistrates.

During my tenure as a judge, I have also handled first appearances at the Brevard County Jail, felony arraignments, felony early resolution proceedings, Baker Act and Marchman Act proceedings, probate proceedings, guardianship proceedings, and foreclosure matters when called upon to do so.

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

While in the County Criminal Division, I authored approximately 30 orders on motions to suppress which read as opinions. These types of orders can be submitted to Florida Law Weekly Supplement for publication. Although I did not submit my orders for publication, one such order that was appealed and *per curiam* affirmed by the Circuit Appellate Panel, is attached to this application.

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

See Paragraph 30 above for significant cases I litigated prior to January 2017. Since that time, five of the most memorable cases I have presided over as a County Judge are described below. Each case is significant to me for different reasons, and collectively, they represent the various “human” issues that county court judges handle on a regular basis. (*I am not including cases I have presided over in the Family Division because most of those cases have ongoing issues over which I continue to preside.*)

- (1) STATE OF FLORIDA, Plaintiff v. DARIEL JHANI JACKSON, Defendant, CASE NO. 05-2017-MM-036005, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida.

Significance:

Ms. Jackson is a young lady who was charged with battery domestic violence after allegedly striking her significant other with a leather belt across the back, causing bruising and open wounds. It is alleged that she did this while the victim was holding their 6-month-old child in his arms. The case was assigned to my division, and at some point it was determined that Ms. Jackson had a qualifying mental health diagnosis and may be eligible for Mental Health Court (MHC). With the victim's consent, Ms. Jackson was accepted into the program. As the Administrative Judge for MHC, I continued to handle her case. She was eventually discharged from the program for non-compliance and was placed back on my regular criminal docket. During her first appearance back on the regular docket, I was able to have a very meaningful exchange with her about her situation, and I told her I was willing to recommend her for readmission into the program IF she would make certain changes. She appeared sincere, and she was ultimately readmitted to MHC. The changes in her were extraordinary. She was very pleasant and compliant with the program requirements, and she was making a real effort to better herself and her life. At a status hearing, she mentioned that it made a difference that I cared enough to really talk to her and give her another chance. That meant a lot to me, and her success is a testament to the good that is being done through MHC.

Attorneys: Joseph Downing, Esq., Office of the State Attorney, 2725  
Judge Fran Jamieson Way, Bldg. D, Viera, FL 32940, (321)  
617-7510, [jdowning@sa18.org](mailto:jdowning@sa18.org)

Michael Pirolo, Esq., Office of the Public Defender, 2725  
Judge Fran Jamieson Way, Bldg. E, Viera, FL 32940, (321)  
617-7373, [mpirolo@pd18.net](mailto:mpirolo@pd18.net)

- (2) STATE OF FLORIDA, Plaintiff v. ARMANDO ALEJANDRO MONTALVO, Defendant, CASE NO. 05-2017-MM-052297, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida.

Significance:

This case was significant because of the issues that can sometimes come up with criminal defendants who have mental health issues that are not stabilized. Mr. Montalvo was originally charged with assault, battery of a law enforcement officer, and resisting arrest without violence after causing a disturbance in a restaurant and spitting in the face of a police officer. Mr. Montalvo had a history of violence and mental health issues. When appearing in court, he was boisterous and his behavior was very erratic. It took a lot of patience to interact with him. A few inappropriate outbursts caught the attention of court deputies. Soon thereafter, court deputies were

notified of an officer safety alert issued by the Orlando Police Department. This led to multiple deputies being directed to my courtroom any time Mr. Montalvo was on my docket. After several inappropriate remarks directed at me, there was a concern that his behaviors were becoming somewhat obsessive, so I sought permission to have the case transferred to another division. I hesitated to do that because, as a judge, you accept that you may be dealing with certain situations. However, it is also important to recognize when a situation can become dangerous.

Attorneys: Kerry Mawn, Esq., Office of the State Attorney, 2725 Judge Fran Jamieson Way, Bldg. D, Viera, FL 32940, (321) 617-7510, [kmawn@sa18.org](mailto:kmawn@sa18.org)

Corey White, Esq., Office of the Public Defender, 2725 Judge Fran Jamieson Way, Bldg. E, Viera, FL 32940, (321) 617-7373, [cwhite@pd18.net](mailto:cwhite@pd18.net)

- (3) STATE OF FLORIDA, Plaintiff v. GENNY LYNN ROBERTS, Defendant, CASE NO. 05-2016-MM-039527, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida.

Significance:

The Defendant in this case was a 24-year-old young lady who was charged with battery domestic violence. As a part of her sentence, she was placed on supervised probation. I received notice of an alleged violation resulting from Ms. Roberts' testing positive for THC, cocaine and opiates. She was subsequently arrested for possession of cocaine, possession of a large quantity of heroin, and possession of drug paraphernalia. At her next court appearance, she looked distraught and worn down, and after speaking with her assigned public defender, it was agreed that she would contact Chaplain Swallow to discuss getting into a drug treatment program. It was later ordered that she was to attend two Narcotics Anonymous meetings and enroll in a substance abuse evaluation within 20 days. This was done at her request, and she seemed to really want help. Within a couple of months, she failed to appear for another status hearing, and it was subsequently learned that she passed away from a drug overdose. Although this is not an uncommon story, it struck me when I heard the news because she was so young and really seemed to want help. It is the tragic story of addiction and young lives lost.

Attorneys: Francis D. Demuro, Esq., Office of the State Attorney, 2725 Judge Fran Jamieson Way, Bldg. D, Viera, FL 32940, (321) 617-7510, [fdemuro@sa18.org](mailto:fdemuro@sa18.org)

Raymond Hornstein, Esq., Office of the Public Defender, 2725 Judge Fran Jamieson Way, Bldg. E, Viera, FL 32940, (321) 617-7373, [raymond.hornstein@gmail.com](mailto:raymond.hornstein@gmail.com)

- (4) STATE OF FLORIDA, Plaintiff v. BRADLEY DOUGLAS WILLARD II, Defendant, CASE NO. 05-2016-MM-051536, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida.

Significance:

The Defendant in this case was charged with possession of marijuana. He filed a Motion to Dismiss alleging that he was a member of the Oklevueha Native American Church and that the use of cannabis was an integral sacrament of his religion. He argued that the arrest violated his First Amendment right to freedom of religion and his right to due process. The case was very interesting because of the arguments pertaining to various constitutional rights. The Defendant seemed sincere in his beliefs. However, I found that that he did not sufficiently establish that he was actually engaged in the exercise of a religious activity at the time of his arrest so as to support the argument that the State substantially burdened that religious exercise.

Attorneys: Jackie Starbuck, Esq., Office of the State Attorney, 2725  
Judge Fran Jamieson Way, Bldg. D, Viera, FL 32940, (321)  
617-7510, [jstarbuck@sa18.org](mailto:jstarbuck@sa18.org)

Raymond Hornstein, Esq., Office of the Public Defender, 2725  
Judge Fran Jamieson Way, Bldg. E, Viera, FL 32940, (321)  
617-7373, [raymond.hornstein@gmail.com](mailto:raymond.hornstein@gmail.com)

- (5) STATE OF FLORIDA, Plaintiff v. DEVON LEE YOUNG, Defendant, CASE NO. 05-2017-CT-055288, County Criminal Division, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida.

Significance:

Mr. Young was charged with operating a motor vehicle without a valid driver's license. This is a simple charge, but the case became more complicated because the Defendant claimed to be a sovereign citizen. He did not believe he was bound by the laws of this State, and he did not believe that the State Courts had jurisdiction over him. The State offered to *nol pros* the case if he obtained a valid Florida driver's license. However, he was adamant that he could do whatever he wanted provided he was not harming anyone. This case was significant because it required a different approach and an extreme amount of patience. He refused to hire an attorney or apply for a public defender even after being told the case was being set for trial. A full Ferretta inquiry was conducted, and he still refused counsel. On the day of trial, he claimed that he wanted to apply for an attorney, which of course delayed the trial. This was the first quasi-Sovereign Citizen case that I handled. Although it appeared his antics were mere delay tactics, I believe I was very patient and conscientious of his rights, while remaining firm to preserve the integrity of the process.

Attorneys: Shantanu Patel, Esq., Office of the State Attorney, 2725  
Judge Fran Jamieson Way, Bldg. D, Viera, FL 32940, (321)  
617-7510, *spatel@sa18.org*

Corey White, Esq., Office of the Public Defender, 2725 Judge  
Fran Jamieson Way, Bldg. E, Viera, FL 32940, (321) 617-  
7373, *cwhite@pd18.net*

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

To my knowledge, no complaints have been made to the JQC resulting in a finding of probable cause.

- (vi) **Have you ever held an attorney in contempt? If so, for each instance state the name of attorney, approximate date and circumstances.**

I have not held an attorney in contempt.

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

N/A

## **BUSINESS INVOLVEMENT**

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

I am not presently serving as an officer or director for any business enterprise.

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

I was employed by Florida Atlantic University as an adjunct professor of Business Law in 2007 and 2008.

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

None.

**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 of 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.**

There are no certain types of cases that would limit my ability to serve as the presiding judge, except for probate cases handled by my husband, Rob Naberhaus, and guardianship and civil litigation matters handled by his cousin, Joseph Naberhaus.

As a County Court Judge in the Criminal Division, I recused myself from one case because the defendant was an individual that I previously represented in a guardianship matter. As an Acting Circuit Judge, I have recused myself from a couple guardianship cases because of having represented a party to the action while in private practice. I have also recused myself from a few family cases as a result of knowing a party to the action.

**MISCELLANEOUS**

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

Yes \_\_\_\_\_ No  X  If "Yes" what charges?  N/A

Where convicted? \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

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

Yes \_\_\_\_\_ No  X  If "Yes" what charges?  N/A

Where convicted? \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

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

Yes \_\_\_\_\_ No  X  If "Yes" what charges?  N/A

Where convicted? \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

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

No.

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

No.



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

No.

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

No.

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

No.

**38. Have you ever been a party to a lawsuit either as a plaintiff or as a defendant? If so, please supply the jurisdiction/county in which the lawsuit was filed, style, case number, nature of the lawsuit, whether you were Plaintiff or Defendant and its disposition.**

I was the Respondent in dissolution proceedings filed on November 29, 2012 in Brevard County, Florida, Case No. 05-2012-DR-064506. Prior to a response being filed, the case was abated because of efforts toward reconciliation, and the case was voluntarily dismissed on February 4, 2013.

I was listed as a named defendant, along with my prior firm, Dean Mead, P.A., in Ditech Financial v. Peter W. Jones, et. al., Case No. 05-2016-CA-21443, 18<sup>th</sup> Judicial Circuit, Brevard County, Florida. This was a foreclosure action involving property of Peter W. Jones. In an abundance of caution, the bank listed me and my firm as defendants with a possible interest in the property because of a fee order from the guardianship proceedings that was found in the public records (ORB 7510/Page 1784). The fees were timely paid by the Guardian and not intended to serve as a lien on the property.

In May 2019, I was named as a Defendant in Case No. 05-2019-CA-29541-XXXX-XX, along with another Judge, Assistant State Attorney and Assistant Public Defender involved in the Plaintiff's criminal case. The Plaintiff made various allegations regarding his bond, sentence, handling of his case, etc. An Order Dismissing the Complaint with Prejudice was issued on September 17, 2019 after the Court found that "the Complaint failed to state a claim of relief for each cause raised."

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

No.

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

No, not to my knowledge.

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

No.

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

No.

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

Yes  No  If no, please explain. \_\_\_\_\_

43b. Have you ever paid a tax penalty?

Yes  No  If yes, please explain what and why. \_\_\_\_\_

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

No.

## HONORS AND PUBLICATIONS

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

I have not published any books or articles on substantive legal issues, but I have authored the following articles in the Florida Today, the Florida Bar Journal, and the BCBA newsletters:

- *Get to Know Florida's Revised LLC Laws*, Florida Today (November 4, 2014)
- *Moms Who 'Have it All' Work for Balance*, Florida Today (February 18, 2014)
- *Bar Leadership Conference*, The Florida Bar News (July 1, 2013)
- *Voluntary Bar Liaison Committee Annual Report*, The Florida Bar Journal, Volume 87, No. 6, p.78-80 (June 2013)
- *BCBA Fall CLE: A View from the Bench, E-Service, E-Filing & E-Discovery, and Protecting Your Record on Appeal*, The Ex Parte (Dec. 2012/Jan. 2013)
- *Member Spotlight*, The Ex Parte (Nov. 2012)

**45. List any honors, prizes, or awards you have received. Give dates.**

- “*Women Making a Difference*” Award Recipient, American Business Women’s Association (ABWA), Oceanside Chapter (April 23, 2019)
- “*Recognition for Service as 18<sup>th</sup> Circuit Representative*”, Conference of County Court Judges of Florida, presented by Chief Justice Charles T. Canady (July 2018)
- “*Featured Business Women*”, Space Coast Business Magazine (March 1, 2017)
- “*2016 Excellence in Leadership*” Nominee/Honoree, Women’s History Month Awards Luncheon, weVENTURE f/k/a Women’s Business Center at Florida Institute of Technology (March 2016)
- “*Outstanding Service as Board Chair*”, weVENTURE f/k/a Women’s Business Center at Florida Institute of Technology (August 2015)
- “*Board Member of the Year*”, Brevard County Bar Association (July 2015)
- *Featured Mother, “It’s Always Spring in a Mother’s Heart,”* Space Coast Living Magazine (April 28, 2015)
- *Featured in “Look Who’s Talking” Series*, Florida Today (September 9, 2014)
- “*Recognition for Service as Director*”, Brevard County Bar Association (July 2014 and July 2013)
- “*4 Under 40*” Leadership Award Recipient, LEAD Brevard (February 2014)
- “*Best Team Presentation*”, Vassar B. Carlton American Inns of Court (May 2013)
- “*Recognition for Service as Secretary*”, Brevard County Association for Women Lawyers (June 2012)
- “*Recognition for Service as Director*”, Brevard County Association for Women Lawyers (June 2011)
- “*Woman of Excellence*” Nominee/Honoree, Melbourne Regional Chamber of Commerce of East Central Florida (2011)

\*See Paragraph 18b for honors and awards prior to legal practice.

**46. List and describe any speeches or lectures you have given.**

- “*Work-Life Balance*”, Key Note Speaker for American Business Women’s Association (ABWA), Oceanside Chapter 2019 “Women Making A Difference” award banquet (April 23, 2019)
- “*Road to the Bench*”, Speaker at the Junior League of South Brevard’s Florida SPAC Summer Conference (July 8, 2017)
- “*Teaching Girls to be Brave*”, Key Note Speaker for the Women of Excellence, Melbourne Regional Chamber of East Central Florida, 2017 Gala (April 18, 2017)
- “*The Importance of Estate Planning Documents*”, Guest Lecturer for Personal Financial Planning Course, College of Business, Florida Institute of Technology (March 28, 2016)
- “*Top 10 Mistakes in Estate Planning and Tips to Avoid Litigation*”, Co-Presenter with Robert J. Naberhaus III, Dean Mead, P.A. (December 9, 2015)
- “*JA Our Region*”, Classroom Lecturer for Junior Achievement, Suntree Elementary (November 4, 2015)
- “*The Legal Profession...Admissions to Practice*”, Panelist, Florida Institute of Technology (November 10, 2014)
- “*Women Who Wear Many Hats*”, Speaker, American Business Women’s Association (ABWA), Oceanside Chapter (October 2014)

- *Business & Community Roundtable with Attorney General Pam Bondi*, Business Leader Panelist, Melbourne Regional Chamber of Commerce & Florida Institute of Technology (September 19, 2014)
- *“Leadership: Confidence + Humility = Greatness”*, Panelist, IMPACT Business & Leadership Summit (August 8, 2014)
- *“Juniors to Jobs”*, Panelist/Speaker, CareerSource Brevard (July 2014)
- *“Work-Life Balance”*, Panelist, Brevard County Association for Women Lawyers (11/8/13)
- *“Issues Affecting Voluntary Bar Associations in the 5<sup>th</sup> DCA”*, Panelist, Voluntary Bar Leaders Conference, Clearwater, FL (July 2013)
- *Florida Bar Initiative for 2012-2013*, Speaker, Voluntary Bar Leaders Conference (July 2012)
- *“Legal Considerations for Caregivers: Powers of Attorney, Health Care Surrogates, and Guardianships”*, Speaker, Ascension Catholic Church Caregivers Seminar (May 2012)
- *Justice Teaching Presentation*, Felix A. Williams Elementary School, Stuart, FL (2007)
- *Justice Teaching Presentation*, Jensen Beach High School, Jensen Beach, FL (2007)

*\*See Paragraph 49b below for listing of lectures provided through teaching Business Law at Florida Atlantic University (Aug. 2007 - Dec. 08)*

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

#### PROFESSIONAL AND OTHER ACTIVITIES

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

*[listed in alphabetical order]*

##### Brevard County Association for Women Lawyers

- Member (July 2010 – June 2014)
- Secretary & FAWL Representative (July 2011 - June 2012)
- Director (July 2010 - June 2011)

##### Brevard County Bar Association

- Member (January 2010 - Present)
- Secretary (July 2015 – June 2016)
- Director (July 2012 – June 2016)
  - Sponsorship Committee (July 2012 - June 2013)
  - CLE Committee (July 2012 – June 2016)

Conference of County Court Judges of Florida

- Board of Directors, 18<sup>th</sup> Circuit Representative (July 2017 – December 2018)
- Criminal Rules Committee (July 2017 – December 2018)
- Legislative Committee (July 2018 – December 2018)
- Specialty Courts Committee (July 2018 – December 2018)
- Sentencing Committee (July 2017 - December 2018)

Federalist Society

- Member (2017 - Present)

Florida Association for Women Lawyers

- Member (July 2010 – June 2014)
- Chapter Representative (July 2011 - June 2012)
- Membership Advancement & Promotion Committee (July 2011 - June 2012)
- Communications Committee (July 2011 - June 2012)
- Legislative Committee (July 2011 - June 2012)

Florida Bar

- Member (April 2001 - Present)
- Probate Rules Committee (July 2013 - June 2016)
- Voluntary Bar Liaison Committee (July 2010 - June 2013)
  - *Chair* (July 2012 - June 2013)
- Real Property, Probate & Trust Law Section Member (July 2006 – June 2017)

Florida Supreme Court Justice Teaching Program

- Trained volunteer (since 2007)

Martin County Bar Association

- Member (July 2003 - June 2010)
  - Probate, Trust, Real Estate, Property Law Committee (July 2006 - June 2010)

Vassar B. Carlton American Inns of Court

- Master (July 2016 – Present)
  - Assigned Team Mentor (July 2019 - Present)
- Barrister (July 2010 - May 2013)

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

*[listed in alphabetical order]*

Brevard Cultural Alliance

- Board of Directors (March 2012 – Dec. 2016)
  - Executive Committee, *Treasurer* (Jan. 2014 – Dec. 2016)
  - Executive Committee, *Vice Chair* (Jan. 2013 – Dec. 2014)

- Education and Community Arts Strategic Priority Group, *Chair* (Jan. 2013 – Dec. 2014)
- Executive Committee, *Legal* (March 2012 - Dec. 2012)

Catholic Lawyers Guild, Orlando Diocese

- A Founding Member (2014)
- Director (2014-2015)

Economic Development Commission of Florida's Space Coast

- Board of Directors, *Ex Officio* (Feb. 2014 – Jan. 2015)

Girl Scouts of America

- Member/Parent Volunteer of Citrus Council (2014-2018)

Guardian Ad Litem Program, State of Florida

- 18<sup>th</sup> Judicial Circuit, Fostering Independence Program, *GAL Volunteer* (Jan. 2010 - 2014)
- 8<sup>th</sup> Judicial Circuit, *GAL Volunteer* (1998 - 2000)

Junior Achievement of Florida's Space Coast

- Volunteer Classroom Presenter (Oct. 2015-Dec. 2016)

King Center for the Performing Arts

- Board of Directors (June 2015 - Dec. 2016)

March of Dimes

- Signature Chefs Auction, *Chair* (2015)

Shirley E. Noland Foundation, Inc.

- Registered Agent (April 2010 - Dec. 2016)

St. Gianna's Center for Women's Health

- Board of Directors (Jan. 2011 - Dec. 2012)

Sunshine Wildlife Tours, Inc.

- Secretary/Treasurer (Feb. 2008 - Dec. 2009)

The Haven for Children

- Board of Directors (July 2014 – June 2016)
  - Executive Committee, *Vice President* (July 2015 – June 2016)
  - Governance Committee (July 2014 – June 2016)

Women's Business Center, Florida Institute of Technology

- Board of Directors (Oct. 2011 – Dec. 2016)
- Executive Board, *Past Chair* (Oct. 2015 – Dec. 2016)
- Executive Board, *Chair* (Oct. 2014 – Sept. 2015)
- Executive Board, *Vice Chair* (Oct. 2013 – Sept. 2014)

- Executive Board, *Secretary* (Oct. 2012 – Sept. 2013)
- Mentor, Ignite 360\* Business Mentoring Program (Oct. 2012 – Dec. 2016)

**48c. List your hobbies or other vocational interests.**

Spending time with family, cooking, boating, listening to and studying music, home improvement projects

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

No.

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

On April 12, 2001, I received a certificate of recognition from the University of Florida College of Law for performing pro bono legal work as a certified legal intern with the State Attorney's Office of the 8<sup>th</sup> Judicial Circuit. From 2007 through 2010, I was registered with the Court of the 19<sup>th</sup> Judicial Circuit to accept pro bono cases in foreclosure proceedings involving properties whose record owners were deceased. I was typically appointed to represent the interests of unknown beneficiaries of the decedent's estate. From 2012-2016, I was registered with the 18<sup>th</sup> Judicial Circuit to accept appointments to represent indigent wards in guardianship proceedings. Although I was permitted to submit for payment in the amount of \$400 from the JAC for these cases, I chose to take on representation on a pro bono basis. I have also handled cases for clients who, although not qualifying for indigent status, would have not been able to complete the litigation process had fees not been waived by me through my private practice.

**SUPPLEMENTAL INFORMATION**

**49a. Have you attended any continuing legal education programs during that past five years? If so, in which substantive areas?**

Continuing Judicial Education

Fairness and Diversity Summit (December 2019)

- Hosted by the 10<sup>th</sup> Judicial Circuit

Florida Judicial College, Family/Domestic Relations Track (March 2019)

- Family Law Fundamentals; Jurisdiction and Defaults; Equitable Distribution; Parentage; Case Management; Art of Judging; Parenting; Child Support; Temporary and Emergency Hearings; UFC Guiding Principles & ACES/Alimony; Modifications; Mental Health, Trauma, Psychological Issues; Relocations; Discovery; Evidence; Name Changes; Adoptions; Contempt & Enforcement; Attorney's Fees; Drafting Orders & Judgments; Self-Represented Litigants

CCCJF Summer Conference, County Criminal Education Track (July 2018)

- Legislative Update; Emerging Issues in Interpersonal Violence; Pre-Trial Motions; Criminal Law Update; Expert Issues in Criminal Court; Issues involving Drones and Cell Phones; Evolving Role of the Courts; Ethics

Advanced Judicial Studies, Criminal Education Track (May 2018)

- Violations of Probation; Mastering the Mechanics and Anatomy of a Criminal Case

Florida Judicial Institute on Interpersonal Violence (FIIV) (Feb. 2018)

- Injunctions for Protection against Domestic Violence, Repeat Violence, Dating Violence, Sexual Violence and Stalking

CCCJF Summer Conference, Criminal Education Track (July 2017)

- Legislative Update; Crisis Intervention (ethics); Immigration Issues; Criminal Law Update; Seizures and Frisks of People and Property; Mental Competency; Fines, Fees and Due Process; Ethics Opinions Update

Florida Judicial College – Phase II (March 2017)

- County Criminal Education Track

Florida Judicial College – Phase I (Jan. 2017)

- County Criminal Education Track

DUI Adjudication Lab (Nov. 2016)

- Focused on issues involved in driving under the influence cases from start to finish

Continuing Legal Education:

“Guardianships in Florida: Adventures in Wonderland” (March 2016)

“Brevard County Bar Association Fall CLE” (Oct. 2015)

- General, Ethics

“Annual RPPTL Legislative & Case Law Update Seminar” (2013, 2014, 2015, 2016)

- Wills, Trusts & Estates (planning, administration & litigation), Probate & Guardianship, Elder Law, Real Estate, Construction Law, Ethics

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

Adjunct Professor, Florida Atlantic University, Jupiter Campus

- Business Law (Fall 2007)
- Business Law (Spring 2008)
- Business Law (Fall 2008)

Taught in the substantive areas of Business Ethics, U.S. Legal System, Alternative Dispute Resolution, International and Comparative Law, Crime and the Business



Community, Tort Law, Negligence and Strict Liability, Product Liability, Intellectual Property, Contracts, Warranties, Secured Transactions, Creditors' Remedies and Suretyship, and Bankruptcy and Reorganization

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

While still in private practice, I was a member of the Florida Bar's Probate Rules Committee. That experience helped shape my judicial philosophy, specifically as it relates to the interpretation of statutes enacted by the Legislature. As a part of the Committee, I assisted in analyzing the Rules to ensure that they were consistent with the statutes and with the other rules of court. This required an understanding that every word in a statute has a purpose, and when interpreting a statute, one must look to the text itself and consider the ordinary meaning of the words in their proper context. This is particularly important for judges to understand when applying statutes to the issues before them. It requires an understanding of the separation of powers and an appreciation that it is the role of the judiciary to say what the law is, not what it should be. It is not the role of a judge to legislate from the bench. Having served as a judge for the past three years, I fully appreciate the importance of those fundamental concepts and the importance of exercising judicial restraint consistent with those concepts.

Over the past three years as a judge, I have experienced how important it is to effectively and efficiently manage high-volume dockets. As a County Court Judge, I was assigned to a division with a heavy docket which seemed to be backlogged with hearings and trials. I started to look at other divisions to determine what practices I believed were effective, and I determined which of those should be implemented in my courtroom. I was able to improve the numbers in my division, and I was able to move the cases on my docket while still affording defendants with the ability to exercise their right to trial. As an Acting Circuit Judge presiding over cases in the Family Division, I have been managing a very large case load and fully understand that effective and efficient case management is a necessity. I believe my experience thus far will greatly assist me in successfully managing a docket in any division to which I am assigned.

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

I've always had a tremendous amount of respect for those judges who work hard, those who are prepared, and those who maintain a level of professionalism from the bench in the toughest situations. As a judge, I have tried to model myself after the judges I believe embody those qualities. I have also tried to approach each situation with patience, humility and an understanding that my decisions impact the lives of those appearing in front of me. I believe it is very important for litigants and their attorneys to not only be heard, but to also feel like they have been heard. It is equally as important to maintain control of the proceedings and to be firm and decisive in making decisions. This is not always easy when dealing with emotionally charged situations, so it is very important to have an appropriate temperament when serving as a judge. I have been told that people appreciate my temperament and overall demeanor, and I take great pride in that. If appointed to the position, I will continue to work hard, exercise judgment with humility, and most importantly, follow the law.

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

Applications to the 18<sup>th</sup> Judicial Circuit Nominating Commission:

- 6/26/13 - Seeking nomination for appointment to the Circuit Court
- 10/11/13 - Seeking nomination for appointment to the County Court  
*(name on short list)*
- 12/1/15 - Seeking nomination for appointment to the Circuit Court  
*(name on short list)*
- 4/5/16 - Seeking nomination for appointment to the County Court  
*(appointed by Governor Rick Scott)*
- 9/20/18 – Seeking nomination for appointment to the Circuit Court  
*(name on short list)*
- 4/3/19 – Seeking nomination for appointment to the Circuit Court  
*(name of short list)*

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

I understand the role that the judiciary plays in our system of government. It is not the job of a judge to say what the law should be or to bend the law to achieve a desired result. Instead, a judge must follow the law as written by the Legislature. I take great pride in what I do, and if appointed to fill this Circuit vacancy, I will continue to work hard to make sure that I am serving the public in a way that is expected of a member of the judiciary.

## REFERENCES

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

Hon. Phil Archer, Esq.

[Redacted]

Hon. Lisa Davidson

[Redacted]

Peter M. Dunbar, Esq.

[Redacted]

Gregory P. Durham, Esq.

[REDACTED]

Hon. John M. Harris

[REDACTED]

Hon. Sheriff Wayne Ivey

[REDACTED]

Patrick Kilbane, Esq.

[REDACTED]

Gregory J. Konieczka, Esq.

[REDACTED]

Hon. Jennifer Taylor

[REDACTED]

Hon. Elizabeth A. Metzger

[REDACTED]

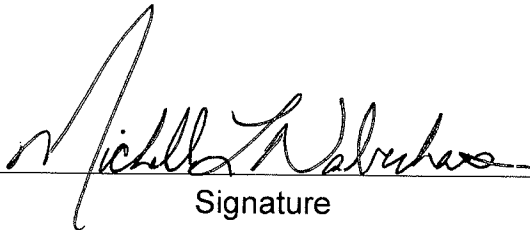
## CERTIFICATE

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(l), 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 30<sup>th</sup> day of January, 2020.

Michelle L. Naberhaus  
Printed Name

  
Signature

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