

Judicial Application

of

***Spencer Stratton Hathaway***

for

Volusia County Court Judge, Group 05

September 14, 2020



## APPLICATION FOR NOMINATION TO THE VOLUSIA COUNTY COURT

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

Full Name: **Spencer Stratton Hathaway**

Social Security No.: [REDACTED]

Florida Bar No.: **91462**

Date Admitted to Practice in Florida: **09/26/2011**

Cell Phone No.: [REDACTED]

E-Mail: **Spencer.Hathaway@Gmail.com**

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

**Managing Assistant State Attorney, Office of Seventh Circuit State Attorney R.J. Larizza, 251 N. Ridgewood Avenue, Daytona Beach, Florida 32114, 386-239-7710.**

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

[REDACTED]  
**(3 years), lifetime resident of the State of Florida.** [REDACTED]

3. State your birthdate and place of birth.

**August 24, 1987 – Halifax Hospital, Daytona Beach, Florida.**

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

**Yes.**

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

**All State of Florida courts – 9/26/2011.**

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

**No.**

## EDUCATION:

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

**Stetson University College of Law – J.D. – Jan '09 - May '11 – 3.04 GPA, 113/226 class rank**

**Flagler College – Bachelor's Degree – Aug. '05 – Dec. '08 – 3.55 GPA – *cum laude***

**New Smyrna Beach High School – Aug. '01 - May '05 – 3.92 GPA, top 10% - *summa cum laude***

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

**Stetson University College of Law – Stetson Law Republicans**

**Flagler College – Student Judiciary Council (Vice Chair), College Disciplinary Committee, Interclub Council (Vice President), College Intramural Program (Head of Officiating/Sports rules)**

## EMPLOYMENT:

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

**Managing Assistant State Attorney/Public Information Officer – Dec. 2017 to present**  
251 N. Ridgewood Avenue, Daytona Beach, FL 32114 – 386-239-7710

**Owner/Operator – Spencer S. Hathaway, PLLC (Of Counsel to William F. Hathaway, PA)**  
**Feb 2017 – Nov. 2017**

500 Canal Street, New Smyrna Beach, FL 32168 – 386-423-5504

**Assistant State Attorney/Public Information Officer – July 2012 – Feb 2017**

251 N. Ridgewood Avenue, Daytona Beach, FL 32114 – 386-239-7710

**Associate Attorney - Mark R. Hall, P.A. – Sept. 2011 – July 2012**

124 Faulkner Street, New Smyrna Beach, FL 32168 – 386-423-1221

**Certified Legal Intern – City of St. Petersburg Legal Department – May 2010 – July 2010**

1 Fourth Street N., St. Petersburg, FL 33701

**Sales Clerk – Pepperidge Farm Outlet – June 2008 – Dec. 2008**

2700 SR 16 #307B, St. Augustine, FL 32092

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

**Currently, I serve the State Attorney as a Managing Assistant State Attorney for the East Side of Volusia County. I supervise 12 attorneys and 6 staff directly and serve as Public Information Officer for Volusia County. Prior to this, I was a criminal defense, family, and local government attorney. I have also represented clients in civil litigation, probate, landlord/tenant, small claims, and served as a special magistrate.**

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

	Court		Area of Practice	
Federal Appellate	<u>0</u>	%	Civil	<u>5</u> %
Federal Trial	<u>0</u>	%	Criminal	<u>70</u> %
Federal Other	<u>0</u>	%	Family	<u>23</u> %
State Appellate	<u>1</u>	%	Probate	<u>2</u> %
State Trial	<u>99</u>	%	Other	<u>0</u> %
State Administrative	<u>0</u>	%		
State Other	<u>0</u>	%		
TOTAL	<u>  </u>	<u>100</u> %	TOTAL	<u>  </u> <u>100</u> %

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

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

Jury?	<u>30+</u>	Non-jury?	<u>30+</u>
Arbitration?	<u>0</u>	Administrative Bodies?	<u>2-5</u>
Appellate?	<u>2-5</u>		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

**The appellate cases that involve our office are generally handled by the Attorney General's Office.**

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

No.

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

No.

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

**State of Florida vs. Lamont Postell – 2016 300666 CFDB**

Judge James Clayton, Defense Attorneys Joan Anthony (386-257-0505, [lawofficeofjoan@bellsouth.net](mailto:lawofficeofjoan@bellsouth.net)) and Johnny McCray (954-781-3662, [jmccray\\_400@comcast.net](mailto:jmccray_400@comcast.net))  
Assistant State Attorney Andrew Urbanak (386-239-7710, [urbanaka@sao7.org](mailto:urbanaka@sao7.org)), co-chair

**State of Florida vs. Travis Archer – 2017 301837 CFDB**

Judge Sandra Upchurch, Defense Attorney Aaron Delgado (386-222-6677, [adelgado@communitylawfirm.com](mailto:adelgado@communitylawfirm.com))  
Assistant State Attorney Bryan Shorstein, co-chair

**State of Florida vs. Robert Litzenberger – 2011 031879 CFDB**

Judge Leah Case, Defense Attorney Bryan Park (deceased)  
Assistant State Attorney John Reid (386-239-7710, [reidj@sao7.org](mailto:reidj@sao7.org)) co-chair

**State of Florida vs. Eduardo Martinez – 2013 304971 CFDB**

Judge Frank Marriott, Defense Attorney Christopher Jones (352-377-7800, [christopherj@lawfl.net](mailto:christopherj@lawfl.net))

Assistant State Attorney John Reid, co-chair

**State of Florida vs. Tolga Miran – 2013 304006 CFDB**

Judge Leah Case, Defense Attorney Matthew Metz (386-239-7730, [metz.matthew@pd7.org](mailto:metz.matthew@pd7.org)) and Defense Attorney Brian Cantrell (386-257-0606, [brian@buckmasterellzey.com](mailto:brian@buckmasterellzey.com))

Assistant State Attorney Mike Willard, co-chair

**State of Florida vs. Rasheem Williams – 2013 303729 CFDB**

Judge R. Michael Hutcheson, Defense Attorney Scott Swain (386-673-0373, [sswain43@hotmail.com](mailto:sswain43@hotmail.com))

Hon. Judge Chris Miller (formerly ASA Chris Miller), co-chair

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

**2020-301284-MMDB SOF v. Merchant – Flem K. Whited, III, 386-253-7865**

**2020-305148-MMDB SOF v. Schilsky – James C. Peterson, Esq., 386-428-2464**

**2020-301125-MMDB SOF v. Milewski – Larry Avallone, Esq., 386-682-9235**

**2018-309269-MMDB SOF v. Beede – Larry Avallone, Esq., 386-682-9235**

**2018-307733-MMDB SOF v. Upchurch – Aaron Delgado, Esq., 386-222-6677**

**2018-304803-MMDB SOF v. Stansbury – John Tanner, Esq., 386-239-8991**

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

**Recently, my court appearance has been limited to a few times a month as I work as a supervising attorney. Prior to my hiring as a Managing Assistant State Attorney, I was in court daily - as both a private attorney and a prosecutor.**

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

N/A

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

N/A

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

**State of Florida vs. Lamont Postell – 2016 300666 CFDB**

**Judge James Clayton, Defense Attorneys Joan Anthony (386-257-0505, [lawofficeofjoan@bellsouth.net](mailto:lawofficeofjoan@bellsouth.net) and Johnny McCray (954-781-3662, [jmccray\\_400@comcast.net](mailto:jmccray_400@comcast.net))**

**ASA Andrew Urbanak (386-239-7710, [urbanaka@sao7.org](mailto:urbanaka@sao7.org)), co-chair**

*This case was the first murder case I participated in a trial setting. Working with the family of the Victim, and some of the finest attorneys on both sides was a highlight of my career. This case have a plethora of evidence to be entered, involved a number of complex experts testifying, and was very emotionally charged. Even with these significant factors, this was easily the smoothest-run trial I have ever had the privilege to work on. It was extremely personally and professionally impactful at the conclusion of the trial to be embraced by the family of the victim. It is a memory I will carry with me forever.*

**State of Florida vs. Rasheem Williams – 2013 303729 CFDB**

**Judge R. Michael Hutcheson, Defense Attorney Scott Swain (386-673-0373, [sswain43@hotmail.com](mailto:sswain43@hotmail.com))**

**Hon. Judge Chris Miller (formerly ASA Chris Miller), co-chair**

*This case was one of my first felony trial cases. I prosecuted Mr. Williams who was accused of committing domestic battery, false imprisonment, and witness tampering with his longtime girlfriend. The case involved a history of DV abuse allegations and was one of four open cases involving Mr. Williams and the victim. It was a privilege to litigate against Assistant Public Defender Scott Swain, who was one of the public defenders assigned to the Hutcheson docket at the time. This trial was especially meaningful to me because I sat with the victim in my office prior to jury selection. I will never forget the words she spoke to me going into the courtroom, "if you lose this case, he is going to kill me." After a hard-fought trial, I was successful in the prosecution.*

**State of Florida vs. Tolga Miran – 2013 304006 CFDB**

**Judge Leah Case, Defense Attorney Matthew Metz (386-239-7730, [metz.matthew@pd7.org](mailto:metz.matthew@pd7.org)) and Defense Attorney Brian Cantrell (386-257-0606, [brian@buckmasterellzey.com](mailto:brian@buckmasterellzey.com))**

**Assistant State Attorney Mike Willard, co-chair**



*I tried this case alongside ASA Mike Willard against two very talented defense attorneys Matthew Metz and Brian Cantrell. This case was in the newspaper as “the death kit” defendant. I assisted ASA Mike Willard in successfully arguing for 30 years in prison for Mr. Miran. Miran had traveled from Lehigh Acres with a cooler full of chilling items: a knife, rope, a gun, bleach, a ski mask, gloves, etc. to Daytona Beach where his ex-wife was living. It was the State’s theory that Mr. Miran had come to Daytona to murder his ex-wife. It was extremely meaningful to make justice a reality for the victim in this case.*

**State of Florida v. Miller – 2017-303510 CFDB**

**Judge Terence Perkins, Assistant State Attorneys Sam Moore ([sjmoore@florida-law.com](mailto:sjmoore@florida-law.com), 904-296-6751), Andrew Urbanak ([UrbanakA@sao7.org](mailto:UrbanakA@sao7.org), 386-239-7710).**

*I represented the defendant in this case who was accused of brandishing a firearm and threatening a former employer. My client was charged with Aggravated Assault with a Firearm, a third-degree felony. After additional investigation on my client’s behalf, including interviewing witnesses, and reviewing all evidence, I prepared a mitigation packet on his behalf. He was a combat-wounded war veteran who served with distinction in the Global War on Terror. It was my privilege to represent my client free of charge on this case. After a total review of the entire case, I was able to orchestrate a negotiated plea to a second-degree misdemeanor with assistance from the VA. I was very impressed both with the professionalism and courtesy shown to my client by the prosecutors, the judge, and the case workers during this process. It meant a great deal to have a client hug my neck in appreciation.*

**State of Florida v. Decker – 2013-306856 CFDB**

**Judge Leah R. Case, Defense Attorney David Damore (386-281-5454, [david@daviddamorelaw.com](mailto:david@daviddamorelaw.com))**

*This case involved a then 18-year-old defendant allegedly shining a light at the Volusia County Sheriff’s helicopter – an extremely dangerous activity. After discussing the case with the pilot and members of the Sheriff’s Office, I investigated the defendant’s background. Barely an adult at the time, the defendant had no criminal history and was genuinely remorseful for the crime. After negotiating a tough but fair pretrial intervention agreement, I filed the dismissal on the charges and moved on with my career. Seven years after I resolved this case as a felony prosecutor, the mother of the defendant reached out to me via social media. She wanted to tell me that her son is now a very successful EMT serving our community in a positive way. She thanked me for my professionalism, my thoughtfulness, and my consideration of her son’s case. It was a reminder of how rewarding and important our chosen profession truly is.*

**State of Florida v. Zanghi – 16-00811-CFFA**

**Judge Terence R. Perkins, Prosecutor Mark A. Lewis ([LewisM@SAO7.org](mailto:LewisM@SAO7.org), 904-209-1620)**

*This case was an extremely difficult case for me as a defense attorney. In a case involving allegations of a potential punishable by life felony (burglary with an assault or battery) and a very young client, the representation provided personal, emotional, and legal hardships. We were able to negotiate an extremely fair resolution considering the potential charges and exposure our client faced. As we prepared for a potential trial, I was able to come full circle as an attorney and see the trial process from both sides. Ultimately, the case resolved in a plea, and we did not have a trial, but I was privileged to work with ASA Mark Lewis and my uncle and law partner William F. Hathaway in this case.*

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

**See attached Exhibit "A" for "State's Motion to Correct Sentencing Error," a copy of the DUI Early Resolution Program Agreement, a copy of the Early Resolution Deferred Prosecution Agreement, and a copy of the GLAD (Getting Licensed Again to Drive) agreement.**

### **PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE**

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

**No.**

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

**No.**

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

**City of Edgewater, Florida – Special Magistrate – 2017 – Code enforcement/municipal ordinance violations**

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

- (i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;
- (ii) the approximate number and nature of the cases you handled during your tenure;
- (iii) the citations of any published opinions; and
- (iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

**The majority of my decision were made in code violations where attorneys did not appear. The City of Edgewater was represented by code enforcement officers presenting the cases with the alleged violator appearing on their own behalf. I served in this capacity**

**for approximately 6 months and heard approximately 50 cases. The most significant case I heard involved a bank-owned home that was in non-compliance with the code and I ordered the demolition of the house due to it being a public nuisance.**

**Code Enforcement Director Jeff Lariscy – (386) 690-3314**

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

N/A

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

N/A

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

N/A

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

N/A

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

**I was a candidate for Seventh Circuit Public Defender from March 2019 – March 2020. I withdrew from the race prior to qualifying.**

#### **NON-LEGAL BUSINESS INVOLVEMENT**

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your

duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

No.

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

No.

#### **POSSIBLE BIAS OR PREJUDICE**

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

**There are no cases that would be difficult for me to sit as the presiding judge.**

#### **PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES**

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

**I have served as a campaign consultant on a number of political campaigns and took a number of positions publicly as a candidate for public defender. These positions are not published in any location that I am able to locate. Further, as Public Information Officer for the State Attorney's Office, I have written and released hundreds of press releases on behalf of the Office of the State Attorney.**

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

N/A

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-

answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

**Referring back to question 35, I have served as a campaign consultant on a number of political campaigns and took a number of positions publicly as a candidate for public defender. These positions are not published in any location that I am able to locate. Further, as Public Information Officer for the State Attorney's Office, I have written and released hundreds of press releases on behalf of the Office of the State Attorney.**

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

**I have served as a guest lecturer to the Volusia County Bar Association on depositions (2017), presented Florida Law Weekly to the Office of State Attorney on a number of occasions, and served as Training Coordinator for new hires at our office on and off since 2013. I have also guest-lectured at Flagler College in the pre-law department (not full courses) and helped advise the Trial Team on and off for the last several years.**

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

**Law Enforcement Community Service Award, April 2019, Allen Chapel A.M.E Church  
Daytona Beach News Journal's 40 under 40 – 2020 Honoree  
"World's Best Dad" – awarded from my daughter, Stratton, March 3, 2019**

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

**N/A – the majority of my career has been in government service.**

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

**Member of the Volusia County Bar Association – 2011 – present. Member of the Board of Directors – October 2016 – 2019.  
Member of the Florida Association of Criminal Defense Lawyers – 2017**

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

**Volusia County Teen Court** – February 2012 to present

-Volunteer Judge – February 2012 to present

**Volusia County DUI Court Team Member** – January 2012 to September 2013, December 2017 to present

**Daytona Beach Young Professionals Group** – January 2012 to January 2017

**Volusia County Bar Association** – September 2011 to present

-Board of Directors – October 2016 to June 2019

**Tiger Bay Club of Volusia County** – March 2015 to January 2017

-Board of Directors – January 2016 to January 2017

**NSB Community and Alumni Providing Scholarships** - June 2015 to November 2017

-Board of Directors – June 2015 to November 2017

**City of Edgewater Special Magistrate and Code Enforcement Board Advisor** – June 2017 to November 2017

**Southeast Volusia Chamber of Commerce** – June 2017 to November 2017

**Florida Association of Criminal Defense Lawyers, Volusia Chapter** – February 2017 to November 2017

**Daytona Beach Quarterback Club** – August 2017 to present

**Crime Stoppers of NE Florida** – January 2019 to present

-Board of Directors – January 2019 to present

-Vice President of Communications – 2019 to present

**Republican Executive Committee of Volusia County** – August 2019 to present

-Deputy Treasurer – September 2020 to present

**Federalist Society of Jacksonville** – 2020 to present

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No.

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

**As a private attorney, I maintained and exceeded my pro bono requirements as put forward by the Florida Bar. As a criminal defense attorney, I took a number of cases pro**

bono.

45. Please describe any hobbies or other vocational interests.

**I enjoy cooking, golfing, and traveling.**

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

N/A

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

<https://www.facebook.com/spencer.s.hathaway>

<https://www.instagram.com/spencershathaway/>

<https://twitter.com/SpenceHathaway>

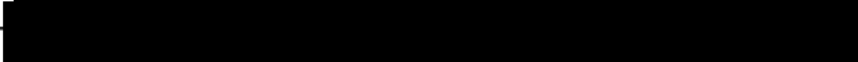
<https://www.linkedin.com/in/spencer-hathaway-b4770017/>

#### **FAMILY BACKGROUND**

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

**I am married to Kayla Rae Hathaway, General Counsel to Flagler County Sheriff Rick Staly. We were married on November 5, 2011.**

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

**I have two daughters -** 

#### **CRIMINAL AND MISCELLANEOUS ACTIONS**

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

**No.**

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style,

date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

**No.**

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

**No.**

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

**No.**

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

**No.**

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

**No.**

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

**No.**

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

**No.**



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

No.

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No.

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

No.

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

**I have always complied with all legally required tax return filings.**

## HEALTH

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

No.

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

No.

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with

extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain.

**No.**

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

**No.**

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

**No.**

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

**No.**

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

**No.**

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

**No.**

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

No.

#### SUPPLEMENTAL INFORMATION

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

**I have dedicated my professional life to my community and to the improvement of the justice system. I have served as a prosecutor, private defense lawyer, court-appointed lawyer, special magistrate, community liaison, and now I am in management at the Seventh Circuit State Attorney's Office. As a member of State Attorney R.J. Larizza's executive team, we discuss every facet of our office's function – from death penalty cases to budgeting and human resources. As a Managing Assistant State Attorney, I oversee the misdemeanor, juvenile, first appearances, and specialty courts divisions. On top of these functions, I also serve as Public Information Officer for the office.**

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

**I've handled every type of case that a Volusia County Court Judge hears. Having appeared in a trial or substantive court hearing in front of every county court judge in Volusia County, my litigation experience is substantial. Further, I spend a great deal of time mentoring and training our misdemeanor division. At the State Attorney's Office, we are learning to handle more cases with fewer resources, adapt to a changing environment due to a global pandemic and changing attitudes towards law enforcement, and embracing criminal justice reform. We've created bold and effective new diversion programs, streamlined how we handle cases, and absorbed some significant adversity in the carrying out of our duties. As far as efficiency and productivity, our Daytona Misdemeanor Division handles over 15,000 cases a year – with 8 lawyers.**

**As a defense attorney, I learned perspective. Practicing with one of my greatest mentors - William F. Hathaway - the criminal justice system became more humanized to me. Shifting focus from prosecuting hundreds of cases at a time to the zealous advocacy on behalf of my clients, I became a more effective litigator, a more experienced advocate, and a more compassionate citizen. In addition to representing my criminal defense and family law clients, I served as a special magistrate for the City of Edgewater – hearing and adjudicating code enforcement violations. Weighing credibility, determining the weight and admissibility of evidence, and ensuring a fair**

and equitable hearing became my sole focus.

During my near-decade of legal experience, I have developed the litigation skills, temperament, perspective, time-management skills, and desire to improve our community necessary to make a quality Volusia County Court Judge. If the Judicial Nominating Committee sees fit to forward my name to the Governor - it would be the honor of a lifetime – but both the Committee and the Governor can be assured that I will work tirelessly to uphold the sanctity of the Seventh Circuit Judiciary through the protection and appropriate interpretations of the laws of the land.

## REFERENCES

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

Name	Address	Phone	Email
<b><u>Hon. R.J. Larizza, State Attorney</u></b>	251 Ridgewood Ave Daytona Beach, FL	386-239-7710	<a href="mailto:LarizzaR@sao7.org">LarizzaR@sao7.org</a>
<b><u>Hon. Bryan Feigenbaum</u></b>	125 E. Orange Ave Daytona Beach, FL	386-248-8136	<a href="mailto:BFeigenbaum@circuit7.org">BFeigenbaum@circuit7.org</a>
<b><u>Hon. Karen A. Foxman</u></b>	101 N. Alabama Ave DeLand, FL	386-626-6590	<a href="mailto:KFoxman@circuit7.org">KFoxman@circuit7.org</a>
<b><u>Hon. Christopher France</u></b>	1769 E. Moody Blvd Bunnell, FL	386-313-4545	<a href="mailto:CFrance@circuit7.org">CFrance@circuit7.org</a>
<b><u>Aaron D. Delgado, Esq.</u></b>	227 Seabreeze Blvd Daytona Beach, FL	386-255-1400	<a href="mailto:ADelgado@communitylawfirm.com">ADelgado@communitylawfirm.com</a>
<b><u>Joan Anthony, Esq.</u></b>	847 Orange Ave Ste E Daytona Beach, FL	386-257-0505	<a href="mailto:lawofficeofjoan@brighthouse.com">lawofficeofjoan@brighthouse.com</a>
<b><u>David R. Smith, Esq.</u></b>	251 Ridgewood Ave Daytona Beach, FL	386-239-7710	<a href="mailto:SmithD@sao7.org">SmithD@sao7.org</a>
<b><u>Hon. Leah R. Case</u></b>	125 E. Orange Ave Daytona Beach, FL	386-257-6071	<a href="mailto:LCase@circuit7.org">LCase@circuit7.org</a>
<b><u>Hon. Robert Sanders</u></b>	101 N. Alabama Ave DeLand, FL	386-239-7710	<a href="mailto:RSanders@circuit7.org">RSanders@circuit7.org</a>
<b><u>Michael Politis, Esq.</u></b>	730 Dunlawton Ave Port Orange, FL	386-333-6613	<a href="mailto:Michael@politislawfirm.com">Michael@politislawfirm.com</a>
<b><u>ASA Patricia Henry</u></b>	101 N. Alabama Ave DeLand, FL	386-822-6400	<a href="mailto:HenryP@sao7.org">HenryP@sao7.org</a>
<b><u>David McCallister, Asst. Chair, School of Emergency Services</u></b>	1770 Technology Blvd Daytona Beach, FL	386-506-4177	<a href="mailto:David.Mccallister@daytonastate.edu">David.Mccallister@daytonastate.edu</a>
<b><u>Adam Leath, Director of Animal Services, Volusia</u></b>	1250 Indian Lake Rd Daytona Beach, FL	386-248-1790	<a href="mailto:ALeath@Volusia.org">ALeath@Volusia.org</a>
<b><u>Khalid Resheidat, City Manager, City of New Smyrna Beach, FL</u></b>	210 Sams Ave New Smyrna Beach, FL	386-410-2600	<a href="mailto:kresheidat@cityofnsb.com">kresheidat@cityofnsb.com</a>

**CERTIFICATE**

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(1), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

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

Dated this 11th day of September, 2020.

Spencer Stratton Hathaway

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.*

## FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

**Current Year-To-Date:** \$59,166.66

**Last Three Years:** \$84,999.96      \$69,666.68      \$67,052

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

**Current Year-To-Date:** \$59,166.66

**Last Three Years:** \$84,999.96      \$69,666.68      \$67,052

3. State the gross amount of income or losses incurred (before deducting expenses or taxes)

**Current Year-To-Date:** n/a

**Last Three Years:** n/a      n/a      n/a

4. State the amount you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

**Current Year-To-Date:** n/a

**Last Three Years:** n/a      n/a      n/a

5. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

**Current Year-To-Date:** n/a

**Last Three Years:** n/a      n/a      n/a

**FORM 6  
FULL AND PUBLIC  
DISCLOSURE OF  
FINANCIAL INTEREST**

**PART A – NET WORTH**

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of Sept. 11, 2020 was \$47,851.06\_\_.

**PART B - ASSETS**

**HOUSEHOLD GOODS AND PERSONAL EFFECTS:**

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ 35,000\_\_\_\_\_.

**ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:**

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)

VALUE OF ASSET

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
[REDACTED]	\$300,000
SunTrust Accounts	\$28,905
SARSEP – Equitable	\$9,691.71
Florida Retirement plans	\$55,850.46
ComputerShare Brokerage	\$8,287.57
TD Ameritrade Brokerage/Robinhood Brokerage	\$3,354
2018 Chrysler Pacifica	\$25,000
2016 Hyundai Sonata	\$14,000

**PART C - LIABILITIES**

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
SLS Specialized Loan Servicing – Home Mortgage [REDACTED]	\$214,027.45
FedLoan Servicing – Student Loans	\$199,554.43
Ally Bank – Auto Loan – 2018 Chrysler Pacifica	\$18,655.80

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

--	--

**PART D - INCOME**

You may **EITHER** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, **OR** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.  
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

**PRIMARY SOURCE OF INCOME (See instructions on page 5):**

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
State of Florida	200 E. Gaines St., Tallahassee, FL	\$95,000

**SECONDARY SOURCES OF INCOME** [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

**PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]**

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

**OATH**

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

**STATE OF FLORIDA**

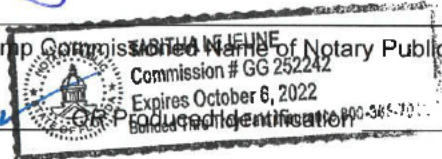
**COUNTY OF** Volusia

Sworn to (or affirmed) and subscribed before me this 11 day of Sept, 2020 by \_\_\_\_\_

*[Handwritten Signature]*

(Signature of Notary Public—State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)



Personally Known

Type of Identification Produced \_\_\_\_\_

*[Handwritten Signature]*  
SIGNATURE



## INSTRUCTIONS FOR COMPLETING FORM 6:

**PUBLIC RECORD:** The disclosure form and everything attached to it is a public record. Your Social Security Number is not required and you should redact it from any documents you file. If you are an active or former officer or employee listed in Section 119.071(4)(d), F.S., whose home address is exempt from disclosure, the Commission is required to maintain the confidentiality of your home address if you submit a written request for confidentiality.

### PART A – NET WORTH

Report your net worth as of December 31 or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

- form;
- (1) The aggregate value of household goods and personal effects, as reported in Part B of this form;
  - (2) The value of all assets worth over \$1,000, as reported in Part B; and
  - (3) The total value of any assets worth less than \$1,000 that were not reported or included in the category of “household goods and personal effects.”

To total the amount of your liabilities, add:

- (1) The total amount of each liability you reported in Part C of this form, except for any amounts listed in the “joint and several liabilities not reported above” portion; and,
- (2) The total amount of unreported liabilities (including those under \$1,000, credit card and retail installment accounts, and taxes owed).

### PART B – ASSETS WORTH MORE THAN \$1,000

#### HOUSEHOLD GOODS AND PERSONAL EFFECTS:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds \$1,000. The types of assets that can be reported in this manner are described on the form.

#### ASSETS INDIVIDUALLY VALUED AT MORE THAN \$1,000:

Provide a description of each asset you had on the reporting date chosen for your net worth (Part A), that was worth more than \$1,000 and that is not included as household goods and personal effects, and list its value. Assets include: interests in real property; tangible and intangible personal property, such as cash, stocks, bonds, certificates of deposit, interests in partnerships, beneficial interest in a trust, promissory notes owed to you, accounts received by you, bank accounts, assets held in IRAs, Deferred Retirement Option Accounts, and Florida Prepaid College Plan accounts. You are not required to disclose assets owned solely by your spouse.

#### How to Identify or Describe the Asset:

- Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property’s location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.
- Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. Do not list simply “stocks and bonds” or “bank accounts.” For example, list “Stock (Williams Construction Co.),” “Bonds (Southern Water and Gas),” “Bank accounts(First

National Bank),” “Smith family trust,” Promissory note and mortgage (owed by John and Jane Doe).”

#### **How to Value Assets:**

- Value each asset by its fair market value on the date used in Part A for your net worth.
- Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. *However*, assets that are held as tenants by the entirety or jointly with right of survivorship must be reported at 100% of their value.
- Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.
- Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.
- Real property may be valued at its market value for tax purposes, unless a more accurate appraisal of its fair market value is available.
- Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.
- Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.
- Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by “buy-out” agreements. It is suggested that the method of valuation chosen be indicated in a footnote on the form.
- Life insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.

#### **PART C—LIABILITIES**

##### **LIABILITIES IN EXCESS OF \$1,000:**

List the name and address of each creditor to whom you were indebted on the reporting date chosen for your net worth (Part A) in an amount that exceeded \$1,000 and list the amount of the liability. Liabilities include: accounts payable; notes payable; interest payable; debts or obligations to governmental entities other than taxes (except when the taxes have been reduced to a judgment); and judgments against you. You are not required to disclose liabilities owned *solely* by your spouse.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owned to the company of issuance, or contingent liabilities. A “contingent liability” is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a “co-maker” on a note and have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

##### **How to Determine the Amount of a Liability:**

- Generally, the amount of the liability is the face amount of the debt.
- If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.
- If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. *However*, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship,

report 100% of the total amount owed.

— If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

Examples:

— You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 with your spouse to a saving and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank (\$10,000 being the amount of that liability) and the name and address of the savings and loan (\$60,000 being the amount of this liability). The credit cards debts need not be reported.

— You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

**JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:**

List in this part of the form the amount of each debt, for which you were jointly and severally liable, that is not reported in the "Liabilities in Excess of \$1,000" part of the form. Example: You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

**PART D – INCOME**

As noted on the form, you have the option of either filing a copy of your latest federal income tax return, including all schedules, W2's and attachments, with Form 6, or completing Part D of the form. If you do not attach your tax return, you must complete Part D.

**PRIMARY SOURCES OF INCOME:**

List the name of each source of income that provided you with more than \$1,000 of income during the year, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is a joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

"Income" means the same as "gross income" for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony, but not child support. Where income is derived from a business activity you should report that income to you, as calculated for income tax purposes, rather than the income to the business.

Examples:

— If you owned stock in and were employed by a corporation and received more than \$1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total amount of income received from it.

— If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$1,000, you should list the name of the firm, its address, and the amount of your distributive share.

— If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than \$1,000. Do not aggregate income from all of these investments.

— If more than \$1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's

identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as "sale of (name of company) stock," for example.

— If more than \$1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

#### **SECONDARY SOURCE OF INCOME:**

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. It is not for reporting income from second jobs. That kind of income should be reported as a "Primary Source of Income." You will *not* have anything to report *unless*:

(1) You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and

(2) You received more than \$1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's more recently completed fiscal year), the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

#### **Examples:**

— You are the sole proprietor of a dry cleaning business, from which you received more than \$1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).

— You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded \$1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership's gross income, the tenant's address and principal business activity.

#### **PART E – INTERESTS IN SPECIFIED BUSINESS**

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies, credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; and entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of business for which you are, or were at any time during the year an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

## JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: 9/11/2020

JNC Submitting To: 7th CIRCUIT

Name (please print): SPENCER HATHAWAY

Current Occupation: MANAGING ASSISTANT STATE ATTORNEY / PIO

Telephone Number: [REDACTED]

Attorney No.: 91462

Gender (check one):  Male  Female

Ethnic Origin (check one):  White, non-Hispanic

Hispanic

Black

American Indian/Alaskan Native

Asian/Pacific Islander

County of Residence: VOLUNZIA

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE  
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR  
FDLE TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

SPENCER S. HATHAWAY

Printed Name of Applicant



Signature of Applicant

Date: 9/11/2020

**Exhibit “A”**  
**Writing Samples**

**Spencer S. Hathaway’s JNC Application 2020**

**September 11, 2020**

**IN THE CIRCUIT COURT,  
SEVENTH JUDICIAL CIRCUIT,  
IN AND FOR VOLUSIA COUNTY, FLORIDA**

**CASE NO: 2017 301837 CFDB**

**STATE OF FLORIDA**

**VS.**

**TRAVIS A ARCHER,  
DEFENDANT.**

---

**STATE'S RESPONSE TO DEFENSE'S MOTION TO CORRECT SENTENCING  
ERROR**

Comes now the State of Florida by and through the undersigned Assistant State Attorney and offers the following response to the Defendant's Motion to Correct Sentencing Error:

- 1.) The State has no objection to the Defendant's cost of prosecution argument - \$7,965 was stipulated by both parties to be the cost of prosecution. The additional \$100 cost of prosecution is likely a scrivener's error.
- 2.) The Defendant stipulated to the lifetime ban on animal ownership. As a practical matter, once the supervision period lapses, the enforcement of a possible violation of this condition of probation is unclear.
- 3.) The State's contention is that it is within the court's discretion to order drug-offender conditions based on the record as presented during the sentencing hearing. The defendant's own statement that he had ingested "four beers" at the questioning of the officer, which was presented to the court via stipulation through the Officer's Axon Body Camera, demonstrates circumstantial evidence that the alcohol contributed to the motive behind killing the defendant's dog.
- 4.) A sentencing court does indeed enjoy broad discretion in fashioning special conditions to probation. *Carty v. State*, 79 So. 3d 239, 240 (Fla. 1<sup>st</sup> DCA 2012). Further, a special condition of probation can be imposed if it is related to rehabilitation. *Kominsky v. State*, 330 So. 2d 800 (Fla. 1<sup>st</sup> DCA 1976) Special conditions also must have a relationship to the crime of which the offender was convicted. *Biller v. State*, 618 So. 2d 734, 734-735 (Fla. 1993).
- 5.) In the instant case, the defendant entered a *nolo contendere* plea to the crime of Felony Cruelty to Animals. The facts are that the defendant beat his dog to death, causing significant physical damage to Ponce the Dog. Evidence presented at the sentencing hearing, from the defendant's own mouth, was that he ingested four beers prior to beating the dog to death. This is direct evidence that the defendant's actions were reasonably related to the alcoholic beverages taken prior to the beating of the dog.



- 6.) As to the defendant's objection to condition "(32) Mental health evaluation and any recommended treatment," this is not a drug offender condition, this was a special condition as ordered by the court in review of the totality of the evidence presented at the sentencing hearing and should not be stricken from the order of probation.
- 7.) The defendant's objection to condition "(33) Substance abuse evaluation and any recommended treatment" likewise should not be stricken based on the evidence presented that the defendant was drinking prior to committing the crime.
- 8.) The defendant's objection to condition "(34) Never own, care for or possess, another animal – stipulated by both parties" was as the order suggests, stipulated to by the defendant, and should not be stricken from the order of probation. As to enforcement of this provision, the State contends that criminal contempt of court would be the court's enforcement remedy.
- 9.) As to defendant's objection to condition "(36) Weekly urinalysis for first 6 months; random thereafter," "(41)," and "(42)," and "(43)," the State contends that this also is a special pronounced condition of probation based on the evidence supporting a finding that alcohol was a contributing factor to the commission of the crime.
- 10.) The State agrees that the court can order a ban in ownership of animals "for a period of time determined by the court." Florida Statute §828.12(6). This would include a lifetime ban – especially when said ban is agreed to by the defendant.

### CONCLUSION

The State agrees with the defense as to the striking of the additional \$100 cost of prosecution provision while maintaining the \$7,965 cost. The State does not agree and objects to the striking of the drug-offender conditions, mental health evaluation, substance abuse counseling, random urinalyses, and lifetime animal ownership ban.

R.J. LARIZZA  
STATE ATTORNEY

By: s/SPENCER S HATHAWAY  
ASSISTANT STATE ATTORNEY  
Florida Bar No.: 0091462  
ESERVICEVOLUSIA@SA07.ORG

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by mail/delivery to AARON DELGADO, 227 Seabreeze Blvd., Daytona Beach, FL 32118, on March 23, 2020.

s/SPENCER S HATHAWAY  
ASSISTANT STATE ATTORNEY  
Florida Bar No.: 0091462  
251 N RIDGEWOOD AVENUE  
DAYTONA BEACH, FL 32114  
(386) 239-7710  
ESERVICEVOLUSIA@SAO7.ORG

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO.: 2017-301837 CFDB

v.

TRAVIS ARCHER,  
Defendant.

---

**ORDER ON MOTION TO CORRECT SENTENCING ERROR**

**THIS MATTER** came before the Court upon Defendant's motion to correct sentencing error, filed by and through counsel on March 20, 2020, pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). The Court, having reviewed the motion, the State's response, and the court file, and being otherwise fully apprised of the premises, finds as follows:

Defendant contends that his sentence contains multiple errors. First, Defendant states that the Court erred in imposing a lifetime animal ownership ban. Second, Defendant asserts that the Court erred when imposing probationary conditions (32), (33), (34), (36), (41), (42), and (43). Third, Defendant states that an error exists on the "Final Judgment For Charges, Costs, & Fines" form. The Court makes the following findings.

First, the Court finds that the parties stipulated to a lifetime animal ownership ban. See Appendix A (Transcript of the Plea Hearing) at pp. 11-13. Therefore, the motion to correct sentencing error is **DENIED** to that extent.

Second, "[t]rial courts have broad discretion to impose conditions of probation, but special conditions must be reasonably related to rehabilitation." *Austin v. State*, 67 So. 3d 403, 406 (Fla. 1st DCA 2011). At sentencing, Andrew Garber, Defendant's therapist, testified that by his own admittance, [Defendant] [was] drinking that night." See Appendix B (Transcript of Sentencing Hearing) at pp. 49-50. Further, an axon camera video showed Defendant informing police officers that he had consumed four beers the night of the underlying incident. See *id.* at pp. 19-20. Andrew Garber also testified regarding Defendant's need for ongoing counseling. See *id.* at pp. 49-53. Thus, the Court finds that the imposition of drug offender conditions was permissible. Therefore, the motion to correct sentencing error is **DENIED** to that extent.

FILED  
2020 MAR 24 PM 3:00  
CLERK OF THE COURT  
JULY COURT VOLUSIA COUNTY FLORIDA

Third, the Court finds that a scrivener's error does exist on the "Final Judgment For Charges, Costs, & Fines" form. Therefore, the motion to correct sentencing error is **GRANTED** to that extent.

### **RULING**

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant's motion to correct sentencing error is **DENIED** with respect to the first two contentions raised by Defendant and **GRANTED** with respect to the third and final contention raised by Defendant.

Further,

1. The Office of the Clerk of the Court is **DIRECTED** to **AMEND** the "Order/Final Judgment for Charges, Costs, & Fees" filed on December 2, 2019, to reflect that the \$100.00 "Investigation Costs to Ponce Inlet Police Department" imposed pursuant to section 938.27, Florida Statutes, under the "Discretionary Costs" section is **STRICKEN**;
2. The Office of the Clerk of the Court is further directed to transmit copies of Defendant's Amended "Order/Final Judgment for Charges, Costs, & Fees" to Defendant and the Department of Corrections; and
3. The Office of the Clerk of the Court shall supplement the appellate record with the instant motion, the instant order, and the amended "Order/Final Judgment for Charges, Costs, & Fees" pursuant to Florida Rule of Appellate Procedure 9.140(f)(6)..

*24* **DONE AND ORDERED** in Chambers, in Volusia County, Daytona Beach, Florida, this day of March, 2020.

  
**SANDRA C. UPCHURCH**  
CIRCUIT COURT JUDGE

cc:

The Office of the Clerk of the Court

Aaron Delgado, Attorney for Defendant,

The Office of the State Attorney, [eservicevolusia@sao7.org](mailto:eservicevolusia@sao7.org)

The Office of the Attorney General, [crimappdab@myfloridalegal.com](mailto:crimappdab@myfloridalegal.com)

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
\_\_\_\_\_ COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO:

\_\_\_\_\_  
DEFENDANT

CHARGES(S):  
DRIVING UNDER THE INFLUENCE

**DUI DIVERSION AGREEMENT**  
**TIER 1 OFFENDER**

COMES NOW, R.J. LARIZZA, State Attorney for the Seventh Judicial Circuit, State of Florida, by and through the undersigned Assistant State Attorney, and hereby enters into this First Offender Reduction Diversion Program with the above named Defendant.

1. As consideration for this Agreement, Defendant agrees that he/she will not commit any criminal offenses during the effective date of this Agreement and agrees to abide by all conditions outlined in this Agreement. Defendant also agrees to waive speedy trial under Rule 3.191, Florida Rules of Criminal Procedure, and any claim to statute of limitations challenges.

2. If the State discovers Defendant has violated any criminal laws during the effective date of this Agreement, or if the State discovers that Defendant has violated any conditions of this Agreement, this Agreement shall be rendered null and void and the State of Florida may recommence prosecution of this action. This provision includes violations which occur during the term of this Agreement but the State does not discover the violation(s) until after the scheduled date of completion of this Agreement.

3. Defendant acknowledges that he/she has the right to remain silent; that anything he/she says or admits (verbally or in writing) may be used against him/her in a court of law; that he/she is entitled to speak or talk to an Attorney before signing this agreement, and to have the Attorney present at any time; and that he/she cannot afford an attorney, one will be appointed for him/her without cost.

4. The term of this Agreement shall be for 6 MONTHS, with possibility of early termination after three months of supervision, from the date of notarized signing by the Defendant or from the date of signing by the Assistant State Attorney authorized to sign this Agreement, whichever occurs last.

5. The undersigned Assistant State Attorney, or his/her successor, agrees to amend the charge from Driving Under the Influence to "Wet Reckless" Driving (316.192(2)(a)) in this cause upon the successful completion by the Defendant of all terms and conditions of this Agreement.

6. Defendant agrees and understands that if this agreement is not completed successfully, the charges will not be amended from Driving Under the Influence (316.193) and the State will proceed under that charge.

7. Defendant agrees to notify the State of any changes in his/her address until this Agreement is successfully completed.

8. SPECIAL CONDITIONS:

**DEFENDANT AGREES TO:**

- Alcohol Safety Education Course
- Victim Awareness Panel
- \$981 in costs and fines
- \$50 cost of prosecution pursuant to §938.27
- \$50 cost of investigation pursuant to §938.27 -- to \_\_\_\_\_ (Agency)
- 50 hours of community service (buyout allowed at \$10 per hour)
- No drugs, alcohol, or bars
- Random urinalysis testing
- Mail-in Probation Allowed
- Other: \_\_\_\_\_

**NOTE: COST OF PROSECUTION AND COST OF INVESTIGATION MAY BE PAID BY MONEY ORDER, CASHIER'S CHECK, OR ATTORNEY TRUST ACCOUNT CHECK. NO PERSONAL CHECKS ARE ACCEPTED.**

9. THIS PROSECUTION AGREEMENT IS TO BE SUPERVISED BY JUDICIAL CORRECTION SERVICES, INC. (JCS), 665 BEVILLE ROAD, SOUTH DAYTONA, FL 32117, TELEPHONE 386-323-0677. **DEFENDANT MUST CONTACT JCS**

WITHIN 10 DAYS OF RECEIVING A SIGNED COPY OF THIS AGREEMENT FROM THE STATE ATTORNEY'S OFFICE. DEFENDANT IS RESPONSIBLE FOR \$50.00 A MONTH COST OF SUPERVISION. UNLESS WAIVED BY JCS, DEFENDANT IS REQUIRED TO REPORT AT LEAST ONCE A MONTH IN PERSON TO THE JCS OFFICE. IF RANDOM U/A'S ARE REQUIRED, THE DEFENDANT IS RESPONSIBLE FOR COSTS OF TESTING.

10. This is the entire Agreement between the parties. Defendant acknowledges that he/she is entering into this Agreement freely and voluntarily, that by signing (executing) this Agreement he/she certifies that he/she has read the Agreement, that he/she understands this Agreement, and that he/she agrees to comply with all of the terms and conditions of this Agreement.

\_\_\_\_\_  
ASSISTANT STATE ATTORNEY  
SEVENTH JUDICIAL CIRCUIT

\_\_\_\_\_  
DEFENDANT'S SIGNATURE

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PHONE NO.: \_\_\_\_\_

Florida Bar No.:

DATE SIGNED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT'S ATTORNEY

(If Applicable)

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PHONE NO.: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned officer duly authorized to take and administer oaths, did personally appear the above-named Defendant, to me known, and he/she acknowledged that he/she executed this Agreement freely and voluntarily for the reasons and purposes set forth herein.

SWORN TO and subscribed this \_\_\_\_\_ day of March, 2018.

\_\_\_\_\_  
NOTARY PUBLIC

COMMISSION EXPIRES:

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO: [MM NUMBER]

\_\_\_\_\_  
DEFENDANT

CHARGES(S):

**DEFERRED PROSECUTION AGREEMENT**

COMES NOW, R.J. LARIZZA, State Attorney for the Seventh Judicial Circuit, State of Florida, by and through the undersigned Assistant State Attorney, and hereby enters into this Deferred Prosecution Agreement with the above named Defendant.

1. As consideration for this Agreement, Defendant agrees that he/she will not commit any criminal offenses during the effective date of this Agreement and agrees to abide by all conditions outlined in this Agreement. Defendant also agrees to waive speedy trial under Rule 3.191, Florida Rules of Criminal Procedure.

2. If the State discovers Defendant has violated any criminal laws during the effective date of this Agreement, or if the State discovers that Defendant has violated any conditions of this Agreement, this Agreement shall be rendered null and void and the State of Florida may recommence prosecution of this action. This provision includes violations which occur during the term of this Agreement but the State does not discover the violation(s) until after the scheduled date of completion of this Agreement.

3. Defendant acknowledges that he/she has the right to remain silent; that anything he/she says or admits (verbally or in writing) may be used against him/her in a court of law; that he/she is entitled to speak or talk to an Attorney before signing this agreement, and to have the Attorney present at any time; and that he/she cannot afford an attorney, one will be appointed for him/her without cost.

4. The undersigned Assistant State Attorney, or his/her successor, agrees to file a Notice of Completion of Deferred Prosecution Agreement (i.e. a dismissal) in this cause upon the successful completion by the Defendant of all terms and conditions of this Agreement.

5. Defendant agrees to notify the State of any changes in his/her address until this Agreement is successfully completed.

6. SPECIAL CONDITIONS:

\_\_\_\_\_  
 PAY \$20.00 TO CRIME STOPPERS OF NE FLORIDA, PO BOX 731379, ORMOND BEACH, FL 32173

PAY \$100.00 TO STATE ATTORNEY'S OFFICE FOR COSTS OF PROSECUTION.

NOTE: COST OF PROSECUTION AND COST OF INVESTIGATION MAY BE PAID BY CREDIT CARD AT \_\_\_\_\_, MONEY ORDER, CASHIER'S CHECK, ATTORNEY TRUST ACCOUNT CHECK, OR PERSONAL CHECK.

7. This is the entire Agreement between the parties. Defendant acknowledges that he/she is entering into this Agreement freely and voluntarily, that by signing (executing) this Agreement he/she certifies that he/she has read the Agreement, that he/she understands this Agreement, and that he/she agrees to comply with all of the terms and conditions contained herein.

**PURSUANT TO 92.525, Florida Statutes, under penalties of perjury, I declare that I have read the foregoing DEFERRED PROSECUTION AGREEMENT and that the facts stated in it are true. Further, I understand if I knowingly make a false declaration pursuant to this statute, I am guilty of the crime of perjury by false written declaration, a felony of the third degree.**

\_\_\_\_\_  
ASSISTANT STATE ATTORNEY  
SEVENTH JUDICIAL CIRCUIT  
Florida Bar No.: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT'S SIGNATURE

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_



IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO: [MM NUMBER]

\_\_\_\_\_  
DEFENDANT

CHARGES(S):

**EARLY RESOLUTION DEFERRED PROSECUTION AGREEMENT**

COMES NOW, R.J. LARIZZA, State Attorney for the Seventh Judicial Circuit, State of Florida, by and through the undersigned Assistant State Attorney, and hereby enters into this Deferred Prosecution Agreement with the above named Defendant.

1. As consideration for this Agreement, Defendant agrees that he/she will not commit any criminal offenses during the effective date of this Agreement and agrees to abide by all conditions outlined in this Agreement. Defendant also agrees to waive speedy trial under Rule 3.191, Florida Rules of Criminal Procedure.

2. If the State discovers Defendant has violated any criminal laws during the effective date of this Agreement, or if the State discovers that Defendant has violated any conditions of this Agreement, this Agreement shall be rendered null and void and the State of Florida may recommence prosecution of this action. This provision includes violations which occur during the term of this Agreement but the State does not discover the violation(s) until after the scheduled date of completion of this Agreement.

3. Defendant acknowledges that he/she has the right to remain silent; that anything he/she says or admits (verbally or in writing) may be used against him/her in a court of law; that he/she is entitled to speak or talk to an Attorney before signing this agreement, and to have the Attorney present at any time; and that he/she cannot afford an attorney, one will be appointed for him/her without cost.

4. The undersigned Assistant State Attorney, or his/her successor, agrees to file a Notice of Completion of Deferred Prosecution Agreement (i.e. a dismissal) in this cause upon the successful completion by the Defendant of all terms and conditions of this Agreement.

5. Defendant agrees to notify the State of any changes in his/her address until this Agreement is successfully completed.

6. SPECIAL CONDITIONS:

\_\_\_\_\_  
\_X\_ PAY \$20.00 TO CRIME STOPPERS OF NE FLORIDA, PO BOX 731379, ORMOND BEACH, FL 32173

\_X\_ PAY \$100.00 TO STATE ATTORNEY'S OFFICE FOR COSTS OF PROSECUTION.

NOTE: COST OF PROSECUTION AND COST OF INVESTIGATION MAY BE PAID BY CREDIT CARD AT \_\_\_\_\_, MONEY ORDER, CASHIER'S CHECK, ATTORNEY TRUST ACCOUNT CHECK, OR PERSONAL CHECK.

7. This is the entire Agreement between the parties. Defendant acknowledges that he/she is entering into this Agreement freely and voluntarily, that by signing (executing) this Agreement he/she certifies that he/she has read the Agreement, that he/she understands this Agreement, and that he/she agrees to comply with all of the terms and conditions contained herein.

**PURSUANT TO 92.525, Florida Statutes, under penalties of perjury, I declare that I have read the foregoing DEFERRED PROSECUTION AGREEMENT and that the facts stated in it are true. Further, I understand if I knowingly make a false declaration pursuant to this statute, I am guilty of the crime of perjury by false written declaration, a felony of the third degree.**

\_\_\_\_\_  
ASSISTANT STATE ATTORNEY  
SEVENTH JUDICIAL CIRCUIT  
Florida Bar No.: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT'S SIGNATURE

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

IN THE COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT

CHARGES(S):  
\_\_\_\_\_

**GETTING a LICENSE AGAIN to DRIVE (GLAD PROGRAM)**  
**(Deferred Prosecution Agreement)**

COMES NOW, R.J. LARIZZA, State Attorney for the Seventh Judicial Circuit, State of Florida, by and through the undersigned Assistant State Attorney, and hereby enters into the Getting a License Again to Drive (GLAD Program) Deferred Prosecution Agreement with the above-named Defendant.

1. As consideration for this Agreement, Defendant agrees that he/she will not commit any criminal offenses during the effective date of this Agreement and agrees to abide by all conditions outlined in this Agreement. Defendant also agrees to waive speedy trial under Rule 3.191, Florida Rules of Criminal Procedure, and any Statute of Limitations rights concerning this case.

2. If the State discovers Defendant has violated any criminal laws during the effective date of this Agreement, or if the State discovers that Defendant has violated any conditions of this Agreement, this Agreement shall be rendered null and void and the State of Florida may recommence prosecution of this action. This provision includes violations which occur during the term of this Agreement but the State does not discover the violation(s) until after the scheduled date of completion of this Agreement.

3. Defendant acknowledges that he/she has the right to remain silent; that anything he/she says or admits (verbally or in writing) may be used against him/her in a court of law; that he/she is entitled to speak or talk to an Attorney before signing this agreement, and to have the Attorney present at any time; and that he/she cannot afford an attorney, one will be appointed for him/her without cost.

4. The term of this Agreement shall be for **6 MONTHS**, with **AUTOMATIC TERMINATION UPON COMPLETIONS OF ALL CONDITIONS AND NOTIFICATION FROM THE STATE**, from the date of notarized signing by the Defendant or from the date of signing by the Assistant State Attorney authorized to sign this Agreement, whichever occurs last.

5. The undersigned Assistant State Attorney, or his/her successor, agrees to file a Notice of Completion of Deferred Prosecution Agreement (i.e. a dismissal) in this cause upon the successful completion by the Defendant of all terms and conditions of this Agreement.

6. Defendant agrees to notify the State of any changes in his/her address until this Agreement is successfully completed.

7. Defendant admits the facts alleging a criminal law violation set forth in either the SA-707, citation, sworn witness statement(s), Information filed in this cause or any other charging document are true and correct. Defendant specifically acknowledges that this admission may be used against Defendant in the instant case if he/she fails to perform hereunder as agreed.

8. Disposition of any and all traffic citations accompanying this criminal case will be up to the discretion of the presiding judge

9. SPECIAL CONDITIONS:

DEFENDANT AGREES TO:

GET VALID DRIVER'S LICENSE

OTHER: \_\_\_\_\_

PAY \$75.00 TO STATE ATTORNEY'S OFFICE FOR COST OF PROSECUTION.

**NOTE: COST OF PROSECUTION AND COST OF INVESTIGATION MAY BE PAID BY MONEY ORDER, CASHIER'S CHECK, OR ATTORNEY TRUST ACCOUNT CHECK. NO PERSONAL CHECKS ARE ACCEPTED.**

10. This is the entire Agreement between the parties. Defendant acknowledges that he/she is entering into this Agreement freely and voluntarily, that by signing (executing) this Agreement he/she certifies that he/she has read the Agreement, that he/she understands this Agreement, and that he/she agrees to comply with all of the terms and conditions of this Agreement.

ASSISTANT STATE ATTORNEY  
SEVENTH JUDICIAL CIRCUIT

Florida Bar No.:

DATE SIGNED: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned officer duly authorized to take and administer oaths, did personally appear the above-named Defendant, to me known, and he/she acknowledged that he/she executed this Agreement freely and voluntarily for the reasons and purposes set forth herein.

SWORN TO and subscribed this \_\_\_\_\_ day of May, 2018.

NOTARY PUBLIC

COMMISSION EXPIRES:

DEFENDANT'S SIGNATURE

ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

DEFENDANT'S ATTORNEY

(If Applicable)

ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

**Helpful Links and Phone Numbers**

- Department of Highway Safety and Motor Vehicles:

**Sunshine Park Mall Location (South Daytona)**

2400 S. Ridgewood Avenue  
Suite 2  
South Daytona, FL 32119  
(386) 238-3140  
Mon. – Fri.: 8:00am – 5:00pm

**Orange City Location**

2575 S. Volusia Avenue  
Suite #200  
Orange City, FL 32765  
(386) 238-3140  
Mon., Tues., Thurs., Fri.: 8:00am – 5:00pm  
Wed.: 8:30am – 5:00pm

- Volusia County Clerk of Court:

**Volusia County Courthouse (DeLand)**

101 N. Alabama Avenue  
DeLand, FL 32724  
(386) 736-5910  
Mon. – Fri.: 8:00am – 4:30pm

**Daytona Beach Courthouse Annex**

125 E. Orange Avenue  
Daytona Beach, FL 32114  
(386) 257-6084  
Mon. – Fri.: 8:00am – 4:30pm

**Daytona Beach Justice Center**

251 N. Ridgewood Avenue  
Daytona Beach, FL 32114  
(386) 257-6084  
Mon. – Fri.: 8:00am – 4:30pm