

APPLICATION FOR NOMINATION TO THE CIRCUIT COURT

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

DATE: 11/14/2017 Florida Bar No.: 0148891

GENERAL: Social Security No.: _____

1. Name David Alan Cromartie E-mail: dacromartie@msn.com

Date Admitted to Practice in Florida: 09/1998

Date Admitted to Practice in other States: N/A

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

Managing Attorney of the Misdemeanor and Juvenile Divisions of the Office of the State Attorney for Daytona Beach

3. Business address: 251 N. Ridgewood Avenue

City Daytona Beach County Volusia State FL ZIP 32114

Telephone (386) 239-7710 FAX (386) 239-7716

4. Residential address: _____

City _____ County _____ State _____ ZIP _____

Since _____ Telephone () - _____

5. Place of birth: Miami, Florida

Date of birth: _____ Age: _____

6a. Length of residence in State of Florida: 37 years

6b. Are you a registered voter? Yes No

If so, in what county are you registered? Volusia

7. Marital status: Married

If married: Spouse's name Tonya Danley Cromartie

Date of marriage November 21, 1998

Spouse's occupation Attorney

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

N/A

8. Children

Name(s) Age(s) Occupation(s) Residential address(es)

9. Military Service (including Reserves)

Service Branch Highest Rank Dates

N/A

Rank at time of discharge _____ Type of discharge _____

Awards or citations _____

HEALTH:

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

No

11a. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism?

Yes No

If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.]

Please describe such treatment or diagnosis.

11b. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner?

- Experiencing periods of no sleep for 2 or 3 nights
- Experiencing periods of hyperactivity
- Spending money profusely with extremely poor judgment
- Suffered from extreme loss of appetite

- Issuing checks without sufficient funds
- Defaulting on a loan
- Experiencing frequent mood swings
- Uncontrollable tiredness
- Falling asleep without warning in the middle of an activity

Yes No

If yes, please explain.

12a. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner?

Yes No

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

Yes No

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

N/A

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

No

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

No

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

No

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

No

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

No

EDUCATION:

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

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
University of Florida College of Law	unknown	1995-1997	J.D.
University of Florida	unknown	1989-1993	B.A. in History
Florida State University	N/A	1988-1989	N/A
Seabreeze High School	unknown	1985-1988	High School Diploma

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

Book Award for Litigation Skills, Virgil Hawkins Civil Clinic 1997

NON-LEGAL EMPLOYMENT:

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

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
3/2003- 11/2003	Manager	America's Land Title *closed	11401 N.56 th Street, Tampa, FL 33617

PROFESSIONAL ADMISSIONS:

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

<i>Court or Administrative Body</i>	<i>Date of Admission</i>
Florida Bar	09/28/1998

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

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

<i>Position</i>	<i>Name of Firm</i>	<i>Address</i>	<i>Dates</i>
			9/2010- Present
Managing Assistant State Attorney	Office of the State Attorney	251 N. Ridgewood Avenue, Daytona Beach, Florida 32114	9/98-2/2003
Cromartie & Cromartie, P.A.	Managing Partner	116 E. Granada Boulevard, Ormond Beach, Florida 32176	11/2004- 8/2010
Cameron, Hodges, Coleman, LaPointe & Wright	Associate	150 S. Palmetto Avenue, Daytona Beach, Florida 32114	12/2003- 10/2004
Wicker, Smith, O'Hara, McCoy & Ford P.A.	Associate	100 North Tampa Street, Tampa, Florida 33602	2/2003- 3/2003

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

Please refer to attached Exhibit 1

23. What percentage of your appearance in courts in the last five years or last five years of

practice (include the dates) was in:

Court		Area of Practice	
Federal Appellate	_____ %	Civil	_____ %
Federal Trial	_____ %	Criminal	<u>100</u> %
Federal Other	_____ %	Family	_____ %
State Appellate	<u>.5</u> %	Probate	_____ %
State Trial	<u>99.5</u> %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
	_____ %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

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

Jury? 40 plus Non-jury? approx. 34
 Arbitration? _____ Administrative Bodies? _____

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

No

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

No

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

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

Please refer to Exhibit 2

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

Please refer to Exhibit 3

- 27c. During the last five years, how frequently have you appeared at administrative hearings?
0 average times per month
- 27d. During the last five years, how frequently have you appeared in Court?
7-10 average times per month
- 27e. During the last five years, if your practice was substantially personal injury, what percentage of your work was in representation of plaintiffs? 0% Defendants?
0%
28. If during any prior period you have appeared in court with greater frequency than during the last five years, indicate the period during which this was so and give for such prior periods a succinct statement of the part you played in the litigation, numbers of cases and whether jury or non-jury.

In 2012, I became a Managing Assistant State Attorney. As such, my direct court involvement decreased. I go to court frequently, but in a supervisory capacity. However, I still actively try misdemeanor, and felony cases. Over the course of the year, my court appearances average approximately seven to ten days per month. In my prior experience as a trial prosecutor, I was in court almost every day. My dockets averaged a few hundred cases. When I was in private practice, I represented clients in all kinds of hearings, and trials. During that time period, my average caseload was fifty cases, and court time was around 10-15 days per month.

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

N/A

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

Please refer to Exhibit 4

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

Please refer to Exhibit 5

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:

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

No

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

Dates

Name of Agency

Position Held

Types of issues heard: N/A

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

N/A

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

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

BUSINESS INVOLVEMENT:

33a. If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the

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

N/A

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

In 2003, I worked as a Manager for America's Land Title. I handled title cases from intake through closing. That business is now closed.

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

Please see attached Exhibit 6

POSSIBLE BIAS OR PREJUDICE:

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

I would have to recuse myself on any case wherein my Wife is counsel or on Juvenile Delinquency cases, or County Criminal cases in Daytona Beach. I couldn't handle any case wherein I previously represented someone, or was directly involved in the prosecution of a particular case. Other than that, there are no associations, or relationships that would preclude me from performing my duties as a judge.

MISCELLANEOUS:

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

Yes _____ No No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

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

Yes _____ No No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

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

Yes _____ No No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

- 36a. Have you ever been sued by a client? If so, give particulars including name of client,

date suit filed, court, case number and disposition.

No

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

No

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

No

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

No

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

No

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

No

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

No

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

Please see attached Exhibit 7

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

No

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

No

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

My wife and I filed an extension to file our 2016 Federal Income tax return. It is beneficial for us to file jointly and my wife has only recently gotten all of her business records to the accountant. We expect to file our return in the near future. We expect to receive a refund.

Yes No If no, please explain.

43b. Have you ever paid a tax penalty?

Yes No If yes, please explain what and why.

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

No

HONORS AND PUBLICATIONS:

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

No

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

Prosecutor Award of Excellence 2016 from MADD, April 21, 2017.

MADD Award for Outstanding Trial Prosecutor, 2000

Book Award Virgil Hawkins Civil Clinic, 1997

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

Please see attached Exhibit 8

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

PROFESSIONAL AND OTHER ACTIVITIES:

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

Florida Bar Association

Volusia County Bar Association

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

Tiger Bay Club of Volusia County
FACDL, Florida Association of Criminal Defense Lawyers
United States Handball Association

48c. List your hobbies or other vocational interests.

Please see the attached Exhibit 9

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

No

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

Please see the attached Exhibit 10

SUPPLEMENTAL INFORMATION:

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

Yes. All of my CLEs for the past five years have been in the area of criminal law. I have attended DUI Seminars, the Florida Prosecuting Attorney's Annual Conference, a training program for prosecutors, and a Domestic Violence Seminar. In addition, I have attended several Florida Law Weekly meetings wherein my office meets to discuss the new criminal law decisions published in the Florida Law Weekly. The Florida Bar grants CLE credit for those meetings. Please see the attached Exhibit 11. It is a complete list of all CLE credits earned.

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

Yes, please see the attached Exhibit 12

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

Please see the attached Exhibit 13

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

Please see the attached Exhibit 14

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

I applied to this nominating commission on January 27, 2016 and August 22, 2017.

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

Please see the attached Exhibit 15

REFERENCES:

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

Please see the attached Exhibit 16

CERTIFICATE

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

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

Dated this 14 day of November, 2017.

David Cronackie
Printed Name

David Cronackie
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	\$69,250.03		
	2016	2015	2014
List Last 3 years	\$82,640.04	\$81,806.71	\$72,640.08

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	\$69,250.03		
	2016	2015	2014
List Last 3 years	\$82,640.04	\$81,806.71	\$72,640.08

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) 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		
	N/A	N/A	N/A
List Last 3 years	N/A	N/A	N/A

4. 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		
	N/A	N/A	N/A
List Last 3 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 11/14, 2017 was \$158,022.84.

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 \$ 6000.00

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
	425,000
2009 Ford Taurus	10,000
2001 Suzuki SV650 Motorcycle	2,000

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
HomeBridge Financial Svcs, 194 Wood Ave South, 9 th Floor, Iselin, NJ 08830	265,411.15

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

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
N/A		

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 BUSIENSS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
N/A			

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

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY	N/A		
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.

David Cromartie

SIGNATURE

STATE OF FLORIDA

COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me this 14 day of NOVEMBER, 2017 by David Cromartie

Amber Wielgorecki

(Signature of Notary Public—State of Florida)

Amber Wielgorecki

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

Personally Known _____ OR Produced Identification ✓

Type of Identification Produced FLDL



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: 11/14/2017

JNC Submitting To: Seventh Judicial Circuit

Name (please print): David A. Cromartie

Current Occupation: Managing Assistant State Attorney

Telephone Number: 386-239-7710 Attorney No.: 0148891

Gender (check one): Male Female

Ethnic Origin (check one): White, non Hispanic

Hispanic

Black

American Indian/Alaskan Native

Asian/Pacific Islander

County of Residence: Volusia

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.

Printed Name of
Applicant:

David Alan Cromartie

Signature of Applicant:



Date: 11/14/2017

EXHIBIT 1

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

I am the Managing Assistant State Attorney for the Misdemeanor and Juvenile divisions of the Daytona Beach office. I supervise twelve attorneys and the equivalent in staff who are dispersed on five trial dockets. It also encompasses all of the misdemeanor, juvenile, and domestic violence intake. I train new attorneys to be good prosecutors, and mediate disputes between various groups within the system. I handle select cases, including any high profile misdemeanor cases that arise in Volusia County. I have continued participating in both misdemeanor, and felony trials.

In 2012, I supervised the transition of my divisions from paper files to a strictly paperless system. This was very difficult. I had all new attorneys and an almost entirely new support staff. Training individuals on software procedures became nearly as important as teaching my prosecutors how to introduce a piece of evidence or evaluate a case. My divisions were the test divisions for the 7th Judicial Circuit. I am proud of the innovations that my staff developed and that the paperless system is now running smoothly and efficiently.

I am also active in many different programs that have the goal of rehabilitating, or giving treatment to substance abusers. In the Spring of 2012, I represented the Office of the State Attorney in the development of the Volusia County DUI Court. This program was designed using an evidence-based drug court model. The program is intended for addicts as opposed to first time offenders or even abusers of alcohol or drugs. An addict is someone who is physically, or psychologically dependent on an addictive substance. An abuser is someone who can refrain from the use of an addictive substance, but chooses not to. Both an abuser and an addict are potentially dangerous, but they are very different in how they should be handled from a treatment perspective.

DUI Court is designed for the most dangerous of the misdemeanor DUI offenders. We do not accept individuals facing DUI Manslaughter, or DUI with Serious Bodily Injury charges. The program is intense and requires much more from the participants than the standard probation that most DUI offenders receive. The State does not dismiss the charges and rarely reduces charges upon successful completion of the program. The benefit to the defendant is the treatment they receive and a reduction in the amount of jail they serve. The benefit to the State is increased public safety and a reduced recidivism rate due to addressing the underlying addiction issues as opposed to simply putting the defendant in jail.

DUI Court is an excellent program, and I am proud of my role in it. I did everything I could to make the testing, and accountability procedures as strict as possible. The success of the program was directly dependent upon assuring that the individuals could not continue to use drugs or alcohol while in the program. The program has helped many people through their addictions. It's a solid program. I still approve and make all of the sentencing recommendations for potential DUI Court candidates. I sometimes struggle with these decisions. On the one hand, I value addressing these defendants' addictions and understand that in doing so I can reduce the chances that these individuals will re-offend. On the other hand, I worry that a program member will drive drunk and kill someone at a time when I could have kept the person incarcerated. Whether to admit someone to DUI court can often be a difficult decision.

I represent the Office of the State Attorney at the Corrections Treatment Diversion Program "CTDP" Advisory Committee. CTDP is a program designed to provide defendants with addictions who are going to be incarcerated for over 180 days in the Volusia County Jail an alternative to receive in-house treatment while incarcerated, and then be released on drug offender probation. The in-house portion of the sentence takes at least 60 days. Once released, the defendants receive either out-patient or in-patient treatment as determined by the addictions professional. The program benefits taxpayers by reducing the number of days select defendants are incarcerated, and thereby reducing costs. The program also reduces recidivism by addressing the root cause of crime. In the meetings, we discuss ways to improve screening and monitoring of how well the program is working.

I represented the Office of the State Attorney as a founding member of the Volusia County Veterans Court. This program is designed to help honorably discharged veterans facing misdemeanor, or certain non-violent felony charges receive services from the Veterans Administration. An individual opts into Veterans Court, and is taken out of the normal court system. Once in Veterans Court, the individual will be offered either a deferred prosecution agreement, or a plea deal. A deferred prosecution agreement is a contract between the State, and a defendant. If the defendant completes the conditions in the contract, the State will dismiss the charges. The advantage to the defendant of entering into Veterans Court is that supervision and urinalysis is performed by pretrial services for free. Any treatment that might be ordered, such as addiction treatment, anger management, or PTSD treatment is provided through the Veterans Administration without charge to the veteran. Participants to the program are also counseled regarding housing, medical and grant opportunities which are available exclusively to veterans.

I represent the Office of the State Attorney at the Domestic Abuse Advisory Committee. The group meets quarterly with the goal of reducing domestic violence, and

to help victims of domestic violence. The group is comprised of representatives from law enforcement agencies, the judiciary, concerned citizens, victim advocates, lawyers, domestic abuse shelters, and domestic abuse victims. The committee runs fundraisers for the domestic abuse shelter and discusses ideas on how to improve the system. The meetings are a good way for these various groups to understand each other and to communicate better.

Prior to my role as a Managing Assistant State Attorney, I was a trial attorney on misdemeanor, and felony dockets. At one point, I had a felony intake position wherein I investigated, and made charging decisions on felony cases. I was a member of the Special Prosecution Unit, and represented the State in the Volusia County Drug Court program.

The Special Prosecution Unit of the State Attorney's Office was established to ensure that individuals who qualify for enhanced sentences are screened, and reviewed properly. I was entrusted with targeting the habitual violent offenders and career criminals who pose the greatest threat to public safety.

The Volusia County Drug Court is designed to help defendants with addiction problems. It is a very intensive program, and benefits defendants greatly in overcoming their addictions. Defendants can receive a lighter sentence, a reduction, or a dismissal of their charges in exchange for their successful completion of this intensive drug treatment program. The benefit for society and the State is that the program can greatly reduce the likelihood of recidivism. As a prosecutor, my role in drug court was to screen potential candidates to assure that only appropriate individuals entered the program. I also represented the State at any Court proceeding such as a violation of probation hearing.

Prior to returning to the State Attorney's Office, I was in private practice. For seven years, my wife and I owned a firm together. We primarily handled criminal defense, and family law cases. I frequently represented clients in traffic court all over central Florida. I also handled personal injury cases representing both defendants, and plaintiffs, as well as general civil litigation. I handled administrative hearings at the Bureau of Administrative Review. I was a title issuing agent for Old Republic Title. As such, I handled real estate closings, and issued the accompanying title policies. I also authored simple wills and trusts.

EXHIBIT 2

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

1. *State of Florida v. Joseph Swick*, 2016-10026 APCC

Oral argument for this case occurred on August 17, 2017, before the Honorable Dawn D. Nichols and the Honorable Kathryn D. Weston. The opposing counsel was Joseph C. Warren, Esquire. Mr. Warren's phone number is (386) 223-9940.

2. *State of Florida v. Steven Clement*, 2016-10014 APCC

Oral argument for this case occurred on May 31, 2017, before the Honorable Dennis Craig and the Honorable Kellie J. Miles. The opposing counsel was Eric A. Latinsky, Esquire. Mr. Latinsky's phone number is (386) 257-5555.

3. *State of Florida v. Shannon Gatch*, 2016-308367 MMDB

The case was tried before the Honorable Judith D. Davidson April 28, 2017. My co-counsel was Assistant State Attorney Tara Libby. Ms. Libby's phone number is (386) 239-7710. Counsel for the Defendant was Gregory M. Wagner. Mr. Wagner's phone number is (386) 252-3607.

4. *State of Florida v. George Hatzimouratides*, 2017-301864 MMDB

The case was tried before the Honorable Belle B. Schumann on April 21, 2017. My co-counsel was Assistant State Attorney Jeffrey Berman. Mr. Berman's phone number is (386) 239-7710. Counsel for the Defendant was Zachary E. Stoumbos, Esquire, and Stuart Hyman, Esquire. Mr. Stoumbos' phone number is (407) 649-4949. Mr. Hyman's phone number is (407) 896-0536.

5. *State of Florida v. Sean B. Page*, 2016-311653 MMDB

This case was tried before the Honorable Bryan A. Feigenbaum on February 22, 2017. My co-counsel was Assistant State Attorney Alex White. Mr. White's phone number is (386) 239-7710. Counsel for the Defendant was Robert W. Rawlins, Esquire. Mr. Rawlins' phone number is (386) 279-0175.

6. *State of Florida v. Dominic Digiacomo*, 2016-314753 MMDB

The case was tried in front of the Honorable Bryan A. Feigenbaum on January 26, 2017. My co-counsel was Assistant State Attorney Tara Libby. Ms. Libby's phone number is (386) 239-7710. Counsel for the Defendant were Joseph St. Angelo, Esquire, and Natalie R. Gossett, Esquire. Their phone number is (386) 239-7730.

EXHIBIT 3

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

1. *State of Florida v. Amber Stevenson 2017-306011 MMDB*

On November 8, 2017, the Defendant entered a plea. I made a DUI Court offer that was accepted by the Defendant's attorney, Philip B. Peterson, Esquire. Mr. Peterson's phone number is (386) 428-2464. The attorney who handled the plea on behalf of the State was K. Ross Presnell, Esquire. His phone number is (386) 239-7710.

2. *State of Florida v. Dominic Guererra Moondragon 2017-300621 MMDB*

On October 18, 2017, the Defendant entered a plea. I made a DUI Court offer that was accepted by the Defendant's attorney, Cameron Brown, Esquire. Mr. Brown's phone number is (386) 239-7730. The attorney who handled the plea on behalf of the State was K. Ross Presnell, Esquire. His phone number is (386) 239-7710.

3. *State of Florida v. Steven Cabral 2017-310772 MMDB*

On October 6, 2017, the Defendant entered a plea. I made a DUI Court offer that was accepted by the Defendant's attorney, Cameron Brown, Esquire. Mr. Brown's phone number is (386) 239-7730. The attorney who handled the plea on behalf of the State was Tara Libby, Esquire. His phone number is (386) 239-7710.

4. *State of Florida v. Robert Salomone 2016-313607 MMDB*

On August 30, 2017, the Defendant entered a plea. I made a DUI Court offer that was accepted by the Defendant's attorney, Joseph St. Angelo, Esquire. Mr. St. Angelo's phone number is (386) 239-7730. The attorney who handled the plea on behalf of the State was Tara Libby, Esquire. His phone number is (386) 239-7710.

5. *State of Florida v. Michael Pastore 2016-317140 MMDB*

The parties entered into a deferred prosecution agreement on August 18, 2017. The opposing counsel was Louis Rossi, Esquire. Mr. Rossi's phone number is (386) 239-7730.

6. *State of Florida v. Stephan Inglett 2017-301711 MMDB*

This case is a violation of probation case that settled in Veterans Court on August 4, 2017. The defendant was represented at the violation of probation hearing by Daniel Schaffer, Esquire. Mr. Schaffer's phone number is (386) 239-7730.

EXHIBIT 4

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

SIGNIFICANT CASE #1

Case Name: *In Re:*
The Marriage of George
Edward Seiffert and
Filomena Mendes Seiffert

Case No: 95-4143 CA

Client: Filomena M. Seiffert

Presiding Judge: Honorable Larry G. Turner

Court: Circuit Court of the Eighth Judicial Circuit in Alachua County

Attorneys involved in case:
Jeffrey Grater, supervising attorney
Tonya D. Cromartie, co-counsel
Harold Silver, counsel for Husband

Trial Date: December 18-19, 1997

In 1997, my Wife and I enrolled in the Virgil Hawkins Civil Clinic. We were still in law school, and practicing as certified legal interns under the supervision of the Clinic Supervisor Jeffrey T. Grater. The Clinic took the overflow of pro bono family law cases from Three Rivers Legal Services. Mr. Grater assigned us the case of *Seiffert v. Seiffert*. It was a dissolution of marriage case. We represented the Wife, Filomena Seiffert. Attorney Harold Silver represented the Husband.

While the other students were busy grappling with Case Managements, a Motion to Continue, or defaulted parties, the *Seiffert* case was comprised of four voluminous accordion files. The case had lingered in the Clinic for two years prior to our involvement. Mr. Grater told us to review the file, and get it ready for trial.

We reviewed the case, and found that our client had been married to George Seiffert since June 6, 1983. Mrs. Seiffert was a Brazilian citizen, and Mr. Seiffert was an Australian citizen. They lived together for a few years in Waldo, Florida in a home

that was purchased with marital funds, and titled in both their names. Mr. Seiffert then moved to California where he started a business that rented and serviced portable toilets. They had been separated effectively since 1984. During the separation, Mr. Seiffert had sparingly visited the children in Florida. They had two adolescent boys. One of the boys wanted to stay with our client, the other wanted to go live with Mr. Seiffert. Both parents petitioned the Court for custody of both boys, equitable distribution, and child support.

Our client was concerned that if the Husband was awarded custody, or even visitation with the boys that he may flee with them to Australia. We believed the Husband was underreporting his income on his financial affidavit, and hiding assets. We had reason to believe that he still owned a hotel in Australia. We researched the potential kidnapping issue, and found that Australia was a Hague Convention country. They had signed an international treaty wherein they would honor the custody orders of other countries that were signatories to the treaty, such as the United States. Therefore, if the Wife obtained a custody decree, it would be enforceable in Australia if the Husband fled with the boys.

The Husband was self-employed. It was evident from his financial affidavit that he commingled his personal assets, and debts with his business. Instead of having a monthly income, he was in the negative. He listed several credit cards, and bank statements, but refused to produce copies, as required. His accounts were all in California, and we didn't have power to issue subpoenas outside of Florida. Our supervising attorney told us that we were stuck.

We researched, and found a case, *Rojas v. Ryder Truck Rental*, 641 So.2d 855 (Fla.1994) wherein a litigant wanted medical records that were outside of the jurisdiction of the court, and the party seeking the records lacked subpoena power. The Court ordered the party to execute releases so that they could obtain the records. Using that case, we successfully moved the court to order the Husband to sign releases. We obtained the records, and it was evident that he was using the business credit cards, and accounts for all of his personal needs. We also managed to do a title search in Australia, and we obtained a deed wherein the Husband did in fact own a hotel in Australia.

We took depositions of the Husband, and his witnesses. We confronted Mr. Seiffert with the credit card, and bank statements, he admitted that he used the business accounts for his personal expenses. His rationale was, "I am the business." We asked if he owned a hotel in Australia. He denied that he did. We confronted him with the deed, and he exclaimed, "I guess you've got me there!"

After months of intense litigation that included: mediation, depositions, requests to produce, interrogatories, discovery enforcement motions, motions challenging venue and subject matter, and temporary custody hearings, the case finally ended in a two day trial before the Honorable Larry Turner. Mr. Grater was present at the trial, but my Wife, and I asked all the questions, handled all objections, introduced evidence, and cross-examination. We divided up our responsibilities evenly.

The Wife testified about how the Husband had been violent with her during their brief tenure together. She testified that she didn't make much money, and that the Husband had never paid any kind of child support. We introduced the credit card, and

bank statements, and were able to establish that the Husband had a positive monthly income, because he used the business accounts to pay his personal expenses. The trial court awarded primary custody to the Wife, the house in Waldo, retroactive child support, and imputed an income of \$30,000 per year to the Husband for child support purposes.

This case was significant to me because it was my very first litigated case. During the seven years I practiced with my Wife, I handled many family law cases. I had many contested hearings, but none were as hotly contested as this case. It was one of the most intensely litigated civil cases that I've ever handled. The Husband was obstinate, and had an aggressive attorney. Our client was pleasant, yet very demanding of our time, and resources.

That was the first time that I ever felt that I had someone else's life in my hands. I wasn't very experienced at the time, and had to learn as I went. I wasn't going to let our client down. There was a ton of litigation, and discovery involved with that case. We had to go to some extraordinary lengths to obtain discovery that should have been routine. It was my first time in court, my first time in trial, and through a lot of hard work, it turned out well. Because of this case, my Wife, and I were the only two people who were ever allowed to take the Clinic twice for credit. We were awarded the Book Award for our efforts with that case.

SIGNIFICANT CASE #2

Case Name: *State of Florida vs. Leroy Johnson*

Case No: 2009-31147 CFAES

Client: State of Florida

Presiding Judge: Honorable David Walsh

Court: Circuit Court of the Seventh Judicial Circuit in Volusia County

Attorneys involved in case:

William Partington, III, Counsel for Defense

Trial Date: Not applicable

In August 2010, I returned to the State Attorney's Office. I was initially assigned to the Honorable David Foxman's docket. I was about to pick a jury in that courtroom when I received a request to handle a case in front of the Honorable David Walsh. The Assistant State Attorney handling the case of State of Florida v. Leroy Johnson, was sick. Judge Walsh and the Assistant Public Defender, William Partington, III ("APD Partington") were ready to pick a jury. I rushed to Judge Walsh's courtroom to find a panel of jurors waiting, and was handed a file. I opened the file, and quickly scanned the police report. The Defendant was charged with Fleeing and Eluding, and Driving While License Suspended. At first glance, it looked like a tough case to prove. I immediately knew that I was going to have a problem proving the identity of the driver.

I jumped in, and began jury selection. On Monday, September 20, 2010, we completed jury selection, and the trial was set for Friday September 24, 2010. After jury selection, APD Partington told me that he had a witness who was going to testify that the Defendant's brother was the driver. He also said that the younger brother may be coming to testify, and admit that he was the driver.

I called the arresting officer, Deputy Dearborne of the Volusia County Sheriff's Office. He was adamant that the Defendant was the driver of the vehicle. He spotted the vehicle in the parking lot of a motel. He passed by the vehicle in the parking lot, and pulled up the registered owner's image on his computer. Based on the photo, he identified the driver as the registered owner. The registered owner had a suspended license. Deputy Dearborne attempted to stop the vehicle. The vehicle took off at a high rate of speed heading north on US 1. Deputy Dearborne pursued the vehicle until it crossed into Flagler County traveling at a high rate of speed. However, the deputy only got a very brief look at the driver through tinted windows.

I found the defense witness, Rodester Harris, in the St. John's County Jail. I drove up to the St. John's County, and interviewed Mr. Harris with State Attorney Investigator Mike Taylor. He gave a sworn recorded statement. He stated under oath that he was in the backseat of the vehicle when the Defendant's younger brother took off because there were drugs in the car. He hadn't seen the Defendant, or the Defendant's brother since that day. He said that he didn't like the Defendant, and didn't care what happened to him. He gave a very detailed account of the incident, and knew details that weren't in the police report. Both Investigator Taylor and I both felt he was very credible. His statement had the "ring of truth."

I then contacted the Defendant's brother, Terance Johnson, and he confirmed that he was the driver. I had him do a proffer admitting that he was the driver. In case number, 2010-34954 CFAES, he subsequently entered a plea to the Fleeing and Eluding charge, and took the blame.

Because I found the defense witnesses credible, I dropped the charges against Mr. Johnson. Mr. Johnson was innocent. Despite the officer's insistence, and the fact that I'd already picked a jury, it was the right thing to do. Please see the letter of commendation by ASA Celeste Gagne on the next page. As a prosecutor, I have an ethical duty to only pursue cases that I can prove beyond a reasonable doubt. I take that very seriously. In order to ensure that I have lived up to that standard, I have to be knowledgeable of the law, procedure, the case, and diligent in my investigation, and handling of the case. As a supervising attorney, I expect those same standards from my subordinates, but above all, I want them to do the right thing regardless of how inconvenient, or unpopular it may be. I have to set the example. In law, everyone encounters tough decisions, but you must always have the integrity to make unpopular decisions, and to do the right thing.

OFFICE OF THE STATE ATTORNEY
SEVENTH JUDICIAL CIRCUIT OF FLORIDA
VOLUSIA, FLAGLER, PUTNAM & ST. JOHNS COUNTIES

R. J. LARIZZA
STATE ATTORNEY



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September 24, 2010

RJ Larizza
State Attorney
Daytona Beach, FL 32114

Re: David Cromartie

Dear Mr. Larizza,

Just a quick note to let you know what a great job that David Cromartie did in the case of the State of Florida v. Leroy Johnson (2009-31147CFAES). The case was on the Walsh docket and the public defender had been saying that it was the defendant's brother who was the driver in a fleeing case but could not (or would not) produce the brother in person. An alibi notice and a statement was produced but no proper witness address information was ever forth coming. Due to docket changes and other trials there was a mad scramble to find an attorney to try the case.

David stepped up on Monday morning. He picked a jury and on late Wednesday when the defense finally gave him a witness list he scrambled to get the story from the defense witnesses. After interviewing an inmate in St. Johns with Mike Taylor and talking to the brother, David did believe that the brother was the real driver. The brother showed up for trial on Friday, admitted his involvement in a proffer before Judge Walsh and was arrested. The original case was nol prossed.

Though the results were not what we expected at the beginning of the week the end result is just and deserved to the brother who will now have to pay the consequences for his actions and letting his brother face prosecution for his crime. It is a pleasure to work with such a competent and hard working prosecutor.

Sincerely

Celeste Gagne
Assistant State Attorney

SIGNIFICANT CASE #3

Case Name: *State of Florida vs. Robert Latreille*

Case No: 2010-47771 MMAES

Client: State of Florida

Presiding Judge: Honorable David Foxman

Court: County Court of the Seventh Judicial Circuit in Volusia County

Attorneys involved in case:

Robert Rawlins, III, Counsel for Defense

Aaron D. Delgado, Counsel for Defense

Trial Date: January 26, 2011

On January 26, 2011, I tried the case of *State of Florida v. Robert Latreille*. Counsel for the Defense was Aaron D. Delgado, and Robert W. Rawlins, III. The Honorable David Foxman presided. The Defendant was charged with Driving Under the Influence.

Officer Buckner of the Holly Hill Police Department saw a car traveling on a public road in Holly Hill, Florida. The car crossed into oncoming traffic. He testified that one half of the vehicle was in each lane. A black SUV coming from the opposite direction had to swerve to avoid a collision. Officer Buckner immediately activated his emergency lights, and stopped the vehicle. The vehicle pulled over as soon as the officer got behind him.

Officer Buckner approached the vehicle, and made contact with the driver. The driver had glassy, bloodshot eyes. His speech was slurred, and he smelled like alcohol. Officer Buckner believed the driver was very drunk. He called for backup, and it arrived shortly thereafter. Officer Buckner asked Mr. Latreille to step out of the car, and to

perform some field sobriety exercises. The driver responded with an expletive, followed by "take me to jail."

The driver was arrested for Driving Under the Influence. Officer Buckner read the Implied Consent Warning, and asked the driver to take a breath test. The driver agreed. The Holly Hill Police Department doesn't have an intoxilyzer, an instrument that is used for alcohol breath testing. Officer Buckner called different police agencies for approximately 45 minutes, and wasn't able to locate one.

Officer Buckner re-read the Implied Consent Warning, and asked the driver to take a blood test. He agreed. A paramedic arrived, and took blood samples. The blood was tested by the Florida Department of Law Enforcement. The results were a .232, almost three times the .08 legal limit.

There wasn't a video of the driving, or of any of the interactions with the officers, or the paramedic. I spoke with the backup officer, and he believed that the Defendant was impaired, but not drunk. The paramedic who took the blood draw thought that the Defendant was stone cold sober.

Pursuant to these facts, I stipulated that the blood test results were inadmissible. The Florida Statute 316.1932(1)(a)1.a. permits an officer who has legally arrested someone for Driving Under the Influence to ask that person to submit to a breath test, or risk losing their license for a one year for a first time refusal, or eighteen months if their license has been previously suspended for a prior refusal. A law enforcement officer is only permitted to request a blood test pursuant to Florida Statute 316.1932(1)(c) as follows:

Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is,

by operating such vehicle, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible.

In this case, the Defendant was not seeking medical treatment. The only reason the breath test was impracticable was that the officer couldn't locate an available intoxilyzer. That was not going to be enough to meet the legal requirements of Florida Statute 316.1932(c). The blood test results were illegally obtained, and the officer wrongfully advised the Defendant that he would lose his license if he did not provide a blood sample.

Since I knew that I wouldn't be able to use the blood test results at trial, and didn't have any field sobriety exercises, or video, I knew winning at trial would be difficult. The Defendant had several prior DUIs, so I offered him a plea to the reduced charge of Reckless Driving with a withhold of adjudication. It was basically a slap on the wrist for someone whom I knew deserved a lot more, but I was hamstrung by my lack of evidence. I thought something was better than nothing. Despite my very lenient plea offer, the Defendant rejected the offer, and opted to go to trial.

On the night before the trial, I couldn't sleep. I kept going over the evidence in my mind. I couldn't talk about the blood test results. The Defendant could say that he offered to take a breath test, and the officer couldn't locate an intoxilyzer. The two officers involved were going to have different testimony on the level of impairment, and

the paramedic was going to testify that the Defendant was sober. At one point, I even asked my Wife, "How do I win this trial?" She said, "There's no way that you will win this trial. Get some sleep."

The next day, I somehow won the trial. The jury found the Defendant guilty of Driving Under the Influence. He was convicted, and sentenced to 60 days in the county jail followed by probation. It was probably my best performance as a trial attorney. I received the attached commendation from Chief Assistant State Attorney Luis Bustamante for my efforts.

Several months later, Mr. Delgado filed a Motion for a New Trial based on newly discovered evidence that Officer Buckner had been released from his new agency during his probationary period because of questions concerning his veracity, and credibility. He also claimed that the officer had a reputation for dishonesty at his former agency. I made some calls, and determined that many of his fellow police officers felt that he exaggerated things in his reports.

The information provided by Mr. Delgado likely wasn't going to be enough to entitle the Defendant to a new trial. It wasn't newly discovered evidence since it easily could have been discovered by either side prior to trial. Further, if the Defendant was granted a new trial, it was questionable whether this information could be introduced into evidence against the officer. The case law wasn't clear if the Holly Hill Police Department was considered a "community" as is required when introducing evidence of reputation.

However, I believed the officers that I spoke with, and found it compelling that my case was largely based on the testimony of a person with a reputation for dishonesty. I

stipulated to the conviction being overturned in exchange for the Defendant entering a plea to a Reckless Driving, and a sentence of time served.

This case is significant because it was a great victory for me as a trial attorney. I was able to win a case having very little evidence against very well respected attorneys. Prior to trial, I even stipulated that my best evidence, the blood results, were inadmissible. But, when it was revealed to me later that Officer Buckner had a reputation for dishonesty, I didn't feel good about it. It wasn't legally required that I stipulate to overturning Mr. Latreille's conviction, but it was morally the right thing to do. In my job, I have to balance being fair to the witnesses, law enforcement, victims, my supervisor, the attorneys, the Court, and to the defendants. No one told me what to do. I followed my conscience, and did the right thing.

OFFICE OF THE STATE ATTORNEY
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February 3, 2011

David Cromartie
Assistant State Attorney
Office of the State Attorney
251 North Ridgewood Avenue
Daytona Beach, Florida 32114

Re: State vs. Robert Latreille

Dear David;

In creating our Office motto we chose the words "To pursue justice, without fear, favor, reward or the promise thereof", as a constant reminder of our duty as prosecutors to seek this above all else. Your recent work in the case of *State vs. Robert Latreille* is a fine example of our dedication to this principle.

The jury convicted the defendant in this case because of your professional presentation of the evidence and skillful use of the law to make the truth a reality for them. Your talents were used in the vindication of the State's interests and those of the victims, and it is on behalf of both that I write to thank you for a job well done.

Sincerely,

A handwritten signature in cursive script, appearing to read "Luis Bustamante".

Luis Bustamante
Chief Assistant State Attorney

LB:ms
cc: Personnel

SIGNIFICANT CASE #4

Case Name: *State of Florida vs. Theodore Lawrence Smith*

Case No: 1998-041711 MMAES

Client: State of Florida

Presiding Judge: Honorable Freddie J. Worthen

Court: County Court of the Seventh Judicial Circuit in Volusia County

Attorneys involved in case:

Assistant State Attorney Robert Hinckley

Flem K. Whited, III, Counsel for Defense

David D. Fuller, Counsel for Defense

A. Michael Bross, Counsel for Defense

Trial Date: January 20, 2000

On May 27, 1998, Theodore Lawrence Smith was enjoying the entertainment at the Pink Pony Gentleman's Club, an exotic dancing establishment. He had 4 Long Island Iced Teas, and some chicken wings from the buffet. He was flashing \$100 bills at the dancers, and tipping them \$1 bills. Mr. Smith was angering the dancers, and they wanted him to leave. Anthony Rapisardi, the manager of the Pink Pony, said that Mr. Smith was trouble. Mr. Rapisardi said that if the girls are complaining that he must be a problem. According to Mr. Rapisardi, "Them girls ain't no angels."

Mr. Rapisardi asked Mr. Smith to leave. Mr. Smith insisted that someone call a limo. A short while later, Mr. Reynolds arrived driving the limo that Mr. Smith had ordered. Mr. Smith refused to go in the limo, and refused to pay Mr. Reynolds his show up fee. Mr. Reynolds insisted that Mr. Smith either take the limo, or pay the fee. Mr. Smith again refused. Mr. Reynolds stood in front of Mr. Smith's car blocking his path.

He told Mr. Smith to pay his fee, or he would not leave. Mr. Smith sped toward Mr. Reynolds. Mr. Reynolds jumped, and rolled over the hood of Mr. Smith's car.

Mr. Smith took a left out of the parking lot onto US 1. Several miles later, Mr. Smith wrecked his car into a telephone pole. Mr. Smith was detained, and arrested for DUI. On the video, he claimed to be working closely on cases with State Attorney John Tanner. The police sent a complaint affidavit to the State Attorney's Office for Aggravated Assault for attempting to strike Mr. Reynolds with his car. Instead, the State Attorney's Office charged Mr. Smith with Reckless Driving, because it would have been difficult to prove that Mr. Smith was intentionally trying to strike Mr. Reynolds with his vehicle.

I first met Mr. Smith on a standard Arraignment day. A man dressed in an expensive suit walked passed the bar that separates the attorneys from the audience. He began discussing the case of *State v. Theodore Lawrence Smith*. He claimed that Mr. Smith was being falsely prosecuted. I thought he might be an attorney from another county, so I asked his name. At that point, I realized that this well dressed, well-spoken person was actually the Defendant. I told the Defendant that I couldn't talk to him, and he must return to the audience. He was upset, but ultimately returned to the audience.

He went through several local defense attorneys before settling on Flem K. Whited, III, and David D. Fuller to represent him at trial. The case continued on for several months. I answered discovery, sent out trial subpoenas, and prepared the witnesses for trial. On the eve of trial, Mr. Whited, and Mr. Fuller met with me, and the presiding Judge Freddie J. Worthen. Mr. Whited said that he had a conflict of interest,

and had to withdraw. The Judge granted his Motion to Withdraw. Mr. Whited said that the Defendant had threatened him, and felt that he was extremely dangerous.

The Defendant then hired attorney A. Michael Bross out of Brevard County. Mr. Bross took depositions of the State witnesses. At this point, I was transferred from Judge Worthen's docket to Judge Peter Marshall's docket. The case was reassigned to Assistant State Attorney Robert Hinckley. The Reckless Driving case went to trial on January 20, 2000. Both Mr. Hinckley, and I represented the State at trial.

The Defendant was found guilty, and the Judge sentenced him to serve 29 days in the county jail. Within a week, the State Attorney's Office notified me that Mr. Smith had attempted to bond out two inmates to kill Judge Worthen, ASA Hinckley, and me. He offered to pay them \$10,000 per hit. The two men had lengthy violent criminal histories. The Defendant was a wealthy man, and had the means to carry through with his plan.

Mr. Smith scared the men he was attempting to hire as assassins. They decided that they didn't want to participate in Mr. Smith's plan, and contacted law enforcement. During their chilling interview, they described in detail how Mr. Smith had agreed to bond them out of jail, and how they would get a portion of the money up front, and the remainder when the job was done. They said Mr. Smith was serious about his plan. They didn't want to be blamed if the judge, and prosecutors ended up dead.

On February 8, 2000, the State Attorney's Office charged the Defendant with three counts of Solicitation of Murder in case number 2000-030666 CFAES. Mr. Tanner's office conflicted off the case, and it was assigned to State Attorney Larry Houston of the Fifth Judicial Circuit. A judge from another circuit, Judge William Singbush of the Fifth Judicial Circuit, was assigned the case. The Defendant continued to be held without bond.

I never received any information from Larry Houston's office regarding the case. Several months later, Judge Worthen's judicial assistant called me to let me know that Mr. Smith had appeared in Judge Worthen's courtroom for a hearing on a traffic citation. No one had informed me that Mr. Smith had been released. Apparently, he had been found incompetent to stand trial, and was conditionally released. According to Larry Houston's office, Mr. Smith wasn't in violation of his release conditions because he was summoned to appear before Judge Worthen. Several months later, I learned that Mr. Smith had passed away from an apparent drug overdose.

This case is not significant because of complicated legal issues, or because it was a particularly difficult case. This case is significant to me as a prosecutor, and as a judicial candidate because it affected me as a person.

I also experienced the frustration of not being informed by the prosecution about the status of the case. I had no idea that the Defendant had been released

This case was a harrowing, sobering, and humbling experience. It made me much more sensitive to the plight of court litigants. The court system has such volume that it's sometimes easy to see the cases as numbers rather than people. It's important to remember that every single case involves a person. It may be easy to forget that until you become a forgotten victim of a crime. Every time a judge makes a decision, it has a direct effect on someone's life, liberty, and/or livelihood. Judges hold peoples' lives in their hands every day. It's important to remember that with great power comes great responsibility, and part of that responsibility is owing sensitivity, humility, and common sense to all litigants.

SIGNIFICANT CASE #5

Case Name: *State of Florida vs. Chadwick Vogt*

Case No: 2013-302925 CFDB

Client: State of Florida

Presiding Judge: Honorable Leah R. Case

Court: Circuit Court of the Seventh Judicial Circuit in Volusia County

Attorneys involved in case:

Assistant State Attorney Michael Willard

G. Kipling Miller, Counsel for Defense

David D. Fuller, Counsel for Defense

Trial Date: April 6-April 10, 2015

Another case that is significant to me is *State of Florida v. Chadwick Vogt*. This case was tried by Assistant State Attorney Michael Willard and me. Counsel for the defense were G. Kipling Miller and David D. Fuller. The Honorable Leah R. Case was the presiding judge. The Defendant was charged with DUI Manslaughter.

This case is significant for a multitude of reasons. The first reason is that both sides conducted the trial with a high level of skill. All attorneys involved were very good, and very professional. We tried the case for a week straight and were exhausted by the week's end. Second, this is one of the most technical cases I have ever tried. There were seven experts who testified regarding the accident reconstruction, the blood alcohol level of the Defendant, and the cause of the victim's death.

The facts of the case were also significant. Mr. Vogt, the Defendant, was driving his truck south on Old Tomoka Farms Road in Daytona Beach. The victim was riding his motorcycle north on Old Tomoka Farms Road on his way to work, when the

Defendant made a left turn into his subdivision, crossing over the victim's lane. The victim's motorcycle and the Defendant's truck collided. The victim suffered an internal decapitation, and died on scene. The Defendant did not call for help, and was found leaning against his truck.

The officers on scene only noted a slight odor of alcohol coming from the Defendant. The Defendant did not have slurred speech, or blood shot glassy eyes. The Defendant refused to perform field sobriety exercises. Even though there were very limited indicators of impairment, the officers decided to do a forced blood draw. They took a blood sample without a search warrant. The results of the blood draw were a .245 blood alcohol content, more than three times the legal limit of .08.

The Defense filed a Motion to Suppress the blood pursuant to the case of *Missouri v. McNeely*, 133 S. Ct. 1552 (U.S. April 17, 2013). In *McNeely*, the United States Supreme Court held: "In those drunk-driving investigations where police officers can reasonably obtain a warrant before a blood sample can be drawn without significantly undermining the efficacy of the search, the Fourth Amendment mandates that they do so." *Id.*, at 1561.

Additionally, the Defense challenged whether the officers had probable cause to do a forced blood draw under the pre-*McNeely* Florida law. In accordance with Florida Statute 316.1933(1)(a), a law enforcement officer may obtain a blood sample when there is a death or serious bodily injury as follows:

If a law enforcement officer has probable cause to believe that a motor vehicle driven by or in the actual physical control of a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, a law enforcement officer shall require the

person driving or in actual physical control of the motor vehicle to submit to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner. Notwithstanding s. 316.1932, the testing required by this paragraph need not be incidental to a lawful arrest of the person.

The defense motions were well reasoned. If granted, it would effectively force the State to drop the charges against Mr. Vogt. Assistant State Attorney Michael Willard asked me to be co-counsel, because of my extensive background in DUI cases. The officers definitely violated *McNeely* because they did not seek a search warrant, and certainly could have. Our saving grace was that we were able to show the officers acted in good faith in applying the law as it existed at the time of the blood draw. Fortunately, we were able to convince Judge Case that the limited signs of impairment combined with the accident itself rose to the level of probable cause that Mr. Vogt was operating his truck while his normal faculties were impaired.

The accident reconstruction on this case was complicated. The Florida Highway Patrol didn't keep the victim's motorcycle. They also did not keep the Defendant's truck. Instead, the investigators took very detailed measurements and lots of pictures.

The defense attempted to show that the motorcycle's headlight might have been out prior to the accident. The defense expert claimed that the pictures were inadequate to preserve the evidence. Furthermore, the picture of the motorcycle headlight did not clearly show that the filament to the light had stretched in the accident. According to both experts, if the headlight was on at the time of a crash, the light filament would have

been hot. It would have naturally stretched due to the sudden impact of the crash. This was a crucial issue. If the jury believed that the victim's headlight was out, they could have concluded that the Defendant did not contribute to the crash, an essential element to the charge.

My examinations of the State's reconstruction experts, and the Defendant's reconstruction expert established beyond a doubt that the Defendant caused the accident. My insight from riding motorcycles since I was 16, and my experience trying accident cases helped me to understand this complicated testimony, and to present it in a simplified way for the jury. I believe that my performance with these experts may be the best I have ever done in a trial. I invite the committee to speak with the litigants, and Judge Case regarding how well this case was tried.

The Defense sent the blood kit to an independent lab to be re-tested. When the kit was sent back from the independent lab the original markings had been removed, and destroyed. Luckily, a defense expert had photographed the kit, the blood vials, and all the markings prior to it being sent to the independent lab. The results from the independent lab corroborated the results from the Florida Department of Law Enforcement's lab. Unfortunately, it would have cost \$10,000.00 to bring the experts from the independent lab to testify. Therefore, we proceeded with only the original blood test results. We were able to get the results in through the pictures of the markings, but were not able to attribute the destruction of the markings to the defense.

Ultimately, Mr. Vogt was found guilty, and later sentenced to 15 years in prison. He had two prior convictions for Driving Under the Influence.

This case really affected me. Every time I ride my motorcycle, I now think of this case. It has made me very cautious, maybe even paranoid. I am satisfied that we were able to get a guilty verdict on this case and to arrive at a just sentence. My interaction with the victim's family was powerful. It would have crushed them if Mr. Vogt had been set free.

Mr. Vogt certainly earned every day he will spend in prison, but I cannot help feel some compassion for him. He never intended to kill anyone that night. He is an addict who had difficulty controlling his own actions. It is sad that he too has essentially lost his life.

I wonder if he could have controlled his addictions if he had been placed in a program like the Volusia County DUI Court prior to this tragedy. We will never know. I do know that if any good came out of this tragedy it is that the 30 or so DUI Court participants were required to attend the sentencing of Mr. Vogt. There wasn't a dry eye in the house. Many of the participants stated that witnessing the sentencing did more for them than any other part of the DUI Court program. I hope that witnessing this tragedy gives them the strength to maintain sobriety.

The Chadwick Vogt trial is significant to me because it was a very complicated, technical trial that spanned five days of trial testimony. It is also significant to me because I felt it was a just sentence. I honestly feel for the Defendant and his family because his life is also destroyed. He did not intend to hurt anyone. However, he was reckless and irresponsible, and it cost the victim his life.

SIGNIFICANT CASE #6

Case Name: *State of Florida v. Victor Lamar Evans*

Case No: 2006-CF-000979

Client: Victor Lamar Evans

Presiding Judge: Honorable Kim C. Hammond

Court: Circuit Court of the Seventh Judicial Circuit in Flagler County

Attorneys involved in case:

Assistant State Attorney Jennifer Dunton

Assistant State Attorney Stephen M. Nelson

Trial Date: None

In November 2006, I was hired to represent Victor Evans. Mr. Evans was a 20 year old black male charge with Burglary with a Battery, a first degree felony punishable by life in prison. He had no prior criminal history except for a misdemeanor drug possession. The alleged victim was a 43 year old white woman. She lived in Palm Coast with her Husband, and two children. Her house had a lawn in the back, and was abutted by a large wooded section.

On October 25, 2006 at 2:40 p.m., the Victim was home by herself getting a glass of water from the kitchen when she heard someone open the rear sliding glass door. A young black male confronted her. According to the Victim, he was approximately 5'5", 165 lbs. She ran for the front door when the man grabbed her pajama pants. Her pants came off during the struggle. He then grabbed her shirt, and tore it. She kicked the man until he escaped out of the sliding glass door. She had a small laceration on her hand where her drinking glass broke. She called 911, and the

police arrived. The Flagler County Sheriff's Office set a perimeter and searched for her attacker. They didn't find any fingerprints, or any other physical evidence.

The police canvassed the area, and located a witness who said that she saw Vinny White with a black male matching the description earlier. The police located Vinny White, and asked if he had been with anyone earlier that day. He said that he hadn't, but he had heard a person named Vic had been burglarizing houses, and provided the officers with Victor Evans's phone number.

Donna McCarthy lived a few streets away from the Victim's house. She called the police, and reported that a man meeting the attacker's description rode a bicycle by her house, and made her uncomfortable. She thought he may have had something to do with why the police were canvassing the area. She said that the person on the bicycle had a tattoo on his calf.

From this information, the police created a lineup. The Victim stared at the lineup photos for approximately fifteen minutes, and identified Victor Evans as her attacker. Ms. McCarthy also identified Victor Evans from a photo as the man who rode the bicycle by her house that day. The police went to Mr. Evans's house, and arrested him. They searched the residence. They didn't find any articles of clothing that matched the Victim's description, or any other evidence that he had been the Victim's attacker that day.

In a recorded interview, Mr. Evans told the police that he had been at a party in Daytona during the time of the burglary. He provided names of witnesses. Some of the witnesses were college students. Mr. Evans's mother and grandmother told the police

that he had been home all day with them. The police didn't bother contacting any of the possible alibi witnesses.

Based on that evidence, the State charged Mr. Evans with Burglary with a Battery, a first degree felony punishable by life. The Assistant State Attorney handling the case, Jennifer Dunton ("ASA Dunton"), felt strongly that Mr. Evans should go to prison for a very long time. She believed that the evidence showed that Mr. Evans was trying to rape the Victim, because he pulled her pants off. I countered that if it was the attacker's intent to rape her that he could have easily overpowered her. Mr. Evans was innocent. The State had the wrong guy.

Mr. Evans couldn't afford to bond out of jail, so I met with him at the Flagler County Inmate Facility several times. Every time I met with him, he maintained his innocence. He looked incredulous that this was happening to him. I told that the State's case was circumstantial, and that the identification was weak. I was hopeful that we could work something out with the State since he was facing a potential life sentence if convicted at trial. However, the Victim was adamant that it was Mr. Evans who had broken into her home, and battered her. She didn't want the State to offer a light plea deal.

I gathered several witness statements from college students who all verified that Mr. Evans was with them at a party in Daytona at the time of the Burglary. I also spoke to Donna McCarthy who witnessed the man on the bicycle who she later identified as Mr. Evans. She told me that the man had a full calf tattoo, and that it was very distinctive. Mr. Evans didn't have a calf tattoo, he didn't have any marks from being

kicked, he was four inches taller than the description, and thirty pounds heavier than The Victim's description.

Assistant State Attorney Dunton refused to make any plea offers, and continued to take the position that Mr. Evans needed a lengthy prison sentence. This case was going to be a trial. I was under enormous pressure. My client was innocent. The State's case was circumstantial. There was no physical evidence. It was based solely on the Victim's statement, and identification. I had several good alibi witnesses. However, it was still a scary proposition. My client faced a potential life sentence if he lost.

Then, strange things began to happen. the Victim reported several incidents of witness intimidation. On March 2, 2007, the Victim's co-worker received a call that the Victim's husband had been in a horrible auto accident, and probably would not survive. She relayed that information to the Victim, and the Victim rushed to Halifax Hospital in Daytona Beach. When she arrived, she learned that the call was a hoax.

She then reporting receiving phone calls. The Victim's employer received numerous phone calls wherein the female caller implied that she was following the Victim. The female caller further threatened that the Victim had "better watch her back."

Then, the Victim began receiving letters. She said that the letters were threatening, and implied that someone was stalking her. The letters said things like: "you don't know who you're messing with", "we know where you live", and "how was the pizza last night?" There was no mention of the case, but they were clearly sent to intimidate the Victim. Mr. Evans was incarcerated during the pendency of this case. The jail reported that they monitored his mail, but never found a letter of this nature sent

by him. She turned the letters over to the police. The State provided me with copies of the letters. I have attached several to this case as exhibits.

In the midst of receiving several threatening letters, the Victim was attacked in her own driveway. She told the police that a black female grabbed her from behind, and clawed her face with both hands. The black female then grabbed her head, and slammed her head into the opened car door. The Victim's young son found her lying unconscious underneath her car, and called 911. The Victim had scratches all over her face, and a cut from the corner of the car door. The Victim went to the hospital where she was treated for her cuts, and was diagnosed with a concussion. The State provided me with the pictures, and medical records that verified her injuries.

Due to the harassment, the Victim quit her job, and her family moved to a different undisclosed location, but she continued to receive threatening letters. I then deposed the Victim. She was the most clear, and compelling person that I have ever deposed. I asked her how she could be so sure that it was my client who attacked her since she only saw him for a short time. She replied that, "every time I close my eyes, I see his face." She didn't waiver once about any detail of the case. I was concerned that she would be a very convincing trial witness.

Soon after giving her deposition, the Victim was attacked in a parking lot. She reported that her attacker cut her with a razor blade on the face, and said that she better not testify.

My case was getting worse by the minute. It was clearly not Mr. Evans doing these things. It couldn't be. He was locked up the entire time. I didn't know who was doing it, but it was a scary situation. I was preparing a Motion in Limine to exclude

all of these threats, because it couldn't be linked to Mr. Evans. In the meantime, the State charged him with about 15 counts of Tampering with a Witness. All were third degree felonies. The case had spiraled out of control.

About a week later, Assistant State Attorney Stephen Nelson, the supervisor of the Flagler State Attorney's Office, called me on my cell phone. I thought he was going to tell me that the Victim had been attacked again, or worse. Instead, he told me that after the razor incident, he got skeptical. I hadn't seen the pictures at that time, but he said that the cut was more of a scratch than a gash. He reasoned that if someone was trying to intimidate a witness, it would be worse than a scratch.

He looked at the threatening letters a bit more carefully, and noticed that the handwriting looked very similar to the Victim's handwriting in her statement. He called in her husband, and asked him if he could identify her handwriting. He positively identified his wife's handwriting in the threatening letters. Assistant State Attorney Nelson confronted the Victim about it. When confronted with the evidence, The Victim admitted to writing all of the threatening letters, and to fabricating all of her injuries. The State subsequently dropped all of the charges, and Mr. Evans was released from jail.

This case was significant to me because it shows how dangerous a case can be that's based on limited evidence, or solely on the testimony of one person. I'll never be able to forget this case. It had a lasting impact on me. I will forever view my cases, particularly as a prosecutor, through this lens. I am very thankful that Mr. Nelson was diligent, and had the wisdom, and experience to see through his victim.

I'd much rather let a guilty man go free than convict an innocent man. I take this responsibility very seriously. Not only am I a prosecutor, but I'm the supervisor of

young, inexperienced attorneys. I can't tell you how many times I have told them this story. It is one of the most outrageous, and harrowing set of facts that I have ever encountered, but it is 100% true. I use it as a warning to be fair, be diligent, and not to always believe everything you hear.

EXHIBIT 5

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

Please find the following document was researched, drafted, and prepared exclusively by me.

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

STATE OF FLORIDA
Plaintiff,

CASE NO: 2012-35553MMAES

vs.

MISDEMEANOR

JEREMY CASEY COX
Defendant.

MEMORANDUM OF LAW IN REGARDING DEFENDANT'S MOTIONS TO SUPPRESS
EVIDENCE, CONFESSIONS, STATEMENTS AND ADMISSIONS

FACTS

This Court conducted a hearing on Defendant's Motions to Suppress Evidence and Statements on June 19, 2012. The Court asked the Parties to submit written memoranda to the Court in regards to their arguments.

At the hearing, Dennis White (herein also referred to as "Mr. White") and Officer Castellano of the Daytona Beach Shores Department of Public Safety provided testimony. At the hearing, the Court also received an in car video from Officer Castellano's patrol car and photographs depicting the damage done to Defendant's car and a can of four loco.

Dennis White testified that at around 5:53 PM on March 19, 2012, he observed two white males urinating on the side of a condo building located at Oceans 10 Condos in Daytona Beach Shores, Florida. Neither of the men wore shirts and the two went on the beach. Mr. White testified that he called the police to report the trespass and the urinating on the condo. Mr. White testified that the two white males later returned to Oceans 10 Condos. He testified that the two men entered a black Honda. Mr. White testified that the driver of the car was wearing black

shorts and the passenger was wearing red shorts. Mr. White testified that the driver drove the black car straight into a concrete wall causing extensive front end damage to the vehicle. He testified that the air bags deployed and the front fender was loosened and the windshield was broken. Mr. White testified that the driver of the vehicle got out of the car and looked at the damage. He then put the car in reverse and left the Oceans 10 Condo north on A1A. Mr. White testified that he told the 911 operator his name, address and phone number. Mr. White testified that he lives at the Oceans 10 Condos and that he was at the address that he gave the 911 operator.

Officer Castellano testified that he received a call to go to the beach behind the Oceans 10 Condos to look for two white males without shirts who had urinated on the condo and then went to the beach. The original call said that the suspects were in a black Honda. He testified that he originally stopped a car matching the description given, but within 10 seconds he could tell it was the wrong vehicle and let the original car go. Officer Castellano testified that after he stopped the first vehicle, he received updated information that the two white males returned from the beach. The driver of the vehicle was wearing black shorts and that the passenger was wearing red shorts. He testified that he received information that the driver drove the black Honda into the Oceans 10 Condo wall and that the front end of the car was heavily damaged, the air bags had deployed and the windshield was broken. He received information that the reporting party stated that the black car then drove out of the Oceans 10 Condos and went north on A1A. Officer Castellano testified that he received the reporting party's name, date of birth, phone number and location via dispatch prior to making contact with the suspect's vehicle. He testified that the reporting party was Mr. White.

Officer Castellano testified that he immediately went north from the beach onto A1A and saw the Defendant's black Toyota a few minutes later. Officer Castellano's in car camera was on once he received information that the suspects were driving north on A1A. Officer Castellano comes behind the suspect vehicle without his lights and sirens on. He testified that he could see the smashed windshield and extensive front end damage prior to stopping the vehicle. He testified that he could see two occupants. He testified that he could see that the air bags had deployed and that there was vapor rising from the front of the vehicle. Officer Castellano comments on the condition of the vehicle and the smashed windshield on the video prior to initiating the stop. Officer Castellano testified that the vehicle was swerving significantly within its own lane prior to him turning on his lights and siren. This is also clearly supported by the video.

Officer Castellano testified that he based the initial stop on a group of things. First, he testified that he believed he could stop the vehicle because it matched the description given by Mr. White as being involved in a Leaving the Scene of an Accident. It was a black two door Japanese car with extensive front end damage, deployed airbags and a smashed windshield. The vehicle was also occupied by two people. All this was consistent with the call made by Mr. White minutes earlier. Officer Castellano also testified that he stopped the vehicle because the smashed windshield was a traffic infraction. He testified that the extent of the damage to the windshield would create a driving hazard as it would impede the driver's ability to see out, especially to the right. The Court has pictures of the windshield and clearly the damage would impede anyone looking through it. Officer Castellano also testified that the smashed windshield had sharp edges that could cut the occupants of the vehicle. Officer Castellano also testified that he also believed that he could stop the vehicle based on a safety check. The vehicle had clearly

been in a recent accident and the occupants of the vehicle could be injured or impaired. The vehicle was weaving heavily and the driver was likely injured or impaired or the vehicle was malfunctioning.

Based on the above Officer Castellano testified that he initiated a stop of the Defendant's vehicle. Defendant pulled the vehicle into the center lane. Officer Castellano testified that when he stopped the vehicle there was a strong odor of alcohol in the car, Defendant had glassy, watery eyes and he was slurring his words. Officer Castellano first asks the Defendant "How we doing today?" Defendant responds "We don't know exactly what's going on." Officer Castellano asks Defendant "How did your airbags deploy?" Defendant responds "They deployed and guy hitting me." Defendant had trouble paying attention to the Officer and has to be asked several times for his license and registration. The Defendant states that he hit another vehicle on AIA and that he doesn't know where that vehicle went. Officer Castellano testified he asked the Defendant to go to the back of the car. Officer Castellano testified that he could smell alcohol on the Defendant's breath when he came to the back of the vehicle. The video clearly shows the Defendant is a white male who is wearing black shorts and no shirt. Officer Castellano asked for consent to pat down the Defendant. Defendant said "ok" and "search my pockets if you want." The passenger of the vehicle stated that they were involved in a crash and that he hit his head on the windshield and was knocked unconscious. The Defendant changed his story regarding how the accident occurred several times. The Defendant admitted to drinking a four loco.

Officer Castellano conducts a traffic investigation. There are other officers on scene that looked at the damage to vehicle, talked to the passenger and looked at passenger and Defendant for injuries. Officer Castellano testified that other officers went to Oceans 10 Condos and

gathered information from the witnesses and information regarding the crash. Officers located an empty four loco can and a bottle of Crown Royal in the Defendant's vehicle. These officers relayed this information to Officer Castellano. Officer Castellano testified that there was a lot going on and that he completed the long form accident report prior to asking the Defendant to perform field sobriety exercises. Officer Castellano testified that he completed tickets for Leaving the Scene of an Accident and Open Container prior to asking the Defendant to perform field sobriety exercises. The tickets were not given to the Defendant until after he is placed in handcuffs. Officer Castellano returned the Defendant's license and registration prior to asking the Defendant to perform field sobriety exercises.

The Defendant performed field sobriety exercises and was arrested for DUI. Defendant was placed in handcuffs and asked to take a breath test. Defendant asked questions and Officer Castellano reads the Defendant implied consent. The Defendant asked some more questions regarding the breath test. Officer Castellano answered the questions and Defendant agreed to take the breath test. Defendant is then read Miranda and answers some questions. The Defendant was later asked questions regarding the alcohol influence report. The answers given by Defendant were recorded and placed in evidence.

The total length of time from initial stop until Defendant was placed into handcuffs was approximately 40 minutes. About 25 minutes of that time per the video was the initial stop and the accident investigation. Approximately 5 minutes was spent finishing up the tickets and the long form accident report and setting the vehicle up to record field sobriety exercises. The remaining 10 minutes was the actual performance of the field sobriety exercises.

DETENTION

There can be no doubt that Officer Castellano had adequate reasons to stop the Defendant. Officer Castellano had probable cause to stop the vehicle based on the traffic infraction of a cracked windshield. Hilton v. State, 961 So.2d 284 (Fla. 1997). Officer Castellano also had founded suspicion to stop the vehicle because the Defendant might be impaired, sick or having mechanical difficulty. Esteen v. State, 506 So.2d 357 (Fla. 5th DCA 1987), State v. Carrillo, 506 So.2d 495 (Fla. 5th DCA 1987), State Department of Highway Safety and Motor Vehicles v. Deshong, 603 So.2d 1349 (Fla. 2^d DCA 1992). The Defendant was weaving heavily in his lane and clearly had extensive front end damage to his vehicle and it was smoking from the engine area. Finally, Officer Castellano had reasonable suspicion that this vehicle was involved in a Leaving the Scene of an Accident from the Oceans 10 Condo. His suspicion was developed from information from Mr. White who is a classic "citizen informant." A citizen informant is "an identified informant, rather than an anonymous one... whose information is at the high end of the reliability scale. A citizen informant is motivated not by pecuniary gain, but by the desire to further justice." State v. Evans, 692 So.2d at 219 (Fla. 4th DCA 1997). Mr. White had identified a black Honda occupied by two white males with heavy front end damage, deployed air bags and a broken windshield driving north on A1A. Within several minutes, Officer Castellano observed the suspect vehicle. The vehicle was a black Toyota with heavy front end damage, deployed airbags and a broken windshield. The car was being driven north on A1A by two occupants. The striking similarity between what Mr. White reported and what Officer Castellano observed is apparent. This gave Officer Castellano reasonable suspicion that the Suspect vehicle was involved in the Leaving the Scene of an Accident reported by Mr. White.

Once the suspect vehicle was stopped, Officer Castellano was able to develop reasonable suspicion that the Defendant was the one who committed the Leaving the Scene of an Accident and that he committed the offense of Driving Under the Influence with Property Damage. "A reasonable suspicion is such suspicion as would warrant a man of reasonable caution in the belief that [a stop] was appropriate." Terry v. Ohio, 88 S.Ct at 1880 (1968) (quoting Carroll v. United States, 267 U.S. 132 (1925)). Officer Castellano knew that Mr. White had reported that the driver who left the scene was a white male wearing black shorts and no shirt and that his passenger was a white male wearing red shorts and no shirt. It is clear from the video that the Defendant is a white male wearing black shorts and no shirt. It was also determined that the Defendant's vehicle had chalky white residue on the front end. This type of residue would be expected from hitting a concrete wall as opposed to a dark vehicle as described by the Defendant on the video. Furthermore, the passenger, Mr. Matthew Robinson stated that they were in an accident and that he hit his head on the windshield and was knocked unconscious. In looking at the pictures of the Defendant's windshield, it is clear that the windshield was hit by Mr. Robinson's head on the passenger side of the vehicle. He was clearly sitting in the passenger seat at the time of the accident. Further evidence of reasonable suspicion that the Defendant was the driver at the time of the accident is that he was driving the vehicle at the time of the stop minutes after the call from Mr. White headed in the direction that the fleeing vehicle was going. Officer Castellano also testified that other officers were collecting evidence at Ocean 10 Condos and relaying the evidence to him throughout the stop.

Officer Castellano developed reasonable suspicion that the Defendant was Driving Under the Influence so that he could ask the defendant to perform field sobriety exercises. For all the reasons stated above, it is clear Officer Castellano had reasonable suspicion that the Defendant

was the one involved in the accident described by Mr. White. The Defendant was weaving heavily in his lane just prior to being stopped. This is clearly shown on the video and is a sign of impairment. When stopped the Defendant showed a group of signs of impairment that would indicate he was under the influence. Officer Castellano testified that the Defendant had glassy and watery eyes. There was a strong odor of alcohol coming from the interior of the car. Officer Castellano also testified that the Defendant had slurred speech which is confirmed by the video.

Prior to exiting the car the Defendant makes some statements that added to the Officer's reasonable suspicion. The Officer asks "How are you doing today?" The Defendant responded "We don't know exactly what is going on." The Defendant's statements and responses as recorded on the video are confused like someone who is under the influence would make. The Defendant also has difficulty focusing on Officer Castellano and following directions. Officer Castellano had to ask the Defendant at least three times for his license and registration before the Defendant acknowledged the request. Once the Defendant is asked to exit the vehicle, Officer Castellano is able to smell alcohol on the Defendant's breath separate from the odor in the interior of the vehicle. The officers located a bottle of Crown Royal and an empty can of Four Loco, an alcoholic beverage. The Defendant stated that he drank the can of Four Loco.

Reasonable suspicion is based on the totality of the circumstances. In the instant case, it is clear that Officer Castellano had more than enough reasonable suspicion that the Defendant was impaired. He observed an odor of alcohol on Defendant's breath, glassy and watery eyes, slurred speech, the Defendant was weaving within the lane, open containers, signs of a significant traffic crash and the Defendant's confused answers. Defendant also was leaving the scene of an accident. It is reasonable to believe that this shows consciousness of guilt and that

Defendant is leaving because he knows that he is impaired and does not want to get in trouble. The Defendant further admits to drinking the four loco.

In Origi v. State, 912 So.2d 69 (Fla. 4th DCA 2005) the Court found that an officer had reasonable suspicion to warrant a detention of a defendant following a stop, to initiate an investigation for DUI where the officer observed the defendant traveling at a high rate of speed, pulled him over, smelled alcohol and saw the defendant had bloodshot eyes. In State v. Amergrane, 39 So.3d 339 (Fla. 2nd DCA 2010), the Court found that the officer had reasonable suspicion to ask the defendant to perform the HGN test when he observed the defendant speeding at four o'clock in the morning, stopped the defendant, smelled alcohol and observed the defendant's glassy bloodshot eyes. After the conclusion of the HGN, the officer had reasonable suspicion to ask for more exercises. As can be seen from the above arguments, Officer Castellano had many more signs of impairment than did the officers in Origi and Amergrane. Therefore, the field sobriety exercises, the Defendant's statements and all the officer's observations should be admissible at trial.

ACCIDENT REPORT PRIVILEGE

The Defendant's pre-Miranda statements should not be suppressed based on the accident report privilege contained in F.S. 316.066. The intention of the Legislature in adopting subsection (4) of 316.066 was to encourage true and uninhibited reports of accidents, the ultimate goal being to make highways safer. Department of Highway Safety & Motor Vehicles v. Perry, 702 So.2d 294 (Fla.5th DCA 1997). Its purpose is to promote a truthful reporting of the facts surrounding the accident, while relieving persons involved from incrimination from compliance with the law. Perez v. State, 630 So.2d 1231 (Fla. 2d DCA 1994); Hector v Tucker, 432 So.2d 1352 (Fla. 5th DCA 1983). The statute prohibits the statements made by persons

involved in accidents in order to avoid violation of the Fifth Amendment privilege against self-incrimination. State v. Norstrom, 613 So.2d 437, 440 (Fla. 1993); Bracklin v. Boles, 452 So.2d 540, 544 (Fla. 1984).

In Vedner v. State, 849 So.2d 1207, 1213 (Fla. 5th DCA 2003), the 5th DCA found that the accident privilege only applies when the defendant “was advised or believed that he was required to provide the information sought by the law enforcement officers, and as the interview was non-custodial and voluntary, we conclude that statements made to the officers were properly introduced into evidence at his trial, despite the officers failure to warn Mr. Vedner under Miranda. See Cummings; State v. Johnson, 695 So.2d 771, 774 (Fla. 5th DCA 1997). In this instance, Mr. Vedner’s privilege against self-incrimination was not violated. “

In the instant case, the Defendant was not in custody and was never given any indication by Officer Castellano or anyone else that he had to answer the questions. In fact many of the statements were made by the Defendant without prompting from the officer. Because the statements were voluntary and the Defendant was not given any indication that he must answer the questions, the statements are admissible.

The accident report privilege does not apply to individuals who leave the scene of an accident. State v. Hepburn, 460 So.2d 422 (Fla. 5th DCA 1984). The confidentiality privilege conferred by 316.066(4) “is designed to encourage and promote the gathering of information for the purposes of documenting the nature and cause of automobile accidents. This section clearly was not intended to afford a suspected hit and run driver, whom the police eventually tracked down and questioned about the accident, with greater protection than is constitutionally required for other criminal suspects.” State v. Ferguson, 405 So.2d 294, 296 (Fla. 4th DCA 1981).

In the instant case, the Defendant clearly left the scene of an accident. Therefore, the accident privilege does not apply. The State contends that the evidence clearly shows that the Defendant hit the wall at the Oceans 10 Condos and left the scene. This is shown by Mr. White's testimony and the similarities to the Defendant's car and the fact he is wearing black shorts and no shirt. The Defendant and his passenger are both white males and the car had white chalky residue on its front end like it hit a concrete wall. Even if the Court finds that it is not conclusive that the Defendant left the scene of that accident, he still left the scene of an accident. Clearly, Defendant is driving north on A1A away from an accident.

The accident privilege further does not apply to the facts of this case because the Defendant lies about being in an accident. He reports that he was involved in an accident with another vehicle and that the other vehicle took off. This is clearly a fabrication and the statement was made prior to the Defendant even exiting his car. The purpose of 316.066(4) "is to promote candor in making accident reports. This purpose is not achieved where a person, rather than candidly reporting one accident, reports another in an attempt to conceal her involvement in the one." Hepburn at 425. The Defendant, like the defendant in Hepburn, has fabricated an accident in order to conceal his involvement in the accident at Ocean 10 Condos. Clearly he cannot rely on the accident report privilege to allow him to suppress his false statements.

Even if the Court finds that the accident report privilege applies, only Defendant's statements regarding the accident would apply. The officers' observations as to the Defendant's smells, slurred speech, glassy and watery eyes, performance on field sobriety exercises, results of the breath test and the post Miranda statements would all be admissible. State v. Cino, 931 So.2d 164 (Fla. 5th DCA 2006); State v. Edwards, 463 So.2d 551 (Fla. 5th DCA 1985).

CUSTODIAL INTERROGATION

The Defendant was not in custody until he was placed under arrest by Officer Castellano at the conclusion of the field sobriety exercises. In State v. Alvarez, 776 So.2d 1060 (Fla. 3d 2001) the defendant was stopped for speeding and asked to perform field sobriety exercises. The Third DCA held that no Miranda warnings need be given prior to roadside sobriety tests, so long as the motorist is not in custody. In Alvarez, the Court determined that it was just a normal traffic stop and the onside questions and the exercises were admissible.

In order to be in custody a suspect's freedom of action must be curtailed to a degree associated with formal arrest. Berkemer v. McCarthy, 468 U.S. 420, 440 (S.Ct. 1983). In State v. Burns, 661 So.2d 842, 844 (Fla. 5th DCA 1995), the Fifth DCA stated the "facts found by the trial court show nothing more than a routine traffic stop. Burns was stopped and was asked for his license and registration and to perform field sobriety tests. The stop was short (eleven minutes), occurred in a public area, only one officer was present and the tests were simple." The Court also stated that an officer can lawfully refuse a request to leave regardless of whether the suspect is subject to a full custodial arrest or a temporary detention. Burns at 844. In Hewitt v. State, 920 So.2d 802, (Fla. 5th DCA 2006) an officer stops a defendant for a traffic infraction and asks the suspect for her driver's license. The suspect states she does not have one and had never had one issued. The officer asks the suspect to exit the vehicle and then for officer safety asks if she had a gun, knives or drugs on her person. The suspect then stated she had weed and produced two bags of marijuana. In this case there were 5 or 6 drug unit officers present during the stop. It was at night, but none of the officers threatened, drew their guns or flashed their spotlights at the suspect. The Fifth DCA stated that under these facts the suspect was not in custody when asked the routine question for officer safety.

In the instant case, the Defendant is also not in custody. The Defendant is lawfully stopped and Officer Castellano develops reasonable suspicion that the Defendant has committed the crimes of Leaving the Scene of an Accident and DUI. As in almost all DUI cases, the Defendant was asked to exit the car. The Defendant was in a public place and was primarily asked questions by Officer Castellano. It was daylight. No officer threatened the Defendant, drew a gun or placed restraints on the Defendant. Other officers were present, but were serving the purpose of regulating traffic, speaking with the passenger and checking the injuries to the Defendant and to the passenger. Officer Castellano asked the Defendant to exit the vehicle and asked for consent to pat him down for officer safety. The Defendant agrees and said look in the pockets if you like.

The stop is relatively long, but this is because Officer Castellano has to write the long form of the accident report and must write several tickets. The scene was very busy because it is rush hour and Officer Castellano was relying on officers at Oceans 10 Condos to provide him information regarding witness statements and damage to the wall at the condo. Approximately 25 minutes passed from the stop before Officer Castellano asked the Defendant to perform field sobriety exercises. This is not a large amount of time considering how long it takes to write the tickets and investigate the accident report. In Sands v. State, 753 So2d 630 (Fla. 5th DCA 2000), an officer stops a defendant for a traffic infraction and detains the defendant without reasonable suspicion of a crime for 15 minutes before a canine officer arrives on scene to do a sniff around the vehicle. The dog alerted and drugs were found. The Fifth DCA found that this 15 minute detention was not unnecessarily prolonged for a simple traffic infraction.

Officer Castellano had a lot more to do for the crash investigation than did the officer in Sands and, therefore, 25 minutes is not unnecessarily prolonged even if the Defendant was

simply charged with a traffic infraction. In this case, Officer Castellano had reasonable suspicion of DUI and Leaving the Scene of an Accident and the detention was justified and was non-custodial. The Defendant then performed field sobriety exercises which took about 10 minutes. Again, this was done one on one and was a relatively short period of time. The Defendant was then placed under arrest and asked to take a Breath test. The Defendant agreed and later took the breath test.

After Defendant agreed to take the breath test, Officer Castellano read the Defendant Miranda. Clearly any statements the Defendant made after the reading of Miranda are admissible. These statements are included on the video and on the alcohol influence report submitted into evidence.

If the Court finds that at some point prior to the reading of Miranda that the Defendant was in custody, some pre-Miranda statements and observations would still be admissible. Any statements made by the Defendant prior to being in custody and any statement that was a spontaneous utterance and not in response to questioning would still be admissible. Furthermore, the Officers' observations as to physical traits would be admissible. For example, the Defendant's balance, smell of alcohol, slurred speech and glassy eyes would all be admissible. The Defendant's performance on the purely physical roadside tests would also be admissible. State v. Whelan, 728 So.2d 807 (Fla. 3rd DCA 1999). For example, the walk and turn, the one leg stand and the finger to nose exercise are purely physical exercises which show the Defendant's balance and physical ability and Defendant's slurred speech. If the Court finds that the Defendant was in custody at the time of the field sobriety exercises the alphabet exam should be excluded. This is because the Defendant incorrectly recited the alphabet. If he had correctly recited the alphabet and the exercise was being offered merely to show the Defendant's

slurred speech it would be admissible. Burns at 846. The act of refusing to take a breath test or perform field sobriety exercises is an act and is admissible against an in custody defendant in Florida without Miranda warnings. Burns at 848. Under the same logic, the Defendant's agreement to take the breath test is an act and the results if in compliance with Florida law would also be admissible.

POST MIRANDA STATEMENTS

Officer Castellano read the Defendant Miranda at exactly the time officers read Miranda in almost all DUI cases, immediately after the Defendant was read implied consent and agreed to take the breath test. This was not done for any improper or deceitful purpose. It is done this way to prevent the Defendant from being confused as to the interaction between the implied consent warnings and the Miranda warnings. A Defendant can reasonably be confused whether he can refuse to answer the question will you take a breath test if he was just told he has the right to remain silent and the right to an attorney. State v. Alves, 3 Fla. L. Weekly Supp 553 (Orange County Court April 24, 1995).

The admissibility of post-Miranda statements following a custodial interrogation and after delayed administration of Miranda warnings is based on the totality of the circumstances. The Court must consider (1) whether the police used improper and deliberate tactics in delaying the administration of Miranda warnings in order to obtain the initial statement; (2) whether the police minimized and downplayed the significance of the Miranda rights once they were given; (3) the circumstances surrounding both the warned and unwarned statements. Ross v. Florida, 45 So.2d 403, 424 (Fla. 2010).

In the instant case, it is the State's contention that the Defendant was not in custody prior to the Defendant being placed under formal arrest. Therefore, there was not any delay in the

giving of Miranda and no unwarned custodial interrogation. If the Court believes that the Defendant's freedom of action was curtailed to a degree associated with formal arrest at some point prior to the giving of Miranda it would have to be for a short period of time. The total stop was approximately 40 minutes. A portion of the stop occurred in the car and then some questions were asked behind the vehicle. Approximately 10 minutes of the stop was spent doing field sobriety exercises. There is absolutely no evidence that Officer Castellano used improper and deliberate tactics in delaying the giving of Miranda warnings. Officer Castellano performed a non-custodial traffic accident investigation interview and then proceeded to do field sobriety exercises. He gave Miranda immediately after the Defendant agreed to take the breath test. Officer Castellano read the Miranda warnings on scene and on video. It is clear from the video that he did not down play the warnings. He simply read the warnings and the suspect agreed to speak. The questions asked by Officer Castellano were similar to questions asked earlier. Most of these questions had already been answered by the Defendant while he was in his car. There can be no argument that the Defendant was in custody while in his car.

There is simply no improper and deliberate tactics by the officers in this case to delay the giving of Miranda. The State would, therefore, ask the Court to deny the Defendant's motion to exclude the post-Miranda statements.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished to the Office of WARREN W LINDSEY, 1150 LOUISIANA AVENUE, SUITE 1, WINTER PARK, FL 32789, by hand/mail/bin this _____ day of August, 2012.

DAVID CROMARTIE, ASA
251 NORTH RIDGEWOOD AVENUE
DAYTONA BEACH, FL 32114
BAR NO. 0148891

EXHIBIT 6

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

On September 20, 2012, I gave two lectures in Orlando, Florida. The first was a 90 minute lecture on Direct Examination. The second was a 90 minute lecture on Cross Examination. This was part of a DUI Seminar by the Traffic Safety Resource Prosecutor Program (TSRP). TSRP is a group funded by a federal grant with the purpose of assisting and educating prosecutors in prosecuting traffic safety violations. From 9/17/2012 – 9/22/2012, I critiqued and ran workshops. Young prosecutors staged mock trial techniques. They practiced opening statements, closing statements, direct examination, and cross examination in front of their peers. I received \$360.00 for my work and was reimbursed \$726.41 for travel, hotel and meals.

On July 13, 2015, I gave a 90 minute lecture on report writing in Clearwater, Florida. I was compensated by having my hotel paid for July 13, 2015 through July 14, 2015. I stayed at the Hilton of Clearwater Beach, 400 Mandalay Avenue, Clearwater, Florida 33767. The bill for the two night stay was \$288.96. This was paid directly by the Institute of Police Technology and Management (IPTM). The IPTM is a law enforcement training institute that holds seminars throughout the State of Florida. I gave a lecture on report writing. Approximately one hundred officers attended the lecture.

EXHIBIT 7

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

On August 14, 2017, I received a formal complaint inquiry from the Florida Bar. The complaint inquiry was initiated on August 6, 2017, by Ms. Alison Arlotta. Ms. Arlotta is a former client. I represented her from December of 2009 through early August of 2010. She alleged that I did not diligently work on her divorce case, owed her part of the retainer and did not communicate with her or opposing counsel. She also alleged that I failed to tell her that I was returning to the State Attorney's Office and that my Wife would be taking over her case.

The case in question is Alison Pagano v. Ronald Pagano, 2010-20017 FMNS. I did a Petition for Dissolution, answered a Counter-Petition, mandatory disclosure, answered interrogatories and a Request to Produce. I also sent Interrogatories and a Request to Produce to the respondent. Both parties were deposed. I communicated with the client and with opposing counsel. The Final Judgment of Dissolution of Marriage was signed by the Judge on August 10, 2010.

I did not return to the State Attorney's Office until September of 2010. Our retainer agreement made it clear that the firm of Cromartie and Cromartie, PA was being hired to represent the then Ms. Pagano. The retainer also made it clear that the amount paid was an initial non-refundable retainer. I earned the retainer. The only work done on this case after I returned to the State Attorney's Office was that my Wife completed a Qualified Domestic Relations Order to divide the retirement accounts per the already executed Marital Settlement Agreement. The client never complained to me or my wife regarding this matter. I do not know why this has been filed seven years after the case settled. The complaint was closed by the Florida Bar on August 10, 2017. Please see attached letter from the Florida Bar.



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

John F. Harkness, Jr.
Executive Director

Joshua E. Doyle
Executive Director Designate

August 10, 2017

Ms. Alison Arlotta
2708 Sparta Drive
New Smyrna Beach, FL 32168

Re: David Alan Cromartie; RFA No. 18-1794

Dear Ms. Arlotta:

I have reviewed your Request for Assistance, and since it appears that the matter giving rise to your inquiry is greater than six years old, the Attorney/Consumer Assistance Program of The Florida Bar is unable to be of assistance to you. This matter is being closed pursuant to Rule 3-7.16 of the Rules of Discipline of The Florida Bar, a copy of which is enclosed for your review.

Pursuant to the Bar's records retention schedule, the computer record and file will be disposed of one year from the date of closing.

Sincerely,

Jack Franklin Wise, III, Bar Counsel
Attorney Consumer Assistance Program
ACAP Hotline 866-352-0707

Enclosure - Copy of Rule 3-7.16

cc: Mr. David Alan Cromartie

RULE 3-7.16 LIMITATION ON TIME TO BRING COMPLAINT

(a) Time for Inquiries, Complaints, and Reopened Cases. Inquiries raised or complaints presented by or to The Florida Bar under these rules shall be commenced within 6 years from the time the matter giving rise to the inquiry or complaint is discovered or, with due diligence, should have been discovered.

A reopened disciplinary investigation shall not be barred by this rule if the investigation is reopened within 1 year of the date on which the matter was closed, except that reopened investigations based on deferrals made in accord with bar policy and as authorized elsewhere in these Rules Regulating The Florida Bar shall not be barred if reopened within 1 year of the conclusion of the civil, criminal, or other proceedings on which deferral was based.

(b) Exception for Theft or Conviction of a Felony Criminal Offense. There shall be no limit on the time in which to present, reopen, or bring a matter alleging theft or conviction of a felony criminal offense by a member of The Florida Bar.

(c) Tolling Based on Fraud, Concealment, or Misrepresentation. In matters covered by this rule where it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the matter giving rise to the inquiry or complaint, the limitation of time in which to bring or reopen an inquiry or complaint within this rule shall be tolled.

(d) Constitutional Officers. Inquiries raised or complaints presented by or to The Florida Bar about the conduct of a constitutional officer who is required to be a member in good standing of The Florida Bar shall be commenced within 6 years after the constitutional officer vacates office.

EXHIBIT 8

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

On September 20, 2012, I gave two lectures in Orlando, Florida. The first was a 90 minute lecture on Direct Examination and the second was a 90 minute lecture on Cross Examination. This was part of a DUI Seminar put on by the Traffic Safety Resource Prosecutor Program (TSRP). TSRP is a group funded by a federal grant with the purpose of assisting and educating prosecutors in prosecuting traffic safety violations. I critiqued and ran workshops from September 17-22, 2012. These were practical mock performances by the young prosecutors. There were workshops where the attorneys practiced opening statements, closing statements, direct examination and cross examination in front of their peers.

On February 25, 2013, I gave an hour lecture on local DUI issues at Daytona State College. The lecture was before officers from Volusia, Flagler, and Seminole Counties.

On December 6, 2013, I gave a 50 minute lecture on Direct Examination to new prosecutors. This lecture was part of a day long training internally done by the Office of the State Attorney for the Seventh Judicial Circuit.

On June 23, 2014, I gave an hour lecture on local DUI issues at Daytona State College. The lecture was for officers from Volusia, Flagler and Seminole Counties.

On January 6, 2015, I gave a lecture on DUI procedure to the officers from the New Smyrna Beach Police Department. The lecture was for 2 hours. The lecture covered stop issues, detention issues, accident privilege issues, body cam issues, field sobriety exercises and breath test issues.

On February 2, 2015, I gave an hour lecture on local DUI issues at Daytona State College. The lecture was for officers from Volusia, Flagler and Seminole Counties.

On July 13, 2015, I gave a 90 minute lecture on report writing in Clearwater, Florida. The lecture was for the Institute of Police Technology and Management (IPTM). The IPTM is a law enforcement training institute that holds seminars throughout the State of Florida. The lecture I gave was in front of around a hundred officers and dealt with report writing for DUI issues.

On July 20, 2015, I gave an hour and a half lecture on report writing at Daytona State College's 7th New Detective's Academy Course. Please see attached letter commending me.

On October 20, 2015, I gave a lecture on DUI procedure to the officers from the Daytona Beach Shores Department of Public Safety. The lecture was for 2 hours. The lecture covered stop issues, detention issues, accident privilege issues, body cam issues, field sobriety exercises and breath test issues.

On October 22, 2015, I gave a lecture on DUI procedure to the officers from the Daytona Beach Shores Department of Public Safety. The lecture was for 2 hours. The lecture covered stop issues, detention issues, accident privilege issues, body cam issues, field sobriety exercises and breath test issues.

On December 4, 2015, I gave an hour lecture with Kelly Chanfrau, Esquire. The lecture was in Daytona Beach at the Diversity Training for the Judiciary Conference. Our topic was implicit bias. The lecture was before approximately 30 judges from throughout the State of Florida who received Continuing Judicial Education credit.

On October 24, 2017, I gave an hour lecture on local DUI issues at Daytona State College. The lecture was for officers from Volusia, Flagler and Seminole Counties.



July 30, 2015

Dear David,

On behalf of the School of Emergency Services I wish to express my sincere appreciation to you for your teaching presentation. Your assistance as a professional presenter in the 7th New Detective's Academy Course delivered to 38 Florida Detective's was excellent and helped to make the program a huge success. The critiques from students were very positive towards your material and presentation. The information you shared was very useful. Your efforts to fill the "tool boxes" of the New Detectives with resources and examples they can refer to meant a lot to them.

Your ability to share your work experiences and professional knowledge was highly apparent and very well received by the students. We know how valuable your time and resources are. Thank you again for all your professional efforts in both the preparation, and delivery of the program.

Sincerely,

Robin Davis
Faculty/ Associate Professor
School of Emergency Services

EXHIBIT 9

48(c). List your hobbies or other vocational interests.

I have practiced martial arts since I was a teenager. I am a black belt in Tae Kwon Do, and used to regularly teach. Now that I am older, I train with some of the same people I did back in the 1980s. I also continue to train with my children. My oldest son is a black belt, and my youngest son is the rank just below black belt. I believe that many of my accomplishments can be attributable to the mental skills I learned from martial arts. I first learned to be comfortable with public speaking, and to be a leader by teaching martial arts.

I learned how to fence in college. My instructor was a NCAA National champion. I took classes in all three weapons: foil, epee and sabre. I attained an instructor rating and taught at the University of Florida. In 1993, I finished 10th at the United States Nationals in the foil competition.

Now, I spend a lot of my time playing handball. I play two to three times a week. It is a rigorous sport. I absolutely love it. I'm very competitive. In 2010, I won the Florida State 3-Wall championship in both singles and doubles. This year I won the open doubles division of the Florida State 3-Wall championship.

I enjoy surfing, scuba diving, snow skiing, and riding my motorcycle. I also enjoy reading. I read novels and articles on autism, seizure, and stem cell research.

EXHIBIT 10

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

As a prosecutor, I'm prohibited from practicing anything other than criminal law on behalf of the State. I have, however, donated my time to aid others. On Saturday October 6, 2012, I participated in the Volusia County's First Homeless Veterans Stand-Down. The Stand-Down provided access to legal services, medical care, dental screening, haircuts, clothing, shelter, counseling, VA benefits, employment assistance, emergency shelter assistance, and other programs. The event took place at 250 N. Beach Street in Daytona Beach from 8:00 am until 2:00 pm. My involvement in the Stand-Down was to represent the State of Florida in Court proceedings that were designed to help veterans take care of minor legal violations. We helped the veterans remove warrants, convert fines and court costs to community service hours, help clear driver's license issues, and settle misdemeanor offenses. Please see attached Exhibit.

I also volunteered in Volusia County's Second Homeless Veterans Stand-Down. This event was at 250 N. Beach Street in Daytona Beach on Saturday August 17, 2013, from 8:00 am until 1:00 pm. This event was very similar to the event in 2012. Both were successes, and I am proud of my involvement. I attached a letter from the Honorable David B. Beck thanking me for my participation.

I have participated as a Teen Court Judge. Teen Court is a diversion program designed to reduce juvenile delinquent activity by the use of positive peer pressure and other appropriate sanctions such as community service, apology letters, drug screenings, and anger management. Students from local middle schools, and high schools volunteer to assume the roles of prosecutors, defense attorneys and jurors. I acted as the presiding judge for the Teen Court sessions that took place on July 7, 2015, from 5:00 pm to 8:00 pm, and again on September 17, 2015, from 5:00 pm to 8:00pm. It was a rewarding experience. I hope that I was able to get through to the young men and women that came before me. Most of them were remorseful, and seemed to appreciate the break they were receiving by going through diversion. I will continue to volunteer for this worthwhile program.

While in private practice, I quite often did pro bono work for my friends, or clients. I would also frequently do work for reduced rates. I didn't keep track of how much, or when. I never wanted to receive any recognition for it. It was my pleasure to help. It wouldn't surprise me if it added up to several hundred hours. The years would have been from 2004-2010.



STATE OF FLORIDA
SEVENTH JUDICIAL CIRCUIT
Circuit Court, Volusia County
Volusia County Courthouse Annex
Suite 301
125 E. Orange Avenue
Daytona Beach, Florida 32114

David B. Beck
Circuit Court Judge

Phone: (386) 257-6051
Fax: (386) 248-8130

November 13, 2012

R. J. Larizza Esquire
State Attorney,
7th Judicial Circuit,
251 N. Ridgewood Ave.
Daytona Beach, Florida 32114.

Re: David Cromartie Esquire
Veterans Stand- Down.
October 6, 2012

Dear Mr. Larizza:

I wanted to take a moment and let you know about David Cromartie's involvement and assistance in Volusia County's 1st Homeless Veterans Stand-Down. It took place on October 6, and was attended by well over 100 veterans. The responses from Veterans groups have been, overwhelming and extra - ordinary. They are all so very grateful. I was advised by the Coordinator for the Veterans Justice Outreach Program that ours was the first Stand-Down in their "catchment area" that had included, court services. I believe we handled eight or nine cases and were able to resolve them in a manner that was satisfactory to the State and beneficial to the veteran.

David Cromartie represented your office with professionalism, courtesy, fairness, treated the veterans that came before the court with dignity and respect and ultimately was able to obtain a just and fair result. His contribution to this Stand-Down, was invaluable. He is a credit to your office and to our system of justice.

I cannot thank you both enough for your assistance. Please allow this letter to reflect my sincere gratitude and hopefully to become a permanent part of David's record of service with your office.

Very truly yours,

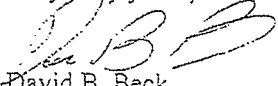

David B. Beck
Circuit Court Judge

EXHIBIT 11

Continuing Legal Education

Status and Credit History

for David Alan Cromartie (Bar #148891) as of 11/14/2017

CLER Cycle

	Gen Credits	PR Credits	Tech Credits
Incomplete	0.0 of 33.0	0.0 of 5.0	0.0 of 3.0
	Cycle Start	Completed	Cycle End
	09/01/2017	--	08/31/2020

Basic Skills

Phase 1 Compliant	End	Completed
	07/31/2004	02/20/2003
Phase 2 Compliant	End	Completed
	02/28/2006	10/14/2005

Credit Date	Reference	Title	Item	Gen Cred	PR Cred	Tech Cred	Cycle	Date Posted
08/29/2017	1700679N	DV Trial Advocacy	DVD	12.0	2.0	0.0	08/31/2017	08/31/2017
08/27/2017	1701827N	Search & Seizure Issues	CD	5.0	0.0	0.0	08/31/2017	08/31/2017
07/28/2017	1605229N	Professionalism & Ethics - Recent Updates	Live	2.0	1.0	0.0	08/31/2017	08/20/2017
12/31/2015	1503339N	Rule 3.220 & Brady-Giglio Obligations	DVD	2.0	2.0	0.0	08/31/2017	01/26/2016
08/10/2015	1503077N	Summer Education Training Program for Prosecutors	Live	12.0	2.0	0.0	08/31/2017	09/22/2015
09/19/2013	1306125N	Domestic Violence Basic	DVD	8.0	1.0	0.0	08/31/2014	09/01/2014

11/12/2012	3208-3	WINTER EDUCATION TRAINING	Live	14.5	5.5	0.0	08/31/2014	08/22/2014
01/06/2012	3872-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
12/09/2011	3870-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
11/18/2011	3868-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
11/04/2011	3867-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
10/28/2011	3866-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
10/21/2011	3865-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
09/16/2011	3860-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
09/09/2011	3859-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
09/02/2011	3858-2	CRIMINAL LAW UPDATE	Live	1.0	0.0	0.0	08/31/2014	08/22/2014
08/29/2011	1377	2011 SURVEY OF FL LAW	Audio Tape	12.5	4.0	0.0	--	08/31/2011
08/20/2011	1181	CRIMINAL LAW UPDATE	Audio Tape	7.0	1.0	0.0	--	08/31/2011
11/10/2010	2061-1	ADVANCED DUI SEMINAR		15.5	0.0	0.0	--	08/31/2011
08/30/2008	0660	SURVEY OF FLORIDA LAW 08	CD	11.5	4.0	0.0	--	09/09/2008
08/29/2008	0548	BANKRUPTCY LAW & PRAC: VI	CD	4.5	0.5	0.0	--	09/09/2008
10/14/2005	0325	BASIC COMMERCIAL LITIGATI	Live	8.0	1.0	0.0	--	--
10/06/2005	0326	BASIC PROBATE/GUARDIANSHP	Live	7.5	1.0	0.0	--	--
06/15/2004	3797-4	2004 JOINT DIF/SIU CONF		11.5	2.0	0.0	--	--
04/22/2004	5455	BASIC PERSONAL INJURY	Live	10.0	0.0	0.0	--	--

EXHIBIT 12

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

On September 20, 2012, I gave two lectures in Orlando, Florida. The first was a 90 minute lecture on Direct Examination and the second was a 90 minute lecture on Cross Examination. This was part of a DUI Seminar by the Traffic Safety Resource Prosecutor Program (TSRP). TSRP is a group funded by a federal grant with the purpose of assisting and educating prosecutors in prosecuting traffic safety violations. I critiqued and ran workshops from September 17-September 22, 2012. These were practical mock performances by the young prosecutors. There were workshops where the attorneys practiced opening statements, closing statements, direct examination and cross examination in front of their peers.

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On July 20, 2015, I gave an hour and a half lecture on report writing at Daytona State College's 7th New Detective's Academy Course.

On October 20, 2015, I gave a lecture on DUI procedure to the officers from the Daytona Beach Shores Department of Public Safety. The lecture lasted for two hours.

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On December 4, 2015, I gave an hour lecture with Kelly Chanfrau, Esquire. The lecture was in Daytona Beach at the Diversity Training for the Judiciary Conference. Our topic was implicit bias. Approximately 30 judges from throughout the State of Florida attended the lecture, and received Continuing Judicial Education credit.

On October 24, 2017, I gave an hour lecture on local DUI issues at Daytona State College. Police officers from Volusia, Flagler, and Seminole Counties attended.

EXHIBIT 13

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

According to the Florida Code of Judicial Conduct, a good jurist is fair, impartial, diligent, and trustworthy, and must even avoid the appearance of impropriety. A jurist with knowledge of the law and experience working in the legal system is essential to those ideals. A jurist must embody those values in order to maintain the public's trust to maintain the confidence and integrity in our legal system. Without that, our legal system fails. There is no justice or perception of fairness.

My experience as a Managing Assistant State Attorney has prepared me to be a good jurist. In my role as a Managing Assistant Attorney, I have a plethora of duties, and responsibilities. Primarily, I am responsible for training, mentoring, protecting, and disciplining new attorneys. It's very rewarding, but can also be a challenge. I want my attorneys to be professional, ethical, and knowledgeable. I want them not only to represent the State Attorney's Office in a professional manner, but also to grow as attorneys and people, so that they can take that experience and be the future of the State Attorney's Office or wherever they choose to pursue their legal career.

We hold weekly training meetings wherein we discuss current legal issues of criminal law, procedure, office protocol, and their cases. Beyond that, I have an open door policy, and young attorneys constantly bombard me with complex legal issues, plea bargaining, and ethical dilemmas. I usually don't directly answer their questions. I prefer to give them the tools to guide them into making the right decisions themselves. It helps them to grow as attorneys, and gives them the confidence to make difficult decisions themselves in the future should they encounter a similar situation. As a result, it has expanded my knowledge of the law, and litigation skills.

I constantly take calls, texts, and emails from victims, witnesses, law enforcement officers, defense attorneys, judges, my supervisors, and staff. They advise, complain, question, and otherwise, take issue with all aspects of the cases and attorneys that I supervise. It's my job to mediate, and to resolve any disputes that arise among these groups. It isn't easy. The different groups often do not have aligned interests. I make sure that everyone has a chance to be heard. I explain why I am making a decision based on the law, facts, and/or ethical basis. I try to ensure that they feel they were treated fairly even if I don't ultimately decide in their favor. Quite often my decisions don't make anyone happy.

However, my job is not to make anyone happy, it's not to convict someone, and it's not to "win" on behalf of the State, it's to do justice. It's a difficult job. Quite often it means that I have to say "no" to my friends and people I have practiced with my entire career. Sometimes it means having to reprimand, or overrule my friends. I have to have the integrity to disagree with everyone while still valuing their input. Being a prosecutor is a unique role as an advocate. We even have an additional rule of Professional Conduct that doesn't apply to other advocates. I must be measured in

what I say, and what I do. I represent, not only myself, but also my office in everything I do.

My experience as a Managing Assistant State Attorney has prepared me to be a good jurist. A good jurist must weigh the interests of all the parties, and provide a fair arena for decisions to be made. A judge must follow the law and ensure fairness. Many times a judge must make decisions that are unpopular. A good judge must do the right thing even when it is not in the judge's own best interest to do so. A judge must also be aware of how his conduct and statements reflect on the judiciary. I embody these values in my role as a Managing Assistant State Attorney every day. Please find my evaluation by my Supervisor, Assistant State Attorney Melissa Clark, attached. I make hard decisions every day. I give people the opportunity to have their voices heard and their positions known. I investigate and research their claims. Sometimes, I agree with them. Sometimes, I don't. When I don't, I have the integrity to disagree with them, but I always explain my reasons. I do it to lead by example and to maintain the integrity of my office and the legal profession as a whole. I will do the same as a member of the judiciary.



OFFICE OF THE STATE ATTORNEY, R.J. LARIZZA
SEVENTH JUDICIAL CIRCUIT OF FLORIDA

PERFORMANCE EVALUATION FORM

Name: DAVID CROMARTIE Office: DAYTONA
Rater: MELISSA CLARK Review Period: 07/01/2014 to 06/30/2015

(Check One) : Meets Expectations Needs Improvement

Comments: (Include areas of exceptional performance or needed improvement):

Dave consistently demonstrates that he is the utmost professional. The misdemeanor division has been through numerous staff changes over the last year and Dave navigated through it all while remaining professional at all times. Dave is a wealth of knowledge of legal issues facing the misdemeanor ASA and makes himself available, even after hours, to assist the attorneys in his division as they progress in their career and legal knowledge. Dave's patience and legal knowledge lend him to be an ideal manager over the misdemeanor division.

By signing, I acknowledge that my supervisor and I have reviewed and discussed this evaluation for the time period covered by this form.

Employee's Signature: David Cromartie

Date: 9/3/15

Employee's Comments (Optional):

Rater's Signature: [Signature]

Date: 9/3/15



OFFICE OF THE STATE ATTORNEY, R.J. LARIZZA
SEVENTH JUDICIAL CIRCUIT OF FLORIDA

PERFORMANCE EVALUATION FORM

Name: David Cromartie

Office: Daytona Beach

Rater: Melissa Clark

Review Period: 07/01/2015 to 06/30/2016

(Check One) : Meets Expectations Needs Improvement

Comments: (Include areas of exceptional performance or needed improvement):

Dave is extremely knowledgeable in the misdemeanor area of the law and is very approachable. Dave makes himself available to his ASA's, even after hours, and assists them with the legal questions and issues that arise. Dave's patience and knowledge of the law continue to make him very well suited as the division chief over our misdemeanor division.

By signing, I acknowledge that my supervisor and I have reviewed and discussed this evaluation for the time period covered by this form.

Employee's Signature: David Cromartie

Date: 7/26/16

Employee's Comments (Optional):

[Empty box for Employee's Comments]

Rater's Signature: [Signature]

Date: 7/26/16

EXHIBIT 14

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

As a judge, I will bring a broad range of knowledge, professionalism, integrity, efficiency, fairness, and impartiality to the bench. The diversity of my legal career has uniquely prepared me for judicial service. I began my career as a prosecutor working trial side on misdemeanor and felony dockets. After I left the State Attorney's Office, I worked in the private sector handling everything from insurance defense to custody disputes. I returned to public service where I am now a Managing Assistant State Attorney. I supervise the Misdemeanor and Juvenile Divisions of the Office of the State Attorney in Daytona Beach. I've spent thousands of hours in and out of courtrooms litigating a wide spectrum of cases. The courtroom is my second home.

Many people in the legal community know me as a prosecutor. I've spent over half of my legal career representing the people of the State of Florida as a prosecutor in the Seventh Judicial Circuit. Nothing prepares you for a career in litigation quite like being a prosecutor. I've worked a lot of long hours, and foregone the more lucrative private sector in the pursuit of justice. I have gained invaluable courtroom experience through trials, hearings, and managing the attorneys I supervise. As a result of my daily interactions with prosecutors, defense attorneys, and judges, my substantive knowledge of criminal law, procedure, evidence, and ethics expands on a daily basis. Because of my tenure as a prosecutor, I have confidence that I can meet any challenge that the legal arena presents. I'm very grateful to have been given the opportunities that I've had. I'm very proud of my public service.

I've also spent a significant amount of time in private practice. I've been an insurance defense attorney. As an insurance defense attorney, I handled PIP cases, and insurance fraud cases for Allstate. I ran a title insurance company for a year. I started my own law firm. During my tenure with my own firm, I handled a wide range of cases including, but not limited to the following areas: family law, injunctions, criminal defense, traffic, dependency, personal injury (plaintiff and defense), partition, contracts, small claims, evictions, and general civil litigation. I was involved in countless hearings, trials, negotiations, settlements, and mediations. In addition to litigation, I continued to issue title insurance, draft contracts, and wills for small estates.

My experience in private practice distinguishes me from most prosecutors. Prosecutors represent the people of the State of Florida. They don't have clients. They don't run businesses. Prosecutors get paid salaries. They don't have to concern themselves with billable hours, or attracting clients. Access to courts is a given.

Most prosecutors don't know the pressure of having a client's life, liberty, or livelihood in your hands. I do. They don't know what it's like to sit through a pre-trial, or case management docket for two hours to address the court for two minutes while you miss out on phone calls from potential clients. I do. For a private practitioner, time is money, and the needless amount of time wasted while waiting around in court is money lost. They don't know what it's like to sit through a court session that should take five minutes that ends up taking two hours while judges drone on because they like to hear themselves talk. I do. They don't know what it's like to be triple-booked and have to scramble for coverage. I do. They don't know what it's like to have clients in need of emergency hearing time to protect themselves or their child or to need 15 minutes to discuss a minor discovery matter and not have any hearing time available to address it for several months. I do.

As a Managing Assistant State Attorney, I supervise attorneys who have just recently passed the Bar. For most, it is their first job as an attorney. Learning how to be an attorney has a very high learning curve, and being a prosecutor is even more daunting. These novices are immediately given a docket of several hundred cases and are shoved into a court room. My job is to ensure that they hit the ground running. I want my attorneys to be knowledgeable, fair, professional, and above all, ethical. I lead by example, but also hold regular training sessions, and meetings to go over their cases.

When a defense attorney has a grievance against one of my attorneys, they come to me, and I resolve it. If they have a legitimate gripe about their professionalism, I'll have a talk with the offending party. In some cases, it is a very unpleasant talk. If they have a concern about the way a certain case is being handled, I review the case, and talk to the person handling the case. I will not overrule their decisions if I believe it was a reasonable use of their discretion.

One of the most difficult aspects of being a prosecutor, or an attorney for that matter, is exercising your discretion. As prosecutors, they have the discretion to decide the charges, reduce the charges, recommend sentence, and ultimately drop the case. Their discretion can have a profound impact on someone's life. I teach them to use it wisely and fairly. It's not my practice to overrule them when they have reasonably used their discretion and someone has complained that they have been too harsh or unfair. I have yet to receive a complaint that they were too lenient. However, when someone complains that they were rude, unprofessional, unethical, unfair, or were just plain wrong on the facts or the law, I take action. I may side with my prosecutor, the defense attorney, or may disagree with both of them. Reasonable people can disagree. Quite often, I'm put in the awkward position of disagreeing with my friends and making unpopular decisions. Even though they may not ultimately agree with my decision, I want everyone to feel that I took the time to listen and to make a fair decision.

In conclusion, I will bring experience, knowledge, integrity, honesty, fairness, professionalism, efficiency, and impartiality to the bench. My legal experience has given me a broad base of knowledge and experience. I have a wide range of knowledge that encompasses criminal, family, and civil litigation. Throughout my career, I have primarily been a litigator. I have experienced the good, bad, and ugly of the judiciary. Nothing devalues the legal system more than a corrupt judge or a judge who is disrespectful of litigants or attorneys. We can't have that in our political system. Our system relies on people trusting our judges to be ethical. It can't survive without that. I won't be any different as a judge than I have been my entire career. I will project the trust and fairness that I have embodied throughout my career. I have attached a letter of commendation from the Honorable David B. Beck that was written on March 14, 2000.

DAVID B. BECK
ATTORNEY*
CERTIFIED MEDIATOR
404 North Halifax Avenue
Daytona Beach, Florida 32118

RECEIVED

MAR 15 2000

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March 14, 2000

Office of the State Attorney
Attn: John Tanner, State Attorney
Justice Center
451 N. Ridgewood Avenue
Daytona Beach, Florida 32114

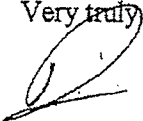
Dear John:

I wanted to take this opportunity to compliment your office for the manner in which it has dealt with me in prosecuting a client I represent. David Cromartie has at all times conducted himself with courtesy and professionalism in his communications with me. Further and perhaps more significant to me, he has exhibited the qualities of intuition, foresight and forthrightness in exercising prosecutorial discretion in my clients case.

I think you would agree that such qualities are inherent in a good prosecutor and a vital adjunct to acquired courtroom skills. Mr. Cromartie appears to possess them all and I believe is and will continue to be an asset to your office.

Hopefully this letter finds you well. Once again my compliments to your office and its excellent staff.

Very truly yours,



David B. Beck, Esq.

cc: Sean Daly
David Cromartie

EXHIBIT 15

REDACTED

EXHIBIT 16

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

Aaron D. Delgado, Esquire
227 Seabreeze Boulevard
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Phone: (386) 255-1400

Eric A. Latinsky, Esquire
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Judge Bryan A. Feigenbaum
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Judge Karen A. Foxman
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Judge Dawn P. Fields
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Mitchell A. Gordon
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