

**Redacted Application  
for Nomination to the  
Seventh Judicial  
Circuit Court**

Jacquelyn Roys Clifton



## APPLICATION FOR NOMINATION TO THE CIRCUIT COURT

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

**Full Name:** Jacquelyn Roys Clifton **Social Security No.:** [REDACTED]

**Florida Bar No.:** 550108 **Date Admitted to Practice in Florida:** 4/15/2002

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

**Derrevere, Stevens, Black & Cozad  
Attorney  
2005 Vista Parkway, Suite 210  
West Palm Beach, FL 33411  
(561) 684-3222**

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

**Current residential address since June, 2018:**

**[REDACTED]  
Loxahatchee, FL 33470  
Palm Beach County  
I have resided in Florida since August 1979  
Cell phone number: 386-547-9100  
Email: jrc@derreverelaw.com**

3. State your birthdate and place of birth.  
**Born [REDACTED], in Staten Island, NY**
4. Are you a registered voter in Florida (Y/N)? **Y**
5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

**Florida: April 15, 2002, through present**



**United States District Court- Southern District of Florida, Admitted June 30, 2016**  
**United States District Court- Middle District of Florida, Admitted February 23, 2022**  
**Supreme Court Certified Family Mediator, May 22, 2015 thru 2018**

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

**Yes, my maiden name was Jackie/Jacquelyn Roys from birth to 2003 and 2004- November, 2015. I was known as Jackie/Jacquelyn Roys Miller from November 2002-December 23, 2003.**

**EDUCATION:**

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

Schools:

**Florida Coastal School of Law**

**Attended: 1999-December, 2001**

**Degree Conferred: Juris Doctor in December, 2001**

**Class Standing and GP A: Will provide upon receipt**

**Florida State University**

**Attended: August, 1995-August, 1997**

**Degree Conferred: Bachelor of Science in Criminology**

**Class Standing and GPA: No Academic Distinction**

**St. Johns River Community College**

**Attended: 1991-1995**

**Degree Conferred: Associates of Arts**

**Class Standing and GPA: No Academic Distinction**

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

**USD Study Abroad, 2000**

**Intramural Softball 1995-1997**

## **EMPLOYMENT:**

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

### **Derrevere, Stevens, Black, & Cozad**

2005 Vista Parkway, Suite 210

Remote home office

Attorney, June, 2023-Present

**Bryan Black, equity partner and direct supervisor (561) 684-3222**

### **Jacquelyn Roys Clifton, P.A.**

Remote home office

Attorney, November, 2020 - June, 2023 (P.A. is still active)

I established Jacquelyn Roys Clifton, P.A. during the COVID-19 lockdown as I was receiving a high volume of calls from potential clients from the Seventh Judicial Circuit regarding representation for Family Law matters. At that point in time, courts were holding court virtually, so I was able to represent clients in the Seventh Circuit while living out of county. This benefitted these clients as it was more cost effective than having to pay for my travel expenses from Palm Beach County to the counties encompassed in the Seventh Judicial Circuit.

I also worked as Of Counsel for Halifax Law Group from September 2021-May, 2023. I worked remotely through my home office, and was a 1099 attorney for Halifax Law Group. The address for Halifax Law Group is 444 Seabreeze Blvd. Suite 890, Daytona Beach, FL 32118. Bethany Schonsheck, 386-492-4880.

I also practiced Family Law for Compass Law Group, remotely from my home office from April 2021-September 2021. Their address now is 146 W. Sybelia Ave., Maitland, FL 32751. Cheri Hobbs, 407-340-2523.

### **MedPro Healthcare Staffing**

#### **Non-legal employment**

December 2015-October, 2017

Director of International Operations

H-1B Cap Program

1580 Sawgrass Corporate Parkway, Suite 200 Fort Lauderdale, FL 33323

**Elizabeth (Liz) Tonkin, President MedPro Staffing (cell) [REDACTED]**

From their website: MedPro Healthcare Staffing is a Joint Commission certified, leading provider of temporary and contract staffing services to healthcare facilities throughout the United



States. Since 1983, MedPro has successfully served the needs of our employees and clients by placing thousands of quality healthcare professionals into facilities seeking top talent.

MedPro recruits qualified healthcare professionals in the U.S. and internationally to meet the needs of our diversified client base. MedPro is one of the largest recruiters of therapists and nurses from outside the U.S.

MedPro currently has contracts with numerous organizations to service a multitude of healthcare facilities in the U.S. The company counts among its clients prominent healthcare facilities and organizations such as the Department of Veterans Affairs, University of Miami Hospital, and Tenet Healthcare.

I originally worked on an H-1B Visa Immigration project beginning in December, 2015 through March, 2016. According to the American Immigration Council and the U.S. Citizenship and Immigration Services websites, the H-1B Visa is a nonimmigrant visa that allows employers to petition for foreign professionals to work in specialty occupations. On behalf of Med Pro, we petitioned for Lab Technicians that met the qualifications for the H-1B program, and had a signed contract with Med-Pro to perform the relevant medical services in the United States.

I then transitioned into working as Director of International Operations and over-seeing MedPro's pipeline to have our foreign nurses that met the necessary and stringent requirements to work within the United States. This included overseeing the recruitment, scheduling and completion of the NCLEX examination, scheduling and completion of the English examination, obtaining VisaScreen, obtaining U.S. licensing in the assigned state(s) of opportunity, obtaining an approved I-140 visa petition, and when the priority date is current, obtain travel permissions.

Once the immigrant is granted their immigrant visa (green card) or the immigrant is the recipient of selection in the H-1B Visa lottery, we would schedule their transportation and arrival in the United States for their orientation and placement. The orientation consisted of necessary professional transition training, but MedPro also arranged for driving lessons, mobile phone cellular phone contracts, and other critical training areas for life in the United States.

The intent of MedPro was to always have the immigrating employees and the home office employees work together when possible because the atmosphere was one of incorporation and family. On a routine blood pressure check by one of Med Pro's training/teaching nurses in October, 2017, my blood pressure was unexpectedly and dangerously high. I was encouraged (instructed) by my Executive Staff and the nurse instructors to immediately contact my doctor as I was 7 months into a high-risk pregnancy. My doctor ordered me to immediate bed rest until such time that my son could be delivered. My son was born on December 5, 2017, via an emergency C-Section.

After several months of debate, I elected to spend the next several years focusing on motherhood, and resumed practicing law on a selective basis upon the establishment of Jacquelyn Roys Clifton, P.A., in November 2020, as further discussed above. I went to work in my current position at Derrevere, Stevens, Black & Cozad as my son was about beginning kindergarten.

**Ayo & Iken, PLC**

Attorney, July 2015-November 2015

701 Brickell Ave, Miami FL 33131 (I was the only attorney at this location)

703 W Bay St. Tampa, FL 33606 (main office location)

**Office of the State Attorney's Office 7<sup>th</sup> Judicial Circuit**

Assistant State Attorney, January 2013-February 2015

Homicide Investigations Unit North (HIU)-Off site office

**Rice & Rose Law Firm**

Attorney, March 2011-January 2013

**Office of the State Attorney's Office 7<sup>th</sup> Judicial Circuit**

Assistant State Attorney, 2009- March 2011- HIU North

Assistant State Attorney, April, 2005-2009-Volusia County

**Inman & Fernandez**

Attorney, November 2004-April 2005

2065 Herschel Street, Jacksonville, FL 32204

E.T. Fernandez, (Now deceased)

**Office of the State Attorney's Office 7<sup>th</sup> Judicial Circuit**

Assistant State Attorney, April 2002-November 2004-Volusia County

Certified Legal Intern- February 2002-April, 2002- Certified Legal Intern

**Office of the State Attorney's Office, 4th Judicial Circuit, Intern 1997**

311 W. Monroe St, Jacksonville, FL 32202

(My last semester of Law School)

**Public Defender's Office**

407 N Laura St, Jacksonville, FL 32202

Witness Interviewer 1997-1998

**Arthur G. Dozier School for Boys, Internship through FSU for undergraduate credits  
January-August 1997**

In June, 2024, Governor Ron DeSantis signed HB 21 which established a victim compensation based upon the egregious treatment the boys received while in the custody of this state institution.

**Chili's Grill & Bar**

Bartender and server, 1998-1999 (between undergraduate graduation and beginning Law School)  
11101 San Jose Blvd, Jacksonville, FL 32223

Server, 1995-1997 (transferred from Mandarin location in Jacksonville, FL when I went to FSU)  
719 Apalachee Pkwy, Tallahassee, Florida 32301 (current location of supervisor unknown)

Bartender and server, 1993-1995 (while attending community college prior to moving to Tallahassee to attend FSU) 11101 San Jose Blvd, Jacksonville, FL 32223 (current location of supervisor unknown)

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

**Current Practice.** I am currently practicing Premise Liability/Construction Defect/Insurance Defense cases. These cases include a wide variety of legal issues as they cover personal injury and alleged poor craftsmanship. In each of the cases, I represent the insured defendant. If the case is one that involved personal injury that has a management company, I typically represent the Homeowners Association and the Management Company due to an indemnification clause in the contract between the Homeowners Association and the Management Company. It is an interesting dynamic as the insurance company pays the bill, authorizes obtaining experts, approves the settlement amount(s), but our client is the business being sued. Most of the time, these cases are determined on a cost/benefit analysis.

**Prior Practice.** I have practiced in a variety of areas of the law. I have done a significant amount of family law practice, some business law and discrimination cases, and some employment law. Most of these cases were very emotional for my clients. The typical dispute involved people that they were close to either in the workplace or they previously resided as a family. When emotions are involved with litigation, it adds additional challenges because decisions are not always based on dollars and cents, but are fueled by emotions. When emotions are the driving force, sound decisions are rarely made. It is imperative that the client is able to rely on me to speak frankly to them and get them to see the benefits or the burdens of the position they want to take or the opposing party is taking.

Most of my years of law practice were spent as an Assistant State Attorney. As a Prosecutor, my client was the State of Florida, which is comprised of taxpayers interested in having a safe community for their family. Typically, victims of crimes are considered in the outcome of the cases that impacted them, but ultimately, it is the job of the Prosecutor to make sure the laws are effectively applied and followed.



Allowing the victims to feel that they have been heard, and actually hearing them in the legal process, is an important component for a Prosecutor. In cases involving violence, sex crimes, and homicide cases, victims and next of kin always believe that seeking justice provides the closure they need to heal. It is certainly a step in that direction, but rarely is it the situation that when the perpetrator is sentenced, the victim/next of kin can “put this behind them” like the clients can in my current practice.

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

	Court		Area of Practice
Federal Appellate	_____ 0 _____ %	Civil	_____ 79 _____ %
Federal Trial	_____ 0 _____ %	Criminal	_____ 0 _____ %
Federal Other	_____ 0 _____ %	Family	_____ 20 _____ %
State Appellate	_____ 0 _____ %	Probate	_____ 0 _____ %
State Trial	_____ 99 _____ %	Other	_____ 1 _____ %
State Administrative	_____ 1 _____ %		
State Other	_____ 0 _____ %		
<b>TOTAL</b>	_____ 100 _____ %	<b>TOTAL</b>	_____ 100 _____ %

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

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

Jury?	_____ 100 + _____	Non-jury?	_____ 25 _____
Arbitration?	_____ 0 _____	Administrative Bodies?	_____ 1 _____
Appellate?	_____ 0 _____		

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

I have never argued in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal. However, I substantially participated in **drafting** the Appeal in for Petitioner in **Commercial Carrier Corporation, et. al., v. Kester Ray Kelley, et al., (2005) 5th DCA Case No. 5D05-289: Certiorari granted; Oder Quashed.**

Lead Counsel E.T. Fernandez, III (now deceased) and co-counsel Katie D. McCranie  
[kdm@edwardsragatz.com](mailto:kdm@edwardsragatz.com); 904-399-1609;

I had no interaction with Opposing Counsel, however, they are listed in the opinion as: James E. Collins [jimmy@aclwfl.com](mailto:jimmy@aclwfl.com), 352-427-1846; and Robert H. McLean of Ayres, Cluster, Curry, McCall, Collins & Fuller, P.A.

Opinion: *Commercial Carrier Corp. v. Kelley*, 903 So.2d 240 (Fla. Dist. Ct. App. 2005);30 Fla. L. Weekly D1118

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

**No.**

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

**No.**

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

1. David Barksdale [odb@bedellfirm.com](mailto:odb@bedellfirm.com); 904-353-0211x146; and Brian Coughlin [btc@bedellfirm.com](mailto:btc@bedellfirm.com); 904-353-0211 x 124 for the Defendant

**State v. Christopher Linus Fires**

1st Degree Murder

Co-Counsel for the State: Travis Mydock. Current contact information

[tmydock@mydocklaw.com](mailto:tmydock@mydocklaw.com); 904-494-8402

St. John's County Case No.: 11001684CFMA

185 So.3d 1254 (Table), 2015 WL 9261221(Unpublished)

2. James Valerino for the Defendant; Office of the Public Defender 7th Judicial Circuit

Current contact information: [jimmyv47@aol.com](mailto:jimmyv47@aol.com); 407-314-9287

**State v. Eric Niemi** **Case No. 2013-0464-CFFA**

1st Degree Murder

Co-Counsel for the State: Tim A. Pribisco Jr. Current contact information:

[tim@theshoelaw.com](mailto:tim@theshoelaw.com); 904-872-7463

3. Doug Williams [dwilliams32114@icloud.com](mailto:dwilliams32114@icloud.com) ; 386-290-0622 (cell) and Carine Mitz (closest match I can find is [mitzc@elderaffairs.org](mailto:mitzc@elderaffairs.org), office 850-414-2000) for Defendant  
**State v. Paul Miller** **Case No. 2012-00171-CFFA**  
2<sup>nd</sup> Degree Murder with a Firearm  
Co- Counsel for the State: Kayla Hathaway. Current contact information:  
[kayla@cflawer.com](mailto:kayla@cflawer.com); 386-427-5227.
4. Michael Huddelston for Respondent, [huddlestonlaw@outlook.com](mailto:huddlestonlaw@outlook.com); (386) 738-0080  
**Bowers v. Bowers** **Case No. 2009-11175-FMDL**  
Dissolution of Marriage
5. Gary Wood for Defendant (386) 326-3993; [garrywood2011@hotmail.com](mailto:garrywood2011@hotmail.com)  
Mark Johnson 2<sup>nd</sup> chair for State (386) 329-0259  
**State v. William Gregory** **Case No. 2007-00866-CFFA**  
First Degree Murder, Firearm (Death Penalty)
6. Brad J. Bradley; 904-209-0530; [bbradley@sjcfl.us](mailto:bbradley@sjcfl.us) Robert Fields (now deceased), Ralph Rowe (386) 530-0529; [rowe03@yahoo.com](mailto:rowe03@yahoo.com) for Defendant;  
Ken Ulich 2<sup>nd</sup> Chair for State (904) 420-8141; [ulichlaw@gmail.com](mailto:ulichlaw@gmail.com)  
**State v. Clint Horvatt** **Case No. 2008-2584-CF**  
Principal to First Degree Murder

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

1. Chris and Tannaz Fiore v. Continuum on South Beach, The South Tower Condominium Association, Inc, Continuum of South Beach Master Association, Inc, First Service Residential, Inc., Marquis-Association Management, LLC, and Guardtech Security Group, Inc.,  
**Miami Dade County Case No.: 2022-011863-CA-01**  
My office represented Continuum of South Beach Master Association, Ind., and Marquis-Association Management, LLC.

**Plaintiff's counsel:** Lorne Berkley, Daniels Rodriguez Berkeley Daniels & Cruz, P.A.

[LBerkeley@drbdc-law.com](mailto:LBerkeley@drbdc-law.com)

(954) 577-8332



**Each of the other parties reached a settlement prior to my personal involvement in the case.** There information is as follows:

Continuum on South Beach, The South Tower Condominium Association and First Service Residential Florida Inc., were represented by attorney David Chaiet, [dchaiet@eisingerlaw.com](mailto:dchaiet@eisingerlaw.com), 954-894-8000;

Subrogation Case: Cincinnati Insurance Company, represented by attorney Stephen Barker, [slb@stephenbarkerlaw.com](mailto:slb@stephenbarkerlaw.com), 561-886-8352

2. [REDACTED]

3. Maria Tereza Fonseca Franco v. Dorset at Century Village Condominium Association, Inc., and Crest Management Group, Inc.  
**Palm Beach County Case No.: 2023-CA-007903**  
**Plaintiff's Counsel:** Jack A. Krumbein; [Jack@campionelawpa.com](mailto:Jack@campionelawpa.com); 904-990-8400

4. Michael Marsh v. Ripley Entertainment, Inc.  
**Orange County Case No.: 2023-CA-002731**  
**Plaintiff's Counsel:** Collins S. Delpercio; [Collins@leederlaw.com](mailto:Collins@leederlaw.com); 954-734-2382

5. Beverly Lugo v. Sutton House Condominium Association, Inc. and Firstservice Residential, Ind.  
**Miami-Dade Case No.: 22-016873-CA 01 (08)**  
**Plaintiff's Counsel:** Balu Sajeevan; [balu@fenstersheib.com](mailto:balu@fenstersheib.com); 954-456-2488 and Alena Lulchak; [alena@fenstersheib.com](mailto:alena@fenstersheib.com); 954-456-2488  
**Counsel for Sutton House Condominium Association, Inc.:** Antwon M. Emery [antwon.emery@csklegal.com](mailto:antwon.emery@csklegal.com) 954-225-8209 and Howard B. Senior III [Howard.Senior@csklegal.com](mailto:Howard.Senior@csklegal.com); 786-268-6842.

6. Olga Bocharova v. Nily-27th Avenue Limited Partnership  
**Miami-Dade Case No.: 2024-011975-CA-01**  
This matter was settled pre-suit. The plaintiff is a minor child so this was a "friendly suit" filed for the court to approve the settlement.  
**Plaintiff's Counsel:** David L. Templer; [dlt@templerhirsch.com](mailto:dlt@templerhirsch.com); 305-937-2700

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

greater frequency and succinctly explain.

**On average, I have appeared via Zoom or in person for court approximately 8 to 10 times per month in the last five years. While an Assistant State Attorney, I appeared in court daily.**

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

**Not applicable.**

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

**Not applicable.**

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

**1. State v. William Gregory; Case No. 2007-00866-CFFA; Gregory v. State, 118 So. 3d 770, 2013 Fla. LEXIS 1308, 38 Fla. L. Weekly S 471, 2013 WL 3214455 (Fla. 2013);**

Lead counsel for the State; 7<sup>th</sup> Circuit Court Volusia County, Judge Parsons; February 21, 2011- March 3, 2011, guilt phase, March 8 and 9<sup>th</sup>, 2011 penalty phase, sentenced to death on 2 counts of April 14, 2011. Gary Wood and Mark Johnson were the other attorneys involved.

This case was significant because I was arguing for the ultimate penalty. This was the first time I was the lead attorney on a death penalty case. I attended Our Lady of Lourdes Catholic Church at the time and Father Phil would always gather a group of people from our congregation to travel to Tallahassee to pray and/or protest an execution. I was unsure if I should continue attending services at Our Lady of Lourdes and spoke with Fr. Phil

regarding these matters. This was a very significant case for me professionally and personally. It was a time for personal and professional reflection and growth.

**2. State v. Joseph Scott Freeman; Case No. 2006-036254 CFAES; Freeman v. State, 1 So. 3d 373, 2009 Fla. App. LEXIS 2232, 34 Fla. L. Weekly D 252 (Fla. Dist. Ct. App 5th Dist. 2009);**

Prosecutor for the State; 7<sup>th</sup> Judicial Circuit Volusia County; Judge Hutcheson; Trial began on or around November 13, 2007 with a disposition date of November 20, 2007.

Opposing counsel was appointed from the Office of the Public Defender, Seventh Judicial Circuit. Although I am not sure of exact contact information, the Florida Bar lists the contact for a Larry D. Powers as [lepoer77@earthlink.net](mailto:lepoer77@earthlink.net); 386-214-1093 (cell) and Linda Hadad, not eligible to practice law in Florida 321-423-1386 (cell) [hadad.linda@yahoo.com](mailto:hadad.linda@yahoo.com). I do not know if this contact information is accurate.

The Defendant in this case was charged with Aggravated Stalking, Possession of a Weapon during felony kidnapping and a violation of an injunction against repeat violence. The victim in this case was held captive for seven days and taken through six states while her captor was armed. It was a scary set of circumstances which could have easily resulted in a far more grave outcome. In preparation for trial, I met with civilian and law enforcement witnesses. I had witnesses traveling in from each of the six states that the ordeal covered. With substantial testimony before the jury, and after several days of the State's case in chief, a seasoned law enforcement officer responded to my question as anticipated, and then, seemingly as an afterthought, added some prejudicial information. A defense's Motion for Mistrial was denied, and the jury convicted the defendant as charged. The lesson learned from this case was to not take for granted even the most experienced law enforcement's knowledge of admissible evidence. Although I discussed with this Federal Agent and all law enforcement, not to discuss the defendant's prior criminal history, I must not have made it clear enough. This case was such a significant case because of the dangerous acts of the defendant, but also because of the number of witnesses that had to travel to testify, and the length of time the jury had to commit to the process. The time and tax dollars dedicated to this trial were significant and should not be wasted because of a preventable mistake. Most importantly, thought, was the potential impact on the brave victim if she had to testify again in the presence of someone that had perpetrated significant harm to her person.

**3. State v. Ismael Hernandez; 2005-035420 CFAES;**

Circuit Court 7<sup>th</sup> Judicial Circuit; Judge Hutcheson; October 17, 2007. Opposing counsel was Saul Baran from the Office of the Public Defender, Florida Bar lists current contact information as office: 386-313-5097; [waneagle@aol.com](mailto:waneagle@aol.com), and co-counsel for the State



was Kelly Sharples (f/n/a Kelly Wark) 386-503-5680 (cell). I prosecuted this defendant with Kelly Sharples.

This case taught me the impact of police misconduct. Although not with mal intent, law enforcement seized the computer without a warrant. The computer contained homemade videos of the defendant sexually abusing his biological daughter. The computer contained irrefutable evidence of each of the four counts of Sex Act with a child. This evidence was suppressed as illegally obtained and I was left with little evidence to prosecute this case. The jury returned a verdict of guilty of three of the four counts. The Judge advised the jury, after verdict, that all of the acts were on tape, but he had to suppress it because of police misconduct. The jury was furious. I felt that I personally let them down even though I was not involved in the questionable conduct, and I was obligated to follow the Judge's ruling. Because of this case I focused on training law enforcement in the area of search and seizures.

#### **4. State v. Kyle Shoultes; 2006-03061 CFAES;**

Circuit Court 7<sup>th</sup> Judicial Circuit Volusia County; Judge Piggotte, November 9, 2006. Opposing counsel was Mitch Novas, last known contact was 386-239-7730 (cell).

This case was a stepfather was alleged to have inappropriately touched his step-daughter, over her clothes, and having her reciprocate the touching while making comments about teaching her sexual activity. This child was 11 years old at the time of reporting, and it had been going on for several months. My victim's mother routinely stated in the victim's presence that she did not know who to believe and really loved her husband. Each time the child heard this she was understandably devastated. The only evidence I had beside this the child's testimony was some corroboration as to the victim and the defendant being alone at these times, as well as the victim's younger sibling that would not be able to testify. I learned that justice doesn't always equate to a guilty verdict. (I tried this case and it resulted in a mistrial, and the second trial resulted in a not guilty verdict.) Sometimes justice allows the victim to be heard. When this child's mother was able to listen to all of the evidence, she heard some things that convinced her that these acts had occurred. Even though the evidence did not convict the jury, this child did not have to live with this person a day longer. That was the justice needed.

5. To be transparent, I must acknowledge the scope of cases (and not a particular case) that I have personally litigated that have had a huge impact on me.

I spent years in the sex crimes unit, prosecuting alleged sexual offenders and predators (the designation defined by the written law) after they sexually violated victims. At some point child pornography on the internet became rampant. This means that these crimes were photographed or videotaped. This also meant that in order for law enforcement to obtain a warrant, I had to view the sexual abuse of babies and young children with pacifiers in their mouths. I have watched hundreds of videos in the interest of justice of perpetrators sexually violating children. Some of those cases went to trial. I still pray for my jurors in

all of my cases, but especially these child pornography cases, because I had to show them the evidence to prove my case. As hard as it is for me to view and discuss this type of crime, I chose to involve myself in this profession for the pursuit of justice. My jurors did not choose this and I always worry about the impact of these videos on them.

6. **McLaughlin v. McLaughlin; Case No. 2010-31021-FMCI**; Attorney for the Father/Petitioner; 7<sup>th</sup> Judicial Circuit Court Volusia County, Judge Beck (now deceased); Marital Settlement Agreement dated October 17, 2012. Other attorneys involved, from the time of my involvement, Catherine Swain for the Mother/Respondent and Erik Neitzke for the Mother/Respondent.

This case was significant to me because I had to deal with discovery concerns that "felt" abusive to my very verbal client. I took over this Dissolution of Marriage case from my predecessor in private practice. Father maintained our firm throughout his representation; however, Mother changed counsel three different times. The final attorney representing Mother opted to take depositions of many people, and perform an extensive exploration of all aspects of the lives of these individuals. Unfortunately, this was in year three of a dissolution of marriage case where the parties were mostly unemployed, and their home was in foreclosure.

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

**See the attached examples of legal writing for two recent writing samples. Although I alone drafted each of these documents, the senior partner always reviews submissions prior to being filed, and our paralegal compiles and marks the exhibits.**

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

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results.  
**No.**
24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.  
**Thirteenth Judicial County Court, JNC, 2013, not certified.**

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

**I currently hold Seat 4 in an appointed position on the Town of Loxahatchee Groves Planning Zoning Board Committee. This appointment is a public office, and it can be “quasi-judicial” if the matter calls for the Committee to act in that capacity. I have not had to participate in a quasi-judicial capacity to date.**

**This appointment was effective on May 7, 2024, through present, and is not a paid position.**

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

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

**None.**

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

**None.**

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

**Not applicable.**

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

**Not applicable.**

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

**Not applicable.**

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



**Please see response to answer 25 above in this application.**

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

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

**None.**

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

**Other than described above in question number 9 of this application, above, none.**

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

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

**None.**

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

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

***There was an Easement Around Here Somewhere***

<https://derreverelaw.com/there-was-an-easement-around-here-somewhere/>

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

**None.**

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

As the President of the Volusia/Flagler County Association of Woman Lawyers, I made remarks and presented the gavel to **Judge Melissa Ditzler on February 15, 2023**. Transcripts of remarks are not available.

I have appeared on two television shows related to cases that I prosecuted. The first show was related to the case of **State v. Joseph Scott Freeman: (AFFIRMED)**  
Volusia County Case No.: **Case No. 2006-036254 CFAES**  
Fifth District Court of Appeal Case No.: 5D07-4337  
Supreme Court of Florida Case No.: SC09-402

The series was Escaped, and the show was titled Obsessed Kidnapper, Season 1, Episode 10  
<https://www.imdb.com/title/tt1434692/>

The second show was related to a murder for hire which resulted in two separate homicide trials.  
**State v. Clint Horvatt Putnam County Case No.: 2008-2584-CF**  
**State v. William Dewey Foster Putnam County Case No.: 2008-2597-CF**

The series was titled Happily Never After, and the show was titled A Ride with Evil, Season 3, Episode 1. [https://www.imdb.com/title/tt3541076/?ref=tt\\_mv\\_close](https://www.imdb.com/title/tt3541076/?ref=tt_mv_close)

As president of Volusia Flagler Association of Women Lawyers, I introduced retired Justice R. Fred Lewis as a guest speaker. Transcripts of remarks are not available. There is a hard print News Journal Article memorializing the event.

As president of Volusia Flagler Association of Women Lawyers, I proudly introduced the Honorable William Parsons as a guest speaker. Transcripts of remarks are not available.

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

**Throughout the years I worked as an Assistant State Attorney, I would routinely teach courses at the School of Emergency Services at Daytona State College, 1200 West International Boulevard, Daytona Beach Florida, 32120. The subject ranged from search and seizure, a defendant invoking their Fifth Amendment right, probable cause versus**

**reasonable suspicion, and things of that nature. I would also participate in in-house law enforcement training as a prosecutor.**

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

**None.**

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

**No.**

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

**Volusia/Flagler Association for Women Lawyers, President 2012-2013**

**Volusia/Flagler Association for Women Lawyers, Board Member 2011-2012**

**Volusia/Flagler Association for Women Lawyers, Member 2011-2014**

**Volusia County Bar Association Board Member 2011- 2014 and 2022-present**

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

**The Federalist Society, June 2024**

**Dunn Blount American Inns of Court 2005-2008**

**Florida State Alumni Association (Lifetime)**

**St. Rita's Catholic Church 2017-2024**

**Our Lady Queen of the Apostles Catholic Church, 2024- present**

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

**No.**

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

**I have assisted many individuals who were unable to afford legal representation except during the period of employment with the Office of the State Attorney.**

45. Please describe any hobbies or other vocational interests.



**Spending time with my family, volunteering for my son's schooling and extra-curricular events, reading, biking, football, attending major league baseball stadiums, and theater.**

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

**No.**

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

**LinkedIn:** <https://www.linkedin.com/in/jacquelyn-roys-clifton-b2969138/>

**Facebook:** <https://www.facebook.com/jackie.roys>

**Instagram:** <https://www.instagram.com/jackieroyyclifton/>

## **FAMILY BACKGROUND**

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

**I am married to Michael Larry Clifton, Jr. since November 28, 2015. He is currently employed as Vice President of Compliance at Aero-Precision Repair and Overhaul Co., Inc.**

**I was previously married to Michael Miller, current address and telephone number unknown.**

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

████████████████████

## **CRIMINAL AND MISCELLANEOUS ACTIONS**

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

**No.**

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

**No.**

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

No.

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

**1. United States Bankruptcy Court Middle District of Florida, Orlando Division, Orange County; In re: Jacquelyn Roys, Debtor; 6:13-bk-02505-CCJ; Bankruptcy; Plaintiff; discharge date April 18, 2014.**

**When purchasing my first home in 2005, my mortgage was financed as an interest only loan. I diligently paid the mortgage payments as required. When the loan matured, the payments far exceeded my ability to pay. Due to the significant decline in the market, I was unable to refinance because the home would not appraise for the amount due. I was faced with having to pay a significant lump sum (close to \$50,000.00) to buy down the mortgage to the appraised price to obtain financing. I did not have the money necessary to buy down the mortgage. I sought advice of counsel, and was advised to cease paying the monthly payments because the mortgage company would then negotiate the terms with me. I did as advised, and was able to successfully negotiate the payment terms for a period of time. As part of the re-negotiation process, there was a mandatory credit counseling component. I attended the course as instructed, however, due to the negative equity in the home because of the market crash coupled with the changes in lending, I was unable to secure a mortgage. The only discharge in the bankruptcy was the home mortgage, as all other debts were paid.**

**2. Circuit Court, Volusia County; Wells Fargo Bank, Etc. v. Jacquelyn Roys, Et Al; 2011-31294-CICI; Foreclosure; Defendant; June 10, 2015 Final Judgment in *rem* only per Bankruptcy See Case No. 6:13-bk-02505-CCJ.**

See explanation above.

**3. Volusia County; Jeffrey Garrison v. Catherine Mediaas, Et. Al.; 2011-32117-CICI; Civil Tort Claim; Defendant; Dismissed.**

**Plaintiff is a Criminal Defendant that was convicted at Jury Trial, (Case No. 2005-033412 CFAES) and is serving a 30-year sentence. The other defendants to this case include Florida Department of Law Enforcement, analyst and supervisor, as well as 2<sup>nd</sup> chair counsel for the State. The Attorney General's Office represented the Defendants in this case.**

**4. Florida Middle District Court, Orlando Office, Columbia County; Jeffrey Garrison v. Catherine Mediaas, Et. Al.; 6:11-cv-1091-Orl-28DAB; Writ of Habeas Corpus; Same as above, #3; Dismissed.**

**5. Circuit Court, Volusia County; Bank of America National Association v. Rex Willis, Et. Al.; 2012-30938-CICI; Foreclosure; Defendant; Voluntarily Dismissed with Prejudice as to [Jacquelyn Roys] only.**

**I was not the mortgagee of the home subject to this property. I was a named party in the event that I held an interest in the property. Once it was determined that I did not hold an interest in this property, I was dismissed from this lawsuit.**

**6. Michael Joseph Miller, Petitioner. Final Judgment dated 12/23/2003, Volusia County; Case No. 2003-34865-FMCI.**

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

**No.**

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

**No.**

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

**No.**

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

**No.**

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

No.

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

**United States Bankruptcy Court Middle District of Florida Orlando Division, see detailed explanation in this application, question number 53, above.**

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

No.

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

**I have compiled with all legally required tax return filings.**

## HEALTH

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

No.

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

No.

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

No.

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



professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed.

No.

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

No.

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

No.

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

No.

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

No.

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

No.

## SUPPLEMENTAL INFORMATION

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

Unlike many attorneys, I did not know from an early age that I was going to be a lawyer. I did **not have any attorneys in my family. I did not have any personal experience with lawyers, judges, or the legal system. In fact, I do not ever recall having an overwhelming conviction or desire to attain a certain job or career. The only thing I remember without question is that whatever I was going to do, I was going to work hard at it and I was going to do it well. It never occurred to me to question why when I was sick, I slept on a pallet under my**

**mother's desk while she worked. It was just how we got things done. We worked. It was what we did and what we knew.**

**I was the middle of three children. My father was in the Navy, and we relocated from Fallon, Nevada to Jacksonville (Orange Park) Florida in 1979. Shortly thereafter, my father left for deployment and chose not to return for any substantial period of time. As a young child, I recall missing my father, but I do not recall having any idea of the struggles that my mother faced on a daily basis. Without us knowing the hardships she endured, my mother navigated three young children, in a new state far from home and without support. The only hint of a struggle that my sister, brother or I were aware of was when we were visited by investigators searching for my father in the early morning hours as my mother was getting us ready for school. Regardless of the unsettling events of the morning, we went to school each day with the assurance from our mother that we were loved and valued, and who, quite frankly, didn't have the luxury of missing work. I had no idea how that work ethic would benefit me in the long run.**

**Throughout high school and college, I worked. Upon obtaining my Associates of Arts degree, I went to Florida State University and began taking Humanities classes. While at work, a colleague was studying for a Criminal Justice test. He asked me to quiz him for his test. I found the subject matter to be fascinating. In that chance circumstance, my perspective changed. I became interested in the law. I enjoyed studying the history and evolution of the law, the procedural complaint, the application of each law, all of it fascinated me. I elected to take classes in Criminology with a focus on Juvenile Justice. I had some fun in college and remain close with my work friends from Florida State.**

**I went to law school, passed the bar and was hired as a Certified Legal Intern (CLI) in the Seventh Judicial Circuit, Office of the State Attorney. In 2002, I moved from Jacksonville, Florida to Daytona Beach to begin my law career. When I walked into that court room for the very first time, there was no doubt I was where I was supposed to be. Shortly after getting sworn in, I did my first trial which was a felony bench trial in front of the Honorable Hubert Grimes. I was very nervous. Upon expressing this to the bailiff, he said to me, "If you don't have stage fright, you need to stay off of the stage. If you don't have stage fright it means you stopped caring." I had no idea the impact those words would have on me. I still apply them to my choices in life. Here I am, twenty-two years and counting, I still have that stage fright before appearing in court- whether it is virtual or in person. Twenty-two years later, I still care about being the best advocate I can be for my client. Twenty-two years later, I still care about being a positive representative of our profession. Twenty-two years later, there is no doubt that it is my time to take a position as a Circuit Court Judge in the Seventh Judicial Circuit.**

**Over the course of my twenty-two years practicing law, the judges that I practiced in front of have made me a better lawyer. I have looked up to them and their position, I have learned from them, I have been judged by them, and I have viewed the bench as something**

**that should only be sought after the work was put in, the career was developed, the skills were honed, and the demeanor was obtained. I knew from that first day that to be achieve the position of a mentor and a Judge in the Seventh Judicial Circuit, I had to put in the work.**

**I spent years prosecuting the most violent crimes, I have advocated for children and families, and I have litigated over injuries and damages. I have put in the work. I have held the hands of people that had horrible things happen to them, I have had to share the sorrow of rulings that did not go in a client's favor, and I have celebrated hard fought victories with people that needed them to take their next step. Each of my cases, each of my areas of practice, each of my clients, each of my colleagues, and each of my positions have provided me with the skills, the disposition, the desire, the tools and the knowledge to assist me in holding judicial office. Each of my Judges have prepared me to do what is required of this coveted position.**

**After practicing family law, I elected to get certified as a Supreme Court Certified Family Law mediator in 2015. I believed that the training would assist me in my law practice. It certainly has. I do not maintain my mediator certificate, as my goal in the certification was simply to be a better advocate.**

**The value that my childhood brings to the bench is rare and likely unmatched. I had a single mother that moved her three young children from Florida to Illinois, on Christmas Day, so she could obtain her degree as an Orthotist. She ensured all of her children obtained a formal education and advanced degrees. I know from experience that judgment should not come from pre-conceived notions, but each person should be viewed in their entirety. Each person has value even if they come from humble beginnings. "Humble yourselves, therefore, under the mighty hand of God so that at the proper time he may exalt you." 1 Peter 5:6. My humble beginnings allow me to see the people in front of me as they are, not from where they come from. Litigants that come before me may take comfort in the fact that I too struggled, if they are struggling. Victims that come before me may take comfort in the fact that even though I too struggled, I did not commit crimes. My life experience allows me to evaluate circumstances with a perspective in which the more fortunate may not be able view and the less fortunate can not argue.**

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

**There is no substitute for experience. The contribution that I would bring to the Bench would be continued drive and passion to maintain the integrity of our profession. I recognize the importance of listening and addressing specific areas of a case and maintaining that focus while making a ruling according to the written law. The law requires a plain reading for a just application. Attempting to legislate from the bench or**

**changing the meaning of a word in order to obtain a desired outcome does everyone a disservice. The public and the litigants before the specific tribunal deserve judges that follow the law and enforce the law. Our profession deserves that as well, and anything less than that violates the trust of the people, of our profession, the Constitution of the United States, and that of the Great State of Florida.**

## REFERENCES

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

1. **Mary Aldrich, EA**  
President, Owner and Enrolled Agent at Tiger Tooth Tax Consulting Inc.  
4626 S Clyde Morris Blvd, Suite 3  
Port Orange, Fl 32129  
[mary@tigertohtax.com](mailto:mary@tigertohtax.com)  
[REDACTED] (cell)
2. **Bryan W. Black**  
Equity Partner, Derrevere, Stevens, Black & Cozad  
2005 Vista Parkway, Suite 210  
West Palm Beach, FL 33411  
[bwb@derreverelaw.com](mailto:bwb@derreverelaw.com)  
561-684-3656
3. **Hon. Leah R. Case**  
Chief Judge, Seventh Judicial Circuit  
251 N. Ridgewood Ave., Rd. 294  
Daytona Beach, FL 32114  
[REDACTED]  
[REDACTED] (cell)
4. **Hon. Karen Foxman**  
251 N. Ridgewood Ave., Rd. 294  
Daytona Beach, FL 32114  
[REDACTED]  
[REDACTED] (cell)
5. **Hon. Christopher France**  
Seventh Judicial Circuit  
1769 E. Moody Blvd., Bldg. 1



Bunnell, Florida 32110

[REDACTED]  
[REDACTED] (cell)

6. **Sheriff Robert Hardwick**  
4015 Lewis Speedway  
St. Augustine, Florida 32084

[REDACTED]  
[REDACTED] (cell)

7. **Hon. Christopher Kelly**  
Seventh Judicial Circuit  
101 N. Alabama Ave,  
DeLand, FL 32724

[REDACTED]  
[REDACTED] (cell)

8. **Jason Lewis**  
7th Judicial Circuit Chief of Homicide and Flagler County Managing State Attorney  
1769 E. Moody Blvd., Bldg. 1  
Bunnell, Florida 32110

[REDACTED]  
[REDACTED] (cell)

9. **Hon. Carlos Mendoza**  
District Judge, United States District Court for the Middle District of Florida  
Commissioned on June 27, 2014

[REDACTED] (Chambers email)  
[REDACTED] (cell)

10. **Kelly Sharples**  
Attorney  
Derrevere, Stevens Black & Cozad, [KWS@derreverelaw.com](mailto:KWS@derreverelaw.com);

[REDACTED] (cell)

**CERTIFICATE**

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

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

Dated this 22nd day of October, 2024 .

Jacquelyn Roys Clifton

Printed Name



Signature

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

## FINANCIAL HISTORY

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

**Current Year-To-Date:**     \$126,637.57    

**Last Three Years:**     \$81,075.95              \$19,934              \$13,916    

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:**     \$126,637.57    

**Last Three Years:**     \$81,075.95              \$19,934              \$13,916    

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.

Rent:

**Current Year-To-Date:**     \$12,000.00    

**Last Three Years:**     \$13,200.00              12,000.00              \$0    

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

**Current Year-To-Date:**     \$0    

**Last Three Years:**     \$0              \$0              \$0    

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

**Current Year-To-Date:**     \$0    

**Last Three Years:**     \$0              \$0              \$0

**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 10/22, 2024 was \$1,361,888.34

**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 \$175,000

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

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

VALUE OF ASSET

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
1301 C Road, Loxahatchee, FL (residence and rental property)	\$525,000.00
Joseph Gunnar & Co., LLC (IRA)	\$48,867.33
Principal Individual Retirement Account	\$291,368.09
PNC Bank Savings Account	\$77,017.04
PNC Bank Checking Account	\$1,703.07
Florida College Investment Plan	\$18,776.81
Florida Retirement System	\$117,663.00
Principal Retirement Account (Defined Benefit)	\$205,741.00

**PART C - LIABILITIES**

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

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

Nissan Motor Acceptance 8900 Freecport Pkwy, Rear Dock, Irving, TX 75063	\$45,882.00
Navient 123 Justison St. #300, Wilmington, DE 19801	\$53,366.00

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

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY



**PART D - INCOME**

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

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

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

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
Derrevere, Stevens, Black & Cozad	2005 Visa Parkway, Suite 210	\$126,637.57
Rent	[REDACTED] FL 33470	\$12,000.00

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

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
13			

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

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

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

**OATH**

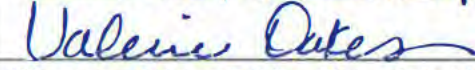
I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

  
SIGNATURE

**STATE OF FLORIDA**

COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me this 22 day of October 2024 by Jacarelyn Clifton



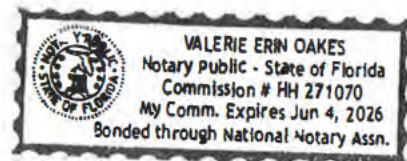
(Signature of Notary Public—State of Florida)

Valerie Oakes

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

Personally Known \_\_\_\_\_ OR Produced Identification

Type of Identification Produced FLD



## 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
  - (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.

## 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
  - (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: 10/22/2024

JNC Submitting To: 7th Judicial Circuit

Name (please print): Jacquelyn Roys Clifton

Current Occupation: Attorney

Telephone Number: [REDACTED] Attorney No.: 550108

Gender (check one):  Male  Female

Ethnic Origin (check one)  White, non-Hispanic  
 Hispanic  
 Black  
 American Indian/Alaskan Native  
 Asian/Pacific Islander

County of Residence: Palm Beach County

Gender (check one) Male  
Female

*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.

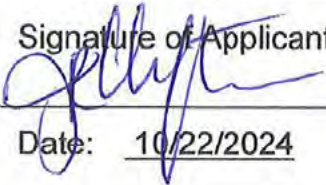
CONSUMER'S AUTHORIZATION FOR  
FDLE TO OBTAIN CONSUMER REPORT(S)

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

Jacquelyn Roys Clifton

Signature of Applicant



Date: 10/22/2024

# **Writing Sample One**



IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR INDIAN RIVER COUNTY, FLORIDA

████████████████████

Plaintiff,

v.

CASE: ████████████████████

MAJESTIC OAKS COMMUNITY  
ASSOCIATION, INC., and A.R. CHOICE  
MANAGEMENT, INC.,

\_\_\_\_\_ /  
Defendants.

**DEFENDANT'S CONFIDENTIAL MOTION TO DISMISS WITH PREJUDICE FOR FRAUD  
ON THE COURT AND SUPPORTING MEMORANDUM OF LAW**

COMES NOW, Defendants, MAJESTIC OAKS COMMUNITY ASSOCIATION, INC.  
and A.R. CHOICE MANAGEMENT, INC (“Defendants”), by and through their undersigned  
counsel, and pursuant to the Court’s inherent power to dismiss an action for fraud on the Court,  
the Florida Rules of Civil Procedure, Rule 1.120 as well as the additional legal authorities cited  
herein, and respectfully files this Confidential Motion, based upon such motion containing  
citations to Plaintiff’s medical records, and in support thereof states:

**INTRODUCTION AND RELIEF REQUESTED**

1. Plaintiff, ████████████████████ (“██████████” or “Plaintiff”) has a long and  
documented medical history of imbalance, poor ambulatory ability, falls, and fall risk classification  
as shown in the Background section below.

2. Plaintiff testified under oath and denied this well documented medical history,  
which has a direct bearing on an essential matter before this court.

3. Plaintiff committed fraud on the court, and therefore, Defendants have been prejudiced and are requesting this Court exercise its inherent authority granted by the laws of the state of Florida and dismiss this cause with prejudice due to Plaintiff's flagrant and intentional dishonesty and interference with the execution of justice.

4. This is a premises liability case. Plaintiff filed his Complaint on March 21, 2023, and sued Defendants in negligence for personal injuries allegedly sustained when tripping on a sidewalk and injuring his left knee. *See Complaint attached hereto as Exhibit 1.*

5. Causation is a critical issue in this case and on June 30, 2023, Defendants answered Plaintiff's Complaint, denying liability and have asserted numerous affirmative defenses. *See Defendants' Amended Answer and Affirmative Defenses to Plaintiff's Complaint attached hereto as composite Exhibit 2.*

6. The clear and convincing record evidence establishes that Plaintiff has purposefully and repeatedly made misleading and/or untrue statements about his medical history, including but not limited to his pre-existing injuries, his unsteadiness to poor balance, ambulatory abilities, his knees, and lower extremities, all of which has a direct bearing on liability and his claim for damages.

7. The Record evidence conclusively demonstrates that by purposefully and repeatedly making misleading and/or untrue statements about substantive issues directly related to his claims herein, Plaintiff has acted in bad faith and has sentiently set in motion an unconscionable scheme calculated to interfere with the judicial system's ability to impartially adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of Defendants' defense.

8. The clear and convincing record evidence warrants dismissal of Olmsted 's Complaint with prejudice.

9. Defendants respectfully request that the Court invoke its inherent authority to dismiss this action, enter an Order which grants the Motion to Dismiss, dismisses Plaintiff's Complaint with Prejudice for Fraud on the Court, and reserves jurisdiction for consideration of a timely-filed Motion for an Award of Attorney's Fees and Costs.

### BACKGROUND

10. On **November 11, 2022**, in his residential neighborhood, Plaintiff fell and suffered an injury which the cause of such injury is the subject of this case. *See, e.g. Exhibit 1.*

11. Following the alleged incident, Plaintiff was transported by his neighbors for medical intervention.

12. The incident is described by Plaintiff as follows:

On November 11, 2022, I was on my morning walk in my community of Majestic Oaks in Vero Beach, Florida. While on my walk, I saw my neighbors, Keith and Jamie Conner, in their vehicle, getting ready to pull out of their driveway. I waved at them so they could see me, and they waved back letting me know I could pass behind them safely. After clearing the driveway I tripped on an uneven raised portion of the sidewalk with my right foot and fell with my full weight on my right knee causing my injuries. I was unable to move my right leg and unable to get up. Mr. and Mrs. Conner could no longer see me from their vehicle. They exited their vehicle and Mr. Conner saw me laying on the ground motioning for their help. Mr. and Mrs. Conner transported me directly to HCA Vero Beach Emergency Room, where my injuries were assessed, and I was then subsequently transferred to HCA Florida Lawnwood Hospital in Fort Pierce, Florida for surgery and subsequent care. The uneven, raised portion of the sidewalk is what caused my fall and injury.

*See [REDACTED]'s Answer to Interrogatory, question number 7 attached hereto as Exhibit 3.*



13. In *Exhibit 3, number 9*, [REDACTED] describes alleged injuries he sustained as a result of the incident as follows:

9. Describe each injury for which you are claiming damages in this case, specifying the part of your body that was injured, the nature of the injury and, as to any injuries you contend are permanent, and the effects on you that you claim are permanent.

**ANSWER:**

As a result of the subject incident, and to the best of my understanding as explained to me by my team of medical providers, I sustained the following injuries:

- Fractured right patella
- Left wrist pain
- Neck pain
- Bruised chest

I am not a medical doctor, but I contend that my injuries are permanent and affect most all aspects of my life and daily living, but I defer to my treating physicians for medical opinions. Additional details regarding my injuries, medical treatment and opinions of my treating physician may be found in medical records.

14. In Plaintiff's Answers to Interrogatories, number 10. Plaintiff was asked to state whether or not before the subject fall he was ever treated by any other medical professional for any problem(s) in the same areas of his body that he claims to have injured in this case. The total response from Plaintiff as it relates to his lower extremities is that he had bilateral knee tendon repair in the 1970s, but additional details can be found in his medical records. *See Exhibit 3.*

15. Importantly, Plaintiff was asked in *Exhibit 3, number 5*:

Were you suffering from physical infirmity, disability, or sickness at the time of the incident described in the Complaint? If so, what was the nature of the infirmity, disability, or sickness?

**ANSWER:**

My past medical history is described in my medical records which have been produced in litigation. *I was not experiencing any ill effects from any past medical condition at the time of the subject incident.* (Emphasis added.)



16. Plaintiff attended his deposition on December 6, 2023, at his attorney's office and with his attorney also in attendance. *See Deposition of [REDACTED] taken December 6, 2023, Page 11, line 24- page 12, 5 attached hereto as Exhibit 4.*

17. Below is a detailed summary of the deposition testimony given by Plaintiff relating to his prior and/or pre-existing medical conditions, which directly conflicts with prior statements he made to his medical providers and/or diagnoses he received from his medical provider prior to the Incident and ranging from 2007 through only eight days before the subject fall.

18. During his deposition, Plaintiff testified that no doctor has ever classified him as a fall risk. *See id. at 133:11-16.*

19. However, Plaintiff's medical records directly contradict Plaintiff's sworn testimony provided in his interrogatories and deposition.

20. Plaintiff testified he had a fall from a golf cart on **May 12, 2007**, wherein Plaintiff claims he had a closed head injury and resulting walking/gait issue. *See id. at 44:3-12.*

21. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, on **June 15, 2007**, Plaintiff told his physician that he was walking with a cane because he feels it gives him more stability as he has a balance issue. *See Methodist Hospital Records, identified as Exhibit A of the Notice of Filing Confidential Information filed contemporaneously hereto at page 4.*

22. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, on **August 21, 2007**, Plaintiff reported to his physician that he had a recent fall, is non weightbearing with crutches, and is "dizzy all the time." *See id. at page 32.*

23. During his deposition, Plaintiff was asked if he ever had a fall with injury prior to the November 11, 2022 injury. Plaintiff testified that he had not. Then, a five-minute break ensued. *See Exhibit 4, at 45:3-15.*

24. Upon return from the five-minute break, Plaintiff advised he wanted to correct his testimony from five minutes before and advised that he had forgotten that he tripped on a stair in 2008 on his way to work and had a cast put on. He “just forgot about it.” *See id. at 45:2 through 46: 5.*

25. Plaintiff testified that he broke his ankle, they put a cast on, and he went back to work. *See id., at 46: 6-14.*

26. Plaintiff’s counsel provided the date and the medical facility that treated this broken ankle as being Buffalo Hospital, **August 13, 2007**. *See id. at 47:7-11.*

27. Plaintiff testified that he recovered fully six to eight months after his May 2007 golf cart injury. *See id. at 63:14-22.*

28. According to Plaintiff, he is the person that provides the information to his medical professionals for treatment. *See id. at 49: 21-25 and 50: 1-4.*

29. Contrary to Plaintiff’s deposition testimony that he was never deemed a fall risk, the **October 27, 2008**, medical records reflect that Plaintiff suffers from chronic headaches with dizziness, double vision, faintness, leg swelling, unsteadiness, at risk of falls, muscle weakness, gait station and balance is poor due to chronic dizziness from closed head injury over a year ago. *See Park Nicollett Clinic Records, Exhibit B of the Notice of Filing Confidential Information (NOF), at page 2.*

30. Contrary to Plaintiff’s deposition testimony that he was never deemed a fall risk, the **October 19, 2009**, medical records reflect that Plaintiff reported he was having difficulty with

balance, depth perception and dizziness. It is reported he uses a single end cane but often bumps into walls and is unable to walk a straight path. Plaintiff reported falling when he gets out of the tub and when walking in open spaces. *See Methodist Physical Therapy Records, Exhibit C of the NOF at page 2.*

31. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, the **October 19, 2009**, medical records reflect that Plaintiff was not safe with a single point cane and needs a four wheeled walker, he is unable to safely ambulate stairs, ramps, and he is a high fall risk. *See id. at page 3 and 4.*

32. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, the **October 19, 2009**, Plaintiff's medical records read that he reported difficulty with scanning environment while walking. *See id. at page 4.*

33. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, the **October 19, 2009**, medical records reflect that Plaintiff reported that he has difficulty with gaze stabilization and maintaining balance. *See id. at page 15.*

34. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, the **November 13, 2009**, medical records read that patient presents with poor hip/ankle strategies and stepping reactions when attempting to recover from a loss of balance. *See id. at page 16.*

35. Contrary to Plaintiff's deposition testimony that he was never deemed a fall risk, Plaintiff reported he almost fell at church on **November 16, 2009**, and reported that he did fall according to the **November 27, 2009** medical reports. *See id. at page 18 and 21.*

36. However, in his deposition, Plaintiff testified that he does not recall if he would have reported that he would have fallen at church in 2009. *See Exhibit 4, at 65:11-13.*

37. It is inconceivable that Plaintiff could have “just forgotten” that he was a fall risk. On **October 19, 2009**, a Berg Balance Test was performed on the Plaintiff, which was re-performed on **November 27, 2009**. The results of both tests were that the Plaintiff should be using a walker full-time. *See Methodist Physical Therapy Records, Exhibit C of the NOC at page 23 and 24.*

38. Contrary to Plaintiff’s deposition testimony that he was never deemed a fall risk, his **October 19, 2009**, medical records reflect that Plaintiff was a high risk for falls, that he is not safe ambulating with a single end cane and is at a risk for falls. He is unable to safely ambulate independently, and specifically unable to ambulate while scanning his environment. He is a high fall risk, and it is recommended that Plaintiff use a walker within his home and in the community. *See Exhibit id. at page 6, 7.*

39. Plaintiff testified that he did not have any falls from 2012 until he fell in November 2022. *See id. at page 66 lines 16-24.*

40. Plaintiff does not recall if he reported any residual imbalance or dizziness in 2013. *See Exhibit 4 at 65:14-20.*

41. On **August 27, 2013**, Dr. Sczublewski’s records show Plaintiff reported that he still has some imbalance and dizziness. *See NOF, Exhibit D, Chanhassen Internal Medicine’s Records, at page 2.*

42. Plaintiff testified that he had iliac stents put in in 2017. *See Exhibit 4 at 54: 19-20.*

43. Plaintiff testified that he reported to his regular doctor that he was having heaviness issues in his legs and thighs which led to the discovery that he needed the iliac stents. Plaintiff testified that after he received the stents in 2017, he recovered fully from that. He testified that everything resolved after the iliac stents. *See id. at 54-56:8.* (The medical records reflect this actually occurred on 10/19/2016).



44. However, Plaintiff's **November 15, 2019** medical records from Ortho Spine America document Plaintiff reported he had one fall without injury in the past year. *See Exhibit E of the NOF, Ortho Spine America's Records, at page 2.*

45. The **December 12, 2019**, records show Plaintiff reported he had two or more falls without injury in the past year. *See Exhibit F of the NOF, Ortho Spine America's Records, at page 2.*

46. Plaintiff testified that he did not have unsteadiness in 2022, 2021, 2020, 2015, 2014. *See Exhibit 4 at 57:5-21.*

47. But contrary to his deposition testimony, his **February 17, 2020**, medical records from John Atwater records show Plaintiff reported two to three falls in the last year. *See Exhibit G of the NOF, Ortho Spine America's Records, at page 2.*

48. Plaintiff testified that he was never told to stop using a cane, nor was he told to continue using a cane. *See Exhibit 4 at 59:5-6.*

49. Plaintiff does not recall if he ever reported to any medical professionals that he had poor balance. *See id. at 65:8-10.*

50. Plaintiff testified that from the time he moved to Florida in 2012 through November 2022 he had no falls. *See id. at 66:16-18.*

51. Plaintiff testified that he did not report any falls unsteadiness or dizziness that would render him unable to walk unassisted in 2020. *See id. at 4-17.*

52. Plaintiff testified that he did not have any issues or concerns that he reported to a medical professional that would lead them to believe that he was a high risk for falls in 2020. *See id. at 68:18-22.*

53. But, according to the medical records on **February 13, 2020**, his gait is antalgic and a little unsteady. *See Exhibit H of the NOF, Ortho Spine America Records, at page 1.*

54. According to his medical records on **February 27, 2020**, Plaintiff presents with a non-antalgic gait. *See Exhibit E of the NOF at page 1.* A fall risk assessment is noted in the medical report reading that he had two or more falls without injury in the past year and a documented prevention plan information handout was provided to patient and discussed in office. *See Exhibit I of the NOF, Ortho Spine America Records at page 1.*

55. **March 24, 2020**, Plaintiff's medical records show that he reported leg cramps, *See Exhibit J of NOF Ortho Spine America Records.*

56. On **September 18, 2020**, the intake report reads that Plaintiff was identified by name and birthdate and was a high risk for falls. *See Exhibit K of the NOF, Cleveland Clinic Records, at page 7.*

57. Plaintiff testified that in 2021, he did not report to any medical professional that he was having dizzy spells or any new falls. *See Exhibit 4 at 68:23-69:6.*

58. But according to his medical records, Plaintiff reported to Cleveland Clinic on **September 21, 2021**, that he is having more falls lately and getting more dizzy spells. *See Exhibit L of NOF, Cleveland Clinic Records at page 2.*

59. On **September 21, 2021**, on the Patient Questionnaire Submission, Plaintiff answered "a little" to the question "to what extent are you able to carry out your everyday physical activities such as walking, climbing stairs, carrying groceries, or moving a chair?" *See id. at page 30.*

60. Plaintiff testified in his deposition that he did not have any hip issues in 2021 or 2022. *See Exhibit 4 at 69:9-16.*

61. Yet, contrary to his sworn testimony Plaintiff's medical records show that he reported on **March 22, 2022**, Plaintiff 's chief complaint was that his left hip causes him pain and causes him to have trouble walking. He requested a handicap placard application for osteoarthritis of multiple joints. *See Exhibit M of NOF, Cleveland Clinic Records, at page 3.*

62. Plaintiff testified in his deposition that he did not report that a hip issue was causing him trouble walking. *See Exhibit 4 at 69:17-21.*

63. Plaintiff testified in his deposition that he saw Dr. Stigliano one time before his fall just to change clinics, change doctors, doctors, do blood work, set up an appointment for later, and just an initial visit, but not for any issues. *See id. page 70, lines 19-page 71 line 1.*

64. Plaintiff testified that when he saw Dr. Stigliano, he did not report numbness in his legs, unsteadiness, issues with falling, numbness in his feet, or anything close to that. He testified it was just an initial visit to the doctor. *See id. at 72:13-18.*

65. Plaintiff testified that he would not have discussed with Dr. Stigliano an issue with his gait in November 2022, because "It was just basic aches and pains, getting ready for a new season, and I had to see him because of changing doctors, and what did he want me to do." *See id. at 72:19-24.*

66. Yet, Dr. Stigliano's records show that on **November 3, 2022, just eight (8) days before Plaintiff fell**, he saw Dr. Stigliano for the first time. Dr. Stigliano's records state that Plaintiff is permanently on a cane due to his back injuries, has problems walking, problems with his diabetes, and his peripheral nerve disease, problems with numbness in his legs, unsteadiness and falling, a wide based gain, numbness in both feet. and that he was diagnosed with polyneuropathy. *See Exhibit N of the NOF, Randy Stigliano, DO Records, at page 3 and 4.*

67. Plaintiff testified that he had no gait issues in 2022 prior to his fall. *See Exhibit 4, page 91 lines 22-25 and page 92 lines 1.*

68. Plaintiff testified that he did not have any gait issues on November 11, 2022. *See id. at 108 page 21-25 and page 109 lines 1-2.*

69. Plaintiff testified he had no unsteadiness on November 11, 2022. *See id. at page 109 lines 3-4.*

70. Yet, Dr. Stigliano's medical records from seeing Plaintiff 8 days prior to the fall, show that Plaintiff reported he was unsteady when walking, and had abnormalities of gait and mobility. Plaintiff was referred to a physical therapist. *See Exhibit N of NOF at page 3.*

71. Plaintiff testified that Dr. Stigliano did not refer him to any other doctor or medical professional when Plaintiff saw him 8 days before he fell. *See Exhibit 4, at 73:2-7.*

72. Plaintiff testified he had no dizziness before the fall on November 11, 2022. *See id. at 109:5-6.*

73. Plaintiff testified he was not suffering from any medical issues on November 11, 2022. *See id. at 109: 8-12.*

74. Plaintiff testified he was able to pick up his feet as he was walking on November 11, 2022. *See id. at 109:11-13.*

75. Plaintiff testified he had no issues regarding his ankle that would impact his ability to walk and lift his foot on November 11, 2022. *See id. at 109:14-17.*

76. Plaintiff testified that he did not have any gait issues in 2022. *See id. at 91-92:1.*

77. Plaintiff testified that his gait issues had resolved by the time of the fall. *See id. at 108-109:2.*



78. Plaintiff testified that he has not had any additional falls since November 11, 2022. *See id. at 120:24-25 and 121: 1-3.*

79. However, on **March 23, 2023**, Plaintiff reported to Sunshine Physical Therapy that he twisted his knee and fell while cooking the night before. *See Exhibit O of the NOF, Sunshine Physical Therapy Records, at page 1.*

80. On **September 12, 2023**, Plaintiff underwent surgery to have his left knee replaced. *See Exhibit P of NOF, Steward Orthopedic at Sebastian River Records.*

81. At his deposition , Plaintiff testified that during the time between his knee surgery and his knee replacement surgery on September 12, 2023, he had no additional injuries or falls *See Exhibit 4. at 125:5-9.* Plaintiff attributes the knee replacement surgery to the alleged fall on November 11, 2022. *See id. at 125:10-12.*

82. Plaintiff testified that there has not been a doctor that has ever classified him as a fall risk. *See id. at 133:11-16.*

#### STANDARD OF REVIEW

The proponent of a motion to strike pleadings and/or dismissal with prejudice for fraud on the Court must prove by clear and convincing evidence that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party's claim or defense. *Obregon v. Rosana Corp.*, 232 So. 3d 1100, 1101 (Fla. Dist. Ct. App. 2017) (Clear and convincing evidence supported dismissal of slip and fall complaint for fraud on the court); *Herman v. Intracoastal Cardiology Center*, 121 So. 3d 583 (Fla. 4<sup>th</sup> DCA 2013) (Trial Court acted within its discretion in dismissing wrongful death medical

malpractice case due to fraud on the court); *Ramey v. Haverty Furniture Companies, Inc.*, 993 So. 2d 1014 (Fla. 2d DCA 2008) (affirming dismissal with prejudice where customer committed fraud on the court when he provided intentionally false deposition testimony and interrogatory answers); *McKnight v. Evancheck*, 907 So. 2d 699 (Fla. 4<sup>th</sup> DCA 2005) (affirming dismissal of complaint with prejudice for fraud on the court after the trial court conducted a hearing and reviewed the plaintiff's medical records and deposition); *Distefano v. State Farm Mut. Auto Ins. Co.*, 846 So. 2d 572 (Fla. 1<sup>st</sup> DCA 2003) (affirming dismissal with prejudice for fraud on the court where the plaintiff's omissions and misrepresentations did not result from mere oversight or forgetfulness and were about matters bearing directly on the issues of damages).

#### **MEMORANDUM OF LAW**

When a party misrepresents or lies about an issue that goes to the heart of a claim or defense, then dismissal of the entire claim is proper. *Savino v. Florida Drive In Theatre Management, Inc.*, 697 So. 2d 1011 (Fla. 4th DCA 1997). A party who makes deliberate misrepresentations during discovery and gave false information during a deposition as to an issue that goes to the heart of the claim has perpetrated a scheme designed to interfere with the court's ability to adjudicate the claim and is warranted in having that party's case dismissed for fraud (or have its pleadings stricken). *Desimone v. Old Dominion Insurance Company*, 740 So. 2d 1233 (Fla. 4th DCA 1999); *Hogan v. Dollar Rent A Car Systems, Inc.*, 783 So. 2d 1211 (Fla. 4th DCA 2001); *Ramey v. Haverty Furniture Companies, Inc.*, 993 So. 2d 1014.

When such a fraud can be clearly demonstrated, the trial court possesses the inherent authority to strike a defendant's affirmative defenses or dismiss a plaintiff's complaint. *Kornblum v. Schneider*, 609 So. 2d 138, 139 (Fla. 4th DCA 1992). *Baker v. Lyers Tractor Servs., Inc.*, 765 So. 2d 149 (Fla. 1st DCA 2000) (affirming dismissal of case based on plaintiff's false statements

during his deposition despite the fact that he filed a belated errata sheet to that deposition in which he corrected his false statements).

The Trial Court may dismiss a plaintiff's entire case when the party perpetrates a fraud on *the court which permeates the entire proceedings*. *McKnight v. Evancheck*, 907 So. 2d 699 (Fla. 4<sup>th</sup> DCA 2005). In *McKnight*, the appellant sought damages for personal injuries (neck and lower back pain and frequent headaches) caused by an automobile accident. In both his deposition and answers to interrogatories, appellant denied having been hospitalized or having previous medical problems, other than an old high school injury. Appellees, however, produced substantial medical evidence from the prison where the appellant had been incarcerated which showed that the plaintiff had extensive medical problems and received medical treatment for back pain, head aches and other ailments, including knee surgery. The Court affirmed the Trial Court's dismissal with prejudice for fraud on the Court finding that appellant's lies about his extensive medical history had a direct bearing in his claim for damages. *See id.*

Where false testimony was directly related to the central issue in the case, dismissal of the case was proper. *Morgan v. Campbell*, 816 So.2d 251 (Fla. 2d DCA 2002). Ms. Morgan and her husband sued defendants for injuries resulting from an automobile accident. During deposition, Ms. Morgan testified that she never had neck or low back pain before the accident. She admitted receiving treatment from a chiropractor for scoliosis, but claimed the doctor never treated her for neck or low back pain. She denied receiving treatment from any other chiropractors. Ms. Morgan made the same representations during her independent medical evaluation.

In *Ramey*, the plaintiffs brought a personal injury action alleging that defendant's delivery personnel negligently connected a bridge on an entertainment unit causing it to fall on Mr. Ramey's head; Mr. Ramey allegedly sustained severe headaches, a neck injury and THJ problems. The Trial

Court dismissed the Complaint with prejudice for fraud on the Court, concluding that Mr. Ramey intentionally lied in his deposition and answers to interrogatories. In affirming the Dismissal with Prejudice, Court applied the same reasoning as in *Morgan*, and concluded as follows:

Other cases have followed the reasoning of *Morgan*. In *McKnight v. Evancheck*, 907 So.2d 699, 700 (Fla. 4th DCA 2005), the court affirmed the order of dismissal for fraud on the court where the trial court had **“found that [the plaintiff] lied about his extensive medical history, which had a direct bearing on his claim for damages.”** The medical records presented to the trial court in *McKnight* **“were directly contrary to [the plaintiff’s] sworn testimony.”** The court concluded that the plaintiff’s **“misrepresentations, if they had been successful, would have interfered with the jury’s ability to adjudicate the issues.”** 907 So.2d at 701.

Orders of dismissal for fraud on the court involving similar circumstances have been upheld in numerous cases. *See, e.g., Papadopoulos v. Cruise Ventures Three Corp.*, 974 So.2d 418 (Fla. 3d DCA 2007); *Hutchinson v. Plantation Bay Apartments, LLC*, 931 So.2d 957 (Fla. 1st DCA 2006); *Distefano v. State Farm Mut. Auto. Ins. Co.*, 846 So.2d 572 (Fla. 1st DCA 2003); *Long v. Swofford*, 805 So.2d 882 (Fla. 3d DCA 2001); *Baker v. Myers Tractor Servs., Inc.*, 765 So.2d 149 (Fla. 1st DCA 2000); *see also Metro. Dade County v. Martinsen*, 736 So.2d 794, 795 (Fla. 3d DCA 1999) (**holding that trial court abused its discretion in failing to dismiss case where plaintiff gave sworn false statements “about her accident and medical history” that “went to the heart of her claim and subverted the integrity of the action”**).

Like the misrepresentations made by the plaintiff in *Morgan*, Mr. [REDACTED] misrepresentations concerning his prior medical treatment were “directly related to the central issue in the case.” *Morgan*, 816 So.2d at 253. Such misrepresentations by their very nature “unfairly hamper[ ] the presentation of the opposing party’s ... defense.” *Aoude*, 892 F.2d at 1118. Mr. [REDACTED] Complaint should be dismissed.

This is not a case where [REDACTED] omitted or downplayed a few facts. [REDACTED] set out from the beginning to mislead the Court (and the jury) with the only possible motivation being pecuniary gain. *See Herman v. IntraCoastal Cardiology Center*, 121 So. 3d 583 (Fla. 4<sup>th</sup> DCA 2013). “The integrity of the civil litigation process depends on truthful disclosure of facts. *Cox v. Burke*, 706



So.2d 43, 47(Fla. 5<sup>th</sup> DCA 1998.) Revealing only some of the facts does not constitute truthful disclosure.” See *Metro. Dade County v. Martinsen*, 736 So. 2d 794 (Fla. 3d DCA 1999).

In *Bryant v. Mezo*, 226 So. 3d 254 (Fla. 4<sup>th</sup> DCA 2017), the Court affirmed the dismissal with prejudice for fraud on the Court consisting of Plaintiff’s denials of having prior back or neck injuries and related treatment thereof. In *Bryant* the plaintiff was involved in a minor automobile accident; she was not transported from the scene and returned to work the next day. She did not receive chiropractic treatment for her neck and back until two weeks following the incident. A few months later she had neck surgery. Although in her response to interrogatories she identified a prior worker’s compensation claim in which she injured her left arm, she did not include information about prior back or neck injuries. In her deposition she identified prior injuries to her ankle and left arm but not to her neck and back. She did not recall prior neck and back pain. Her medical records showed otherwise. Her workers’ compensation records showed that on two previous occasions she complained of a cervical spine injury and included her chiropractor’s deposition confirming he had treated her for a neck injury two-three times per week for nine months. The chiropractor gave her a 7% impairment rating for her whole body related to her cervical spine. Additional medical records showed that she had been treated for prior back-related injuries and related chiropractic treatment. She had denied ever receiving chiropractic treatment prior to the subject accident. In a well-reasoned decision, the Court explained the propriety of the dismissal for fraud on the Court as follows:

Fraud upon the court occurs when the evidence clearly and convincingly shows a party schemed to interfere with the court's ability to impartially adjudicate by intentionally hampering the presentation of the opposing defense. *Herman v. Intracoastal Cardiology Ctr.*, 121 So.3d 583, 588 (Fla. 4th DC A 2013). **Where repeated fabrications undermine the integrity of a party's entire case, a dismissal for fraud upon the court is proper. *Id.***

This case is similar to *Ramey v. Haverty Furniture Cos., Inc.*, 993 So.2d 1014 (Fla. 2d DCA 2008). There, the plaintiff denied ever being treated for head or neck pain despite being prescribed several medications for headaches, receiving a CT scan, and visiting doctors over the span of several years. *Id.* at 1015–16. The court dismissed the complaint for fraud upon the court. *Id.* at 1021. While people are not required to remember every specific ailment from their lives, the plaintiff's memory failure was not an isolated incident. *Id.* at 1017.

Here, the plaintiff did not suffer from one isolated incident of neck and back pain. Rather, the records and bills established she suffered from years of documented pain and corresponding treatment. She denied reality even when confronted with the evidence. *Id.* at 256.

As such, it is well settled that “a party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding should not be permitted to continue to employ the very institution it has subverted to achieve her ends.” *Rosenthal v. Rodriguez*, 750 So. 2d 703, 704 (Fla. 3d DCA 2000) (*quoting Martinsen*, 736 So. 2d at 795).

In cases where such a fraud has occurred the Third District has instructed that courts have “a duty and an obligation to dismiss a cause of action based upon fraud.” *Long v. Swofford*, 805 So. 2d 882, 884 (Fla. 3d DCA 2001). “[A] system that depends on an adversary's ability to uncover falsehoods is doomed to failure, which is why this kind of conduct must be discouraged in the strongest possible way.” *Cox v. Burke*, 706 So.2d 43, 47 (Fla. 5th DCA 1998); *Long*, 805 So. 2d at 884; *Martinsen*, 736 So. 2d at 795; Where a personal injury plaintiff makes misrepresentations and omissions about her accident and medical history in interrogatories and in deposition, those misrepresentations and omissions go to the heart of her claim and subvert the integrity of her action, so as to warrant dismissal of the action for fraud on the court; when extensive nature of her past medical history belies her claim that she had forgotten or was confused, she thereby forfeits her right to proceed with her action. *Austin v. Liquid Distributors, Inc.*, 928 So. 2d 521, 521 (Fla. 3d DCA 2006).

In *Perrine v. Henderson*, 85 So. 3d 1210 (Fla. 5<sup>th</sup> DCA 2012), the court held that clear and convincing evidence existed that the plaintiff engaged in a scheme calculated to evade or stymie discovery of facts central to a case, and thus, dismissal of the plaintiff's action was warranted as a sanction for perpetrating fraud on the court; the evidence indicated that the plaintiff made numerous material misrepresentations regarding his medical history and current injuries, all of which were core issues in the case.

██████████ elected to read his deposition, and on January 26, 2024, signed the Declaration Under Penalty of Perjury that he read the entire transcript and it is accurate. ██████████ filled out an Errata sheet never once correcting his perjured testimony. **See Declaration Under Penalty of Perjury attached hereto as Exhibit 5.**

Here, clear and convincing evidence establishes that ██████████ acted in bad faith and has sentiently set in motion a systematic unconscionable scheme calculated to perpetrate a fraud that arises beyond an omission "here and there" of relevant information and beyond perjury between the parties. The aforementioned discovery responses and deposition testimony is clear evidence that ██████████ has set in motion some unconscionable scheme calculated to interfere with the judicial system's ability to impartially adjudicate a matter when he lied about his pre-existing medical conditions that go directly to the heart of the matter herein. ██████████ fraud interferes with the Court's judicial process to impartially adjudicate a case on its merits, has hampered and therefore, prejudiced the Defense because it bears directly on the disputed issues of liability and damages.

**WHEREFORE**, defendants respectfully request that the Court invoke its inherent power to dismiss this case for fraud the Court, enter an Order which grants the Motion to Dismiss,

dismisses Plaintiff's Complaint with Prejudice for Fraud on the Court, and reserves jurisdiction for consideration of a timely-filed Motion for an Award of Attorney's Fees and Costs.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Florida Courts E-filing Portal to Jason L. Odom, Esq., [dmc-eservice@gouldcooksey.com](mailto:dmc-eservice@gouldcooksey.com) and [jlo-eservice@gouldcooksey.com](mailto:jlo-eservice@gouldcooksey.com) this 17<sup>th</sup> day of June, 2024.

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# **Writing Sample Two**

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 2023-CA-007903

MARIA TEREZA FONSECA FRANCO,  
an individual,

Plaintiff,

v.

DORSET AT CENTURY VILLAGE  
CONDOMINIUM ASSOCIATION, INC.,  
a Florida Not for Profit Corporation, and  
CREST MANAGEMENT GROUP, INC.,  
a Florida Profit Corporation.

Defendants.

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**DEFENDANTS' MOTION FOR DISMISSAL OF THIS ACTION WITH PREJUDICE  
OR IN THE ALTERNATIVE, MOTION FOR INTRODUCTION OF SPOILIATION AND  
ADVERSE JURY INSTRUCTION FOR SPOILIATION OF EVIDENCE AND  
SUPPORTING MEMORANDUM OF LAW**

COMES NOW, Defendants, CREST MANAGEMENT GROUP, INC. ("CREST") and DORSET AT CENTURY VILLAGE CONDOMINIUM ASSOCIATION, INC. ("DORSET"), collectively hereinafter ("Defendants") by and through undersigned counsel and pursuant to Florida Rules of Civil Procedure, as well as the additional legal authorities cited herein, and respectfully files this Motion as further styled above, and states:

**INTRODUCTION AND RELIEF REQUESTED**

1. Plaintiff intentionally destroyed all existing evidence in this cause and irreparably harmed and prejudiced Defendants because they are unable to determine or defend against causation, a crucial element, of Plaintiff's alleged slip and fall. Defendants respectfully request that the Court enter an Order which *grants* this Motion for dismissal of this action with prejudice, or in the alternative, finding therein that Defendants are entitled to introduce evidence

of spoliation of evidence and an adverse jury instruction as a result of the continued use and discarding of the shoes that Plaintiff was wearing at the time of her alleged fall, the vacuum cleaner Plaintiff claims she was carrying at the time of her alleged fall, her cellular telephone Plaintiff alleges was broken as a result of her alleged fall, and Plaintiff's watch that she alleges was damaged as a result of her alleged fall. Plaintiff's intentional destruction of and her failure to preserve these items has created prejudice to the Defendants as they are unable to analyze and develop their defense due to Plaintiff's actions. Defendants and/or their experts do not have the opportunity to inspect, analyze, and test or otherwise examine the vacuum cleaner, the shoes, or any of Plaintiff's alleged damaged personal property. Plaintiff should not be able to benefit from her total destruction of every piece of evidence.

### **BACKGROUND**

2. This is a premises liability case that was initiated by Plaintiff by the filing of her Complaint on July 27, 2023. Plaintiff filed an Amended Complaint on October 26, 2023. According to the Plaintiff's Complaint and Amended Complaint, on or about November 22, 2021, Plaintiff descended the exterior stairwell of the premises of Defendant, DORSET, and slipped on the exterior stairwell, fell, and suffered damages as a result of this fall. Plaintiff now sues Defendants for damages. *See* Complaint and Amended Complaint attached hereto as composite **Exhibit 1**.

3. Plaintiff's Complaint and Amended Complaint asserts a claim for Negligence against DORSET (Count I) and a claim for Negligence against CREST (Count II). *See* **Exhibit 1**.

4. Plaintiff alleges the reason she fell and sustained injuries was because the exterior stairwell at the Subject Premises was "overly slick" and "improperly maintained." Plaintiff

alleges that Defendants failed to “install safety strips or grips” on the subject stairwell. *See id* at ¶¶11(b) and 17(b). Plaintiff further alleges that the concrete exterior steps had a “smooth, non-abrasive finish” which caused her to slip and fall. *See id* at ¶5.

5. Plaintiff alleges in part that the Defendants failed to maintain the premises in a reasonably safe condition. *See id* at ¶¶11(c) and 17(c).

6. Defendants sent Plaintiff a Preservation of Evidence Letter, dated August 1, 2023, specifically requesting that Plaintiff preserve, in relevant part, “mobile phones--- the shoes Plaintiff was wearing at the time of the alleged incident, as well as any items she was carrying on or around her person at the time of the alleged incident.” See Preservation of Evidence Letter attached hereto as **Exhibit 2**.

7. Defendants advised Plaintiff that she was to provide sufficient notice prior to changing or modifying any evidence in this cause, and Plaintiff was warned that “failure to do so will result in spoliation of evidence critical to the defense of the claims asserted.” *See id*, at final paragraph.

8. On January 4, 2024, Plaintiff testified in her deposition that at the time of the alleged fall, she was wearing flip-flop shoes that were slip resistant. *See Plaintiff’s Deposition*, at 25:5-12 and 15-21, attached hereto as **Exhibit 3**.

9. Plaintiff wore the shoes many times between the time she fell and the time she threw them away. *See id*. at 67:16-25.

10. Plaintiff took photographs of the top and the bottom of her shoes and supplied them to Defendants through the discovery process. *See id*. at 65:15 – 67:25; *see also*, photographs of Plaintiff’s shoes attached hereto as **Exhibit 4**.

11. Plaintiff wore the shoes “all the time” in between the time she fell and when she took the photographs of the shoes. *See Exhibit 3. at 67:16-25.*

12. Plaintiff does not recall if she took the photographs of the shoes in December or January. *See id. at 66: 19-25.*

13. Plaintiff does not have any photographs of the shoes as they existed at the time of her alleged fall. *See id. at 65:15 – 67:25.*

14. Plaintiff had a vacuum cleaner in her hand as she traversed the steps. *See id. at 68: 6-12.* She carried the vacuum on her right side as she was going down the stairs. *See id. at 76:1-25.* Plaintiff had the vacuum in her right hand and when she fell, the vacuum went down the stairs. *See id. at 71: 4-8.* It was a light vacuum. *See id. at 76: 10.*

15. Plaintiff continued to use her vacuum cleaner after it fell down the steps, and then threw it away in 2022. *See id. at 64:1-65:25.*

16. Plaintiff had her cell phone in her right pocket when she allegedly fell. She had the phone fixed, but does not know the name of the store where she took it and paid cash. *See id. at 76:20- 77:21.* She had the phone fixed days after she fell. *See id. at 78:5-10.*

17. Plaintiff did not photograph her broken screen on her phone. *See id. at 83: 17-19.*

18. Plaintiff’s watch fell down the stairs and she does not know if she threw the broken watch away. *See id. at 83:5-10.*

19. Plaintiff did not photograph her broken watch. *See id. at 83:11-14.*

20. At the time the Plaintiff filed her Complaint on July 27, 2023, and her Amended Complaint on October 26, 2023, the personal property, including her shoes, watch, and vacuum cleaner, had already been discarded.



21. Plaintiff knew it was raining but had stopped raining by the time she left. *See id.* at 68:10-11.

22. Plaintiff's footwear could have been tested using the ASTM standard for slip resistance in wet and dry conditions had they been produced.

23. Without the physical evidence, Defendants are irreparably prejudiced and left with no way to evaluate or challenge the Plaintiff's claims that the Defendants failure to maintain the stairs caused or contributed to Plaintiff's slip, which she claims was the cause of her damages. *See, e.g., Exhibit 1.*

24. Defendants answered the Plaintiff's Complaint and Amended Complaint, generally denying all claims and asserted numerous affirmative defenses, including their first affirmative defense wherein they assert that Plaintiff's own carelessness and/or negligence was the sole or contributing cause of the alleged slip, that Plaintiff was wearing improper footwear with insufficient and/or no tread, and carrying items in her hands while walking down the stairs. *See Defendants' Answer and Affirmative Defenses, attached hereto as Composite Exhibit 5 at ¶ 21.*

25. In their eleventh affirmative defenses, DEFENDANTS assert that to the extent Plaintiff spoiled, altered, or adulterated evidence, all claims should be dismissed or limited as a result of Plaintiff's Failure to preserve critical evidence they have substantially and severely prejudiced Defendant. *See Composite Exhibit 5, at ¶ 31.*

### **MEMORANDUM OF LAW**

26. Courts have employed various sanctions in these matters including dismissal of a claim, the striking of pleadings, the entry of a default on the issue of liability, the exclusion of an

expert witness, the creation of an evidentiary presumption, and the exclusion of expert testimony. *See DePuy, Inc. v. Eckes*, 427 So. 2d 306 (Fla. 3d DCA 1983).

27. The destruction of evidence does not have to be in bad faith if it prevents the grieved party their ability to proceed. The absence of bad faith does not prevent the court imposing sanctions that include striking a pleading. *Accord Rockwell International Corp. v. Menzies*, 561 So. 2d 677 (Fla. 3d D.C.A. 1990). Plaintiff altered the condition of the shoes – a critical piece of evidence to the defense– by wearing them in between the time she fell and the time she photographed them. Egregiously, and despite knowing that the shoes were of significant evidentiary value (evidenced by the fact that Plaintiff photographed the shoes), Plaintiff deliberately discarded the shoes. In doing so, she permanently destroyed crucial evidence and denied Defendants the ability to examine, analyze, and test the slip-resistant tread of the shoes to determine the extent to which they caused Plaintiff’s fall, or to what extent, if any, they were a contributing factor to Plaintiff’s alleged slip and fall. Plaintiff’s intentional actions have denied Defendants any meaningful chance of developing their defenses raised in **Exhibit 5 at ¶¶ 21 and 31**. Due to Plaintiff’s intentional destruction of evidence, and the resulting prejudice to Defendants, the only equitable remedy available to Defendants is a dismissal of the Action with prejudice.

28. In the alternative, Defendants seek an adverse inference jury instruction as to the adverse inference to be drawn from Plaintiff’s spoliation of evidence. *See Martino v. Wal-Mart Stores, Inc.* 835 So. 2d 1251, 1257 (Fla. 4th DCA 2003) (holding that the adverse inference concept is not based on a strict legal duty to preserve evidence; rather, an adverse inference may arise in any situation where potentially self-damaging evidence is in the possession of a party and that party

either loses or destroys the evidence); *American Hospitality Mgmt. Co. of Minnesota v. Hettiger*, 904 So. 2d 547 (Fla. 4th DCA 2005).

29. The case most on point to the matter at hand is *Golden Yachts, Inc. v. Hall*, 920 So. 2d 777 (Fla. 4th DCA 2006). Therein, Mr. Hall sued Golden Yachts seeking damages for personal injuries he sustained while aboard a boat at Golden Yachts. *Id.* at 778. At the time, the boat was supported by a boat cradle, consisting of two “H” frames. *Id.* About 10 days after the incident, plaintiff’s counsel wrote Golden Yachts requesting that all material from the cradle be preserved and offered to store it. *Id.* About a year after the lawsuit was filed and Golden Yachts had cross-claimed the cradle’s manufacturer, the experts for the plaintiff and the manufacturer discovered that the H frames preserved by Golden Yachts for inspection were not the ones involved in Mr. Hall’s incident. *Id.* at 779.

30. Plaintiffs in that case amended, bringing a claim for spoliation of evidence, which was denied, since Florida, under *Martino*, does not recognize a direct cause of action for spoliation against a party in a lawsuit. *Id.* at 779-80. The manufacturer, however, filed a Motion for Sanctions and for Negative Inferences. *Id.* at 780. The Trial Court denied the motion for sanctions but granted the motion for a negative inference. *Id.* The jury found Golden Yachts 100% liable. *Id.* On Appeal, the Court affirmed, finding that Golden Yachts had a duty to preserve the evidence because plaintiff’s counsel made a timely request for it to do so, (although for an adverse inference, a duty is not required). *Id.* The Court further cited *Martino* agreeing that it was not error for the trial court in *Golden Yachts* to allow both evidence of the spoliation to be submitted to the Jury and to give an adverse inference instruction as to the party who spoiled the evidence, as these remedies may be cumulative. *Id.*

31. Prior to exercising any leveling mechanism due to spoliation of evidence, the Court must answer three threshold questions: (1) whether the evidence existed; (2) whether the spoliator had a duty to preserve the evidence<sup>1</sup>; and (3) whether the evidence was critical to an opposing party's ability to prove its prima facie case or defense. *Golden Yachts, Inc.*, 920 at 780; *Reed v. Alpha Prof. Tools*, 975 So. 2d 1202 (Fla. 5th DCA 2008) (holding that “[t]he goal in spoliation cases is to assure that the non-spoliator does not bear an unfair burden”).

32. These requirements are clearly met in the instant case. As to the first requirement, the evidence in this case is: Plaintiff's shoes, watch, cell phone, and vacuum cleaner were the physical and personal property of Plaintiff, and which were on her person or being carried in her hands at the time of the alleged slip and fall as laid out and cited in paragraphs 2 through 25 in the Background section above.

33. As to the second requirement, as noted in footnote #1, under the circumstances, Plaintiff had a legal duty to preserve the evidence because litigation was reasonably foreseeable. Shortly after the alleged slip and fall, Plaintiff engaged an attorney, initiated litigation, and photographed the shoes at issue. *See Exhibit 1, 2, 3, and 4.*

34. As to the third requirement of the standard set out in *Golden Yachts*, Defendants' ability to have the evidence examined was critical to their ability to defend against Plaintiff's claims

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<sup>1</sup> Florida Courts have consistently held that a non-spoliating party need not demonstrate that the spoliating party owed a strict legal duty to preserve the self-damaging evidence in order for a Court to impose an adverse inference jury instruction upon the spoliating party. *The League of Women Voters of Florida v. Detzner*, 172 So. 3d (Fla. 2015) (holding that “Florida courts have, in any event, found a duty to preserve evidence in circumstances when a party should reasonably foresee litigation”); *Martino v. Wal-Mart*, 835 So. 2d 1251 (Fla. 4th DCA 2002) (finding that an adverse inference may arise in any situation where potentially self-damaging evidence is in the possession of a party and that party either loses or destroys the evidence); *American Hospitality Mgmt. Co. of Minnesota v. Hettiger*, 904 So. 2d 547 (Fla. 4th DCA 2005) (holding that a Defendant could be charged with a duty to preserve evidence where it could reasonably have foreseen the claim).



and has been permanently denied due by Plaintiff's intentional actions. Whether Plaintiff's shoes caused or contributed to her fall was a crucial factor to the Defendants' defense. By intentionally altering, removing, and destroying the evidence, Plaintiff has thwarted Defendants' ability to examine, inspect, test, or preserve critical evidence for presentation at trial.

35. In *Torres v. Matsushita Elec. Corp.*, 762 So.2d 1014 (5<sup>th</sup> DCA 2000), Plaintiff sued the alleged manufacturer of a vacuum that caught fire and injured her, claiming a manufacturing defect and negligent design. The Plaintiff photographed the vacuum cleaner and provided the vacuum cleaner to an expert for inspection. *See id.* Plaintiff's attorney threw away the vacuum cleaner before the defense had an opportunity to inspect it. *See id.* The defense argued that due to the spoliation by Plaintiff's counsel, they were denied an opportunity to examine and test the vacuum cleaner at issue and such inspection would constitute a "vital aspect" of their defense. *See id.* The Court dismissed the Plaintiff's claim with prejudice, stating: "The inadvertent or accidental loss or destruction of the vacuum cleaner, while in custody of Plaintiff's attorney...is a critical issue to the Defendant, as it precludes any form of examination by the Defendant or the Defendant's expert. The Defendant is precluded from testing whether or not it is Defendant's product. Moreover, the Defendant is precluded from testing whether or not the product was modified, and the Defendant is precluded from testing whether or not the product has been broken or misused. **The Defendant is further precluded from testing the causation** of the fire or an examination of the alleged defective product." *See id. at 1016, (emphasis added.)*

36. There are other possible explanations of why the Plaintiff slipped and fell not chargeable to the Defendants. Due to Plaintiff's spoliation, Defendants are precluded from any form of examination by the Defendants or the Defendants' expert.

37. Just as in *Torres*, supra, the Defendants here are precluded from testing the causation of the slip and fall due to Plaintiff's destruction of property. Unlike in *Torres*, the current case is even more egregious as it was the conduct of the Plaintiff herself, not her counsel, who's intentional act prevented Defendants from developing and testing any component of their defense. Plaintiff not only destroyed the shoes that she was wearing at the time of the alleged slip and fall, but she also only photographed them after altering them, and provided no evidence having to do with the age, condition, and weight of the vacuum cleaner she was caring with one hand to her side, while wearing flip flops, and traversing concrete stairs after a rainstorm. Causation is a "vital aspect" of the defense and the Defendants are precluded from testing the causation of Plaintiff's slip and fall.

### CONCLUSION

38. Plaintiff has intentionally altered, removed, and destroyed crucial evidence prior to Defendants and their experts being afforded the opportunity to inspect, examine, test, or preserve the materials. Plaintiff's alterations, removal, and destruction of evidence occurred at a point when litigation was being contemplated and/or after it had been initiated. As a result, Defendants' ability to fully and fairly defend against Plaintiff's claims has been completely prevented and Defendants have been irreparably prejudiced. Plaintiff should not be rewarded for her intentional destruction of crucial evidence. The claims against Defendants should be dismissed as Plaintiff's intentional actions have ultimately denied Defendants due process. In the alternative, Defendants should be permitted to present evidence of Plaintiff's intentional destruction and spoliation of evidence and the jury should be instructed as to the permissibly adverse inference resulting from such spoliation of evidence.

**WHEREFORE**, Defendants, CREST MANAGEMENT GROUP, INC. and DORSET AT CENTURY VILLAGE CONDOMINIUM ASSOCIATION, INC., respectfully move this Honorable Court for an Order which *grants* the Motion dismissing with prejudice Plaintiff's Amended Complaint. In the alternative, Defendants request a finding therein that Defendants are entitled to introduce evidence of Plaintiff's destruction of evidence and to an adverse inference jury instruction regarding Plaintiff's claims alleged against Defendants, together with any further relief deemed just and proper.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Florida Courts e-filing Portal to Kirby W. Johnson, Esquire and Andrew W. Schemer, Esquire, Campione Law, P.A., 501 W. Best Street, Ste. 100, Jacksonville, FL 32202, [KJ@campionelawpa.com](mailto:KJ@campionelawpa.com), [AS@campionelawpa.com](mailto:AS@campionelawpa.com), and [MA@campionelaw.com](mailto:MA@campionelaw.com) this **25th** day of April, 2024.

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