

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Jeffrey L. Schmehl

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Eastern District of Pennsylvania

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Berks County Court of Common Pleas
633 Court Street, 8th Floor
Reading, Pennsylvania 19601

4. **Birthplace**: State year and place of birth.

1955; Reading, Pennsylvania

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1977 – 1980, University of Toledo School of Law; J.D., 1980
1973 – 1977, Dickinson College; B.A., 1977

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1998 – Present
Berks County Court of Common Pleas
633 Court Street, 8th Floor
Reading, Pennsylvania 19601
President Judge (2007 – Present)
Judge (1998 – 2007)

1999 – Present
Alvernia College
400 Saint Bernadine Street
Reading, Pennsylvania 19607
Adjunct Professor

1986 – 1997
Rhoda, Stoudt & Bradley
The Berkshire, 6th Floor
Fifth & Washington Streets
P.O. Box 877
Reading, Pennsylvania 19603
Partner (1988 – 1997)
Associate (1986 – 1987)

1989 – 1997
Berks County Services Center
Solicitor's Office
633 Court Street, 13th Floor
Reading, Pennsylvania 19601
Berks County Solicitor

1981 – 1986
Jeffrey L. Schmehl, Esq.
434 Penn Avenue
West Reading, Pennsylvania 19611
Solo Practitioner

1981 – 1986
Berks County District Attorney
633 Court Street, 5th Floor
Reading, Pennsylvania 19601
Assistant District Attorney

1980 – 1981
Berks County Public Defender
633 Court Street, 12th Floor
Reading, Pennsylvania 19601
Assistant Public Defender

Summer 1979
Teamsters 419 Legal Defense Fund
435 South Lawley Street
Toledo, Ohio 43609
Legal Intern

Summers 1977, 1978
Reading Contractors
No Longer in Business
Summer Employment

Other Affiliations (uncompensated):

2008 – Present
Berks County Mental Health and Developmental Disabilities Advisory Board
Berks County Services Center
633 Court Street, 15th Floor
Reading, Pennsylvania 19601
Board of Directors

1998 – 2008
Pennsylvania Conference of State Trial Judges
Administrative Office of Pennsylvania Courts
Judicial Services Department
1515 Market Street, Suite 1414
Philadelphia, Pennsylvania 19102
Executive Committee

1996 – 2001
Wyomissing Area Little League Baseball
P.O. Box 6922
Wyomissing, Pennsylvania 19610
Board of Directors

1994 – 2001
Wyomissing Basketball Club
P.O. Box 6831
Wyomissing, Pennsylvania 19610
Vice President

1994 – 1999
Wyomissing Area Youth Football Association
P.O. Box 6093
Wyomissing, Pennsylvania 19610
Board of Directors

1986 – 1991
Kline's Creek Park Recreational Association
Sinking Spring, Pennsylvania
(association no longer exists and has no address)
Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I have registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Berks County Bar Association Liberty Bell Award (2010)

Cumru Township Exemplary Citizenship Award (2009)

Berks County Prison Society's W. Richard Eshelman Award (1995)

Commendation from City of Reading as Assistant District Attorney for prosecuting drug cases (1984)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association

American Judicature Society

Berks County Bar Association

Chairman, Public Relations Committee (1986 – 1988)

Legal Education Committee (1995 – 1997)

Unauthorized Practice of Law Committee (1993 – 1995)

County Commissioners Association of Pennsylvania Courts and Corrections Committee

Endlich Law Club

Justice William Strong American Inns of Court

Pennsylvania Bar Association

Pennsylvania Conference of State Trial Judges

Executive Committee (2000 – 2008)

Education Committee (2009 – Present)

Self Represented Litigants Task Force

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Pennsylvania (1980)

There has been no lapse in membership. I am currently listed as inactive.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States (1985)

United States Court of Appeals for the Third Circuit (1991)

United States District Court for the Eastern District of Pennsylvania (1981)

Pennsylvania Supreme Court (1980)

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Berks County Board of Elections (1999, 2001, 2003, and 2011)
Chair (1999, 2003, and 2011)

Berks County Mental Health and Developmental Disabilities Advisory Board
Board of Directors (2008 – Present)

Clover Park Athletic Association (1982 – 2012)

Commonwealth Partners Regional Conference between Judges and Legislators
Co-Chair (2002 – 2006)

Free and Accepted Masons (1985 – Present)
Scottish Rite (1986 – Present)
Shrine (2007 – Present)

Kline's Creek Park Recreational Association
Board of Directors (1986 – 1991)

Wyomissing Basketball Club
Vice President (1994 – 2001)

Wyomissing Mavericks Football League
Board of Directors (1994 – 1999)

Wyomissing Area Little League Baseball
Board of Directors (1996 – 2001)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

The Masons, Scottish Rite, and Shrine are fraternal service organizations that require members to be male. They do, however, have a sister organization, Eastern Star, that provides similar opportunities for females. Clover Park Athletic Association is a fraternal organization that requires members to be male. It supports youth sports in the Governor Mifflin School District and provides a scholarship to a male and female Governor Mifflin graduate every year. None of the remaining organizations listed in response to Question 11a currently discriminates or previously discriminated on the basis of race, sex, religion, or national origin.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the

name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Listed below are all of the speaking engagements that I have been able to recall or locate. I compiled the list from my own recollection and by reviewing my file of speech notes, but as I do not always use notes or retain them, there may be additional speeches for which I have no record or recollection.

October 4, 2012: Speech on differences between American and British court systems, as an introduction to the performance of Agatha Christie's "Witness for the Prosecution" at the Genesis Theatre, Reading, PA. Outline supplied.

October 3, 2012: Speech at Berks County Bar Association Naturalization Ceremony, Reading, PA. I have given a speech from the same outline at this ceremony each year since 2007. Outline supplied.

June 1, 2012: Presentations at the courthouse entitled "Welcome to the World of S.R.L. (Self-Represented Litigants)," Reading, PA. Outline and speech supplied.

May 18, 2012: Welcoming speech to accountants at Alvernia University, for program entitled "Integrity and Governance: A Symposium on Ethics, Leadership, and Accountability," Reading, PA. Outline supplied.

April 19, 2012: Presentation explaining formation of the Berks County Self-Represented Litigant Task Force for a seminar of the Pennsylvania Conference of State Trial Judges, Pittsburgh, PA. I have no notes, transcript, or recording, though my outline for the speech of June 1, 2012, listed above, reflects the

content. The Pennsylvania Conference of State Trial Judges is administered by the Administrative Office of Pennsylvania Courts, Judicial Services Department, 1515 Market Street, Suite 1414, Philadelphia, PA 19102.

January 2, 2012: Remarks at inauguration of Mayor Vaughn Spencer, Reading, PA. I have no notes, transcript, or recording. The address for the City of Reading is 815 Washington Street, Reading, PA 19601.

December 14, 2011: Remarks at retirement party honoring Judge Albert A. Stallone, Reading, PA, wishing him a happy retirement. I have no notes, transcript, or recording. The address for the Berks County Court of Common Pleas is 633 Court Street, Reading, PA 19601.

July 21, 2011: Remarks at Third Annual Berks County Bar Association Softball Challenge, Reading, PA. I have no notes, transcript, or recording, but press coverage is supplied.

May 15, 2011: Remarks at charity softball game benefiting the Special Olympics, Reading, PA. I have no notes, transcript, or recording, but press coverage is supplied.

April 12, 2011: Welcoming remarks for Special Session of the Pennsylvania Superior Court sitting in Berks County, Reading, PA. Outline supplied.

April 6, 2011: Welcoming and closing remarks at truancy summit, Bern Township, Berks County, PA. Outline supplied.

April 2011: State of the Bench speech, Berks County Bench Bar Conference, Reading, PA. Outline supplied.

November 3, 2010: Remarks at Judge Tom Golden's Memorial Service, Reading, PA. Outline supplied.

May 20, 2010: Welcoming remarks at Minority Youth Law Enforcement Forum, Reading, PA. Outline supplied.

May 4, 2010: Keynote Speech, Berks County Law Day Luncheon, Reading, PA. Outline supplied.

April 2010: State of the Bench speech, Berks County Bench Bar Conference, Reading, PA. Outline supplied.

November 12, 2009: "Anatomy of a Civil Case," seminar presented by the Berks County Court of Common Pleas Civil Division and the Berks County Bar Association, Reading, PA. Outline supplied.

October 6, 2009: Moderator for “Judicial Ethics & Leadership: A Conversation with Berks County Judges,” Reading, PA. I have no notes, transcript, or recording. The event was sponsored by Alvernia’s Center for Ethics and Leadership and the Holleran Center for Community Engagement, 400 Saint Bernardine Street, Reading, PA 19607.

October 2009: State of the Bench speech, Berks County Bench Bar Conference, Reading, PA. Outline supplied.

April 2009: State of the Bench speech, Berks County Bench Bar Conference, Reading, PA. Outline supplied.

October 11, 2008: Guest speaker at Columbus Day Celebration Banquet of the United Italian Societies of Berks County, Reading, PA. Outline supplied.

May 1, 2007: Berks County Law Day Speech, Reading, PA. Outline supplied.

August 4, 1998: Criminal Justice System Panel, Reading Police Department’s Citizen Police Academy, Reading, PA. Outline supplied.

1984 – 1988: Instructor on search and seizure and the law of arrest at the Reading Police Academy. I have no notes, transcripts, or recordings. The address of the Reading Police Academy is Alvernia University, Francis Hall, 400 Saint Bernardine Street, Reading, PA 19607.

At least four speeches on topics including the state of the Berks County judiciary, Berks County Court Criminal Division, the Pennsylvania Court System, and the public’s role in the criminal justice system, at Berks County Lions Clubs. I have no notes, transcripts, or recordings. I have no records reflecting the dates or particular Lions Clubs.

Speeches on topics including the state of the Berks County judiciary, Berks County Court Criminal Division, the Pennsylvania Court System, and the public’s role in the criminal justice system, at Berks County Rotary Clubs. I have no notes, transcripts, or recordings. I have no records reflecting the dates or particular Rotary Clubs.

Career Day Keynote Speech at Governor Mifflin High School. I have no notes, transcript, or recording. I have no record reflecting the date of this event. The address of Governor Mifflin High School is 101 South Waverly Street, Shillington, PA 19607.

Career Day Speech at Reading High School. I have no notes, transcript, or recording. I have no record reflecting the date of this event. The address of Reading High School is 801 North 13th Street, Reading, PA 19604.

Career Day Speech at Wyomissing Area Junior/Senior High School. I have no notes, transcript, or recording. I have no record reflecting the date of this event. The address of Wyomissing Area Junior/Senior High School is 630 Evans Avenue, Wyomissing, PA 19610.

Speeches and teaching on the justice system at Alvernia University Seniors College. I have no notes, transcripts, or recordings. I have no records reflecting the dates of these events. The address of Alvernia University Seniors College is 400 Saint Bernardine Street, Reading, PA 19607.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Holly Herman, *President Judge Lives in Whirlwind*, READING EAGLE, Dec. 17, 2012. Copy supplied.

Mike Urban, *Longtime District Judge Ready to Retire, Travel*, READING EAGLE, Dec. 12, 2012. Copy supplied.

Holly Herman, *Berks Judge Jeffrey L. Schmehl Nominated to Federal Post*, READING EAGLE, Nov. 27, 2012. Copy supplied.

Holly Herman, *Digital Devices No Match for Stenographers in Berks Courts*, READING EAGLE, Sept. 18, 2012. Copy supplied.

Kimberly Davidow, *County Expands Court Program to Help Veterans in Trouble*, WFMZ-TV 69 News, Jan. 9, 2012. Copy supplied.

Holly Herman, *County To Expand Veterans Court*, READING EAGLE, Jan. 9, 2012. Copy supplied.

Holly Herman, *Foreclosure: 'This has been a nightmare,'* READING EAGLE, Dec. 19, 2011. Copy supplied.

Pam Cunningham, *Twitter Plays Key Role in Media's Coverage of PSU Court Hearings*, WFMZ-TV 69 News, Dec. 15, 2011. Copy supplied.

Holly Herman, *Repaired and Ready for Justice: Services Center Courtrooms Renovated*, READING EAGLE, Dec. 6, 2011. Copy supplied.

Holly Herman, *Berks Judge Signs Court Order to Help Avoid Foreclosures*, READING EAGLE, Dec. 3, 2011. Copy supplied.

Holly Herman, *Forming Their Own Attorneys: Self-Representation on Rise*, READING EAGLE, Nov. 14, 2011. Copy supplied.

Holly Herman, *Berks President Judge Backs Video Cameras in High-Profile Cases*, READING EAGLE, Sept. 24, 2011. Copy supplied.

Berks County Judge: Be on the Lookout for Jury Duty Scams, WFMZ-TV 69 News, Aug. 25, 2011. Copy supplied.

Dwayne Parker, *Program Would Certify Court Interpreters*, WFMZ-TV 69 News, Aug. 24, 2011. Copy supplied.

Holly Herman, *Courthouse, Services Center Evacuated, Closed*, READING EAGLE, Aug. 24, 2011. Copy supplied.

Murder Trial Reignites Debate Over Cameras in the Courtroom, WFMZ-TV 69 News, Aug. 17, 2011. Copy supplied.

Mary Young, *Courtrooms Getting Repair Priority*, READING EAGLE, July 14, 2011. Copy supplied.

Holly Herman, *City Attorney to Lead State, Berks Young Lawyers Groups*, READING EAGLE, June 22, 2011. Copy supplied.

Holly Herman, *Water in the Court*, READING EAGLE, June 14, 2011. Copy supplied.

Holly Herman, *Closed-Circuit Court Proceedings Saving Berks Money*, READING EAGLE, June 13, 2011. Copy supplied.

Holly Herman, *John Adams Checks in for Law Day*, READING EAGLE, May 4, 2011. Copy supplied.

Holly Herman, *State Superior Court to Hold Sessions in Berks*, READING EAGLE, Feb. 26, 2011. Copy supplied.

Holly Herman, *Xavios to Run Against Lachina in New District*, READING EAGLE, Feb. 20, 2011. Copy supplied.

Holly Herman, *District Judge Seat in City Eliminated*, READING EAGLE, Feb. 16, 2011. Copy supplied.

Holly Herman, *Closing of Reading District Judge Office Recommended*, READING EAGLE, Dec. 21, 2010. Copy supplied.

Holly Herman, *Berks President Judge to Seek Seat on Federal Bench*, READING EAGLE, Dec. 7, 2010. Copy supplied.

Holly Herman, *Court Employees Must Adhere to New Code of Conduct*, READING EAGLE, Nov. 27, 2010. Copy supplied.

Holly Herman, *Committee to Recommend Golden's Successor: Panel Will Give Name to State's U.S. Senators, Who Will Then Suggest Next Judge to Obama*, READING EAGLE, Aug. 7, 2010. Copy supplied.

Riley Yates, *Retired Judges Get Paid to Return to the Bench*, THE MORNING CALL, May 30, 2010. Copy supplied.

Holly Herman, *Good Morning Reader: Judge Honored for Her Impact on Women in Law*, READING EAGLE, May 15, 2010. Copy supplied.

Holly Herman, *Pennsylvanians Likely to Continue Electing Their Judges: Sampling of Berks Legal Community Reveals Little Support for Appointing Judges to Posts*, READING EAGLE, Dec. 25, 2009. Copy supplied.

Holly Herman, *Work Phones: What Rights Do You Have?: Berks Judges and Investigators Are Among the Many Interested in a Federal Case About Privacy and Personal Use of Devices Issued by Employers*, READING EAGLE, Dec. 19, 2009. Copy supplied.

Dan Kelly, *Parking Authority Tickets To Be Handled by 4 District Judges Instead of 1*, READING EAGLE, Dec. 16, 2009. Copy supplied.

Dan Kelly, *Officials Say Courtroom Inside RHS in the Works: Idea First Proposed 5 Years Ago; Recent Violence Revives Interest*, READING EAGLE, Nov. 11, 2009. Copy supplied.

Holly Herman, *Court Simplifying Some Forms*, READING EAGLE, June 22, 2009. Copy supplied.

Holly Herman, *Jeffrey L. Schmehl, Berks County President Judge*, READING EAGLE, June 10, 2009. Copy supplied.

Holly Herman, *Lawsuits Against Doctors Decline: Judges, Lawyers Credit Rulings by High Court*, READING EAGLE, May 4, 2009. Copy supplied.

Dan Kelly, *Community Leaders Understand the Importance of Newspapers*, READING EAGLE, Apr. 28, 2009. Copy supplied.

Joe Scoboria, *Finding Some Order in the Court With...Jeffrey L. Schmehl*, BERKS COUNTY LIVING, Mar. 2009, at 40. Copy supplied.

Holly Herman, *New Juror Lists Will Include More Names: A State Law Strives For Panels that Better Represent Populations*, READING EAGLE, Oct. 6, 2008. Copy supplied.

John Fidler, *A Local Judicial Roundtable Debates '12 Angry Men.'* READING EAGLE, Sept. 7, 2008. Copy supplied.

Holly Herman, *Justice is Served on Timely Basis: Berks Court Officials Praise District Attorney John T. Adams' Office for Swift Action on Criminal Cases*, READING EAGLE, Aug. 4, 2008. Copy supplied.

Holly Herman, *Judge Wants Court in Prison: Paul M. Yatron Says He Could Process Cases for Defendants in Crimes Where There Are No Victims*, READING EAGLE, July 26, 2008. Copy supplied.

Dan Kelly, *Berks Judge Empanels Group To Review Regulations on Constables*, READING EAGLE, July 7, 2008. Copy supplied.

Dan Kelly, *Panel to Review Rules on Constables: The President Judge Says He Decided to Review the Regulations After Learning That Three of the Elected Officials Each Made About \$250,000 Last Year*, READING EAGLE, July 7, 2008. Copy supplied.

Mary E. Young, *New Jury Lists Mean More Would Be Called: The State May Provide Berks County with Names From Voting, Tax and Welfare Records. Now Only Driver's Licenses and State Identification Cards Are Used to Generate Jury Pools*, READING EAGLE, July 7, 2008. Copy supplied.

Dan Kelly, *Constables' Pay High, But Job Can Be Risky*, READING EAGLE, June 2, 2008. Copy supplied.

Holly Herman, *Judges Given Books on Sex Crime Laws*, READING EAGLE, May 3, 2008. Copy supplied.

Reading Eagle, Pa., Area Digest Column, READING EAGLE, Apr. 2, 2008. Copy supplied.

Holly Herman, *Career of Retired Judge, 86, Recalled: Berks County Senior Judge Frederick Edenharter Died Thursday*, READING EAGLE, Mar. 29, 2008. Copy supplied.

Holly Herman, *Berks Official is Facing Contempt Hearing*, READING EAGLE, Mar. 26, 2008. Copy supplied.

Erin Negley and Steven Henshaw, *Noted Reading Attorney Loses Battle with Cancer*, READING EAGLE, Mar. 16, 2008. Copy supplied.

Holly Herman, *Retired District Judge is Honored: John F. Dougherty, Who Stepped Down Feb. 26, Looks Back on a Law Enforcement Career that Spanned 57 Years -- 40 Of Them In Berks*, READING EAGLE, Mar. 8, 2008. Copy supplied.

Holly Herman, *Local Attorneys Promise Outreach to People Who Don't Speak English*, READING EAGLE, Feb. 17, 2008. Copy supplied.

Holly Herman, *Review of Courts Slated*, READING EAGLE, Jan. 8, 2008, at B1. Copy supplied.

Holly Herman, *Rowley Takes Oath as Judge; Thanks Mother: Lawyers and New Colleagues Congratulate the Cumru Township Resident at the Ceremony in the Courthouse*, READING EAGLE, Jan. 5, 2008. Copy supplied.

Holly Herman, *Ex-Prosecutor Named Top Assistant by Incoming DA: Theresa Johnson Hopes to Facilitate Communication Among Law-Enforcement Agencies. Her Boss, John T. Adams, Will Take Office Monday*, READING EAGLE, Jan. 3, 2008. Copy supplied.

Holly Herman, *Berks President Judge Ready for Retirement: An Expert in Juvenile Justice Issues, Arthur E. Grim, 64, Will End a 20-Year Career*, READING EAGLE, Dec. 9, 2007. Copy supplied.

Holly Herman, *Vote by Peers Makes Schmehl President Judge: He is Named to Replace Arthur E. Grim, But an Official Vote Will Not Be Taken Until Jan. 7, the Day Grim Retires*, READING EAGLE, Oct. 17, 2007. Copy supplied.

Holly Herman, *Added Benefit Seen if Pools of Jurors Grow: A Proposal to Effectively Expand the Ranks of Those Eligible to Serve Would Result in Panels that Better Reflect the Community, Berks Court Officials Say*, READING EAGLE, June 25, 2007. Copy supplied.

Mike Urban, *Umpire for Hire Settles Real Disputes in Fantasy Baseball*, READING EAGLE, Mar. 17, 2007, at A1. Copy supplied.

Holly Herman, *Schmehl Finds Being a Judge an Eye-Opener*, READING EAGLE/READING TIMES, Feb. 17, 1998, at B4. Copy supplied.

John D. Forester, Jr., *Schmehl Gets Nod for Judgeship*, READING EAGLE, May 21, 1997, at A1. Copy supplied.

Dawn Drago, *Acts Not Legal, Solicitor States*, READING EAGLE, Apr. 24, 1991, at 8. Copy supplied.

Connie Andrews, *Trash Plan Defeat Apparent*, READING EAGLE/READING TIMES, Nov. 3, 1990, at A1. Copy supplied.

Connie Andrews, *County Decides to Honor Trash Contracts*, READING EAGLE, Mar. 22, 1990, at A1. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

In May of 1997, I was nominated by both parties for a judicial position in the Berks County Court of Common Pleas. I was elected to the bench in November 1997, and sworn into office in January 1998. In 2007, I was appointed to a five-year term as President Judge in the Berks County Court of Common Pleas, where I remain today.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 180

- i. Of these, approximately what percent were:

jury trials:	95%
bench trials:	5%
civil proceedings:	33%
criminal proceedings:	67%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

Commonwealth v. Payero, 17 Pa. D. & C.5th 73 (C.P. Berks 2010).

Nationwide Mut. Ins. Co. v. Gingrich, 17 Pa. D. & C.5th 90 (C.P. Berks 2010).

Volutza v. McBryan, 12 Pa. D. & C.5th 487 (C.P. Berks 2010).

Today's Hous. v. Times Shamrock Commc'ns Inc., 12 Pa. D. & C.5th 337 (C.P. Berks 2010).

Kerns v. Chiodo, 11 Pa. D. & C.5th 191 (C.P. Berks 2010).

Lambert v. Katz, 11 Pa. D. & C.5th 260 (C.P. Berks 2010).

Orange Stones Co. v. Borough of Hamburg Zoning Hearing Board, 11 Pa. D. & C.5th 455 (C.P. Berks 2010).

Commonwealth v. McFarlin, 8 Pa. D. & C.5th 330 (C.P. Berks 2009).

Detwiler v. Larsen, 7 Pa. D. & C.5th 468 (C.P. Berks 2009).

Department of General Services v. Firetree Ltd., 6 Pa. D. & C.5th 242 (C.P. Berks 2008).

Reyes v. Wagner, 5 Pa. D. & C.5th 225 (C.P. Berks 2008).

Constanzo v. Yetzer, 5 Pa. D. & C.5th 310 (C.P. Berks 2007).

Kerper v. Educators Mutual Life Ins. Co., 71 Pa. D. & C.4th 413 (C.P. Berks 2004).

Bender v. Exeter Township School District, 63 Pa. D. & C.4th 414 (C.P. Berks 2003).

Dashner v. Hamburg Center of the Department of Public Welfare, 62 Pa. D. & C.4th 380 (C.P. Berks 2003).

Santiago v. Bishop, 63 Pa. D. & C.4th 177 (C.P. Berks 2003).

Commonwealth v. Keller, 57 Pa. D. & C.4th 429 (C.P. Berks 2002).

Commonwealth v. Mehlman, 59 Pa. D. & C.4th 277 (C.P. Berks,2002).

Wing Pointe Corporation v. Pennsylvania Liquor Control Board, 57 Pa. D. & C.4th 529 (C.P. Berks 2002).

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Vojtasek v. Diocese of Allentown*, No. 04-14021 (C.P. Berks Dec. 15, 2005), *aff'd*, 916 A.2d 637 (Pa. Super. Ct. 2006). My opinion is supplied.

A former student brought an action against the Catholic diocese, a Catholic high school, and various bishops, alleging sexual abuse by a priest who was a teacher at her high school while she attended it. Defendants' motion for judgment on the pleadings was granted based on a finding that the statute of limitations was not tolled by Plaintiff's allegation that the school fraudulently concealed the teacher's abuse from the student's mother. The Superior Court affirmed.

Counsel for Plaintiff:
Jay Abramowitch, Esq.
Leisawitz Heller
2755 Century Boulevard
Wyomissing, PA 19610
(610) 372-3500

Counsel for Defendant:
Joseph F. Leeson, Jr., Esq.
Leeson, Leeson & Leeson
70 East Broad Street, P.O. Box 1426
Bethlehem, PA 18016
(610) 691-3320

2. *Commonwealth v. Boxley*, Criminal Docket No. 99-4792 (C.P. Berks June 8, 2005), *aff'd*, 948 A.2d 742 (Pa. 2008). My opinion and supplemental opinion are supplied.

Defendant was involved in a premeditated shooting of local drug rival, on city streets, during the middle of the day. Defendant was convicted of capital murder

and aggravated assault, and sentenced to death. The Pennsylvania Supreme Court affirmed the sentence, noting there was sufficient evidence to establish aggravating factors.

Counsel for the Prosecution:
Mark C. Baldwin, Esq.
Berks County District Attorney's Office
Berks County Services Center
633 Court Street
Reading, PA 19601
(610) 478-6000

Counsel for Defendant:
John Grenko, Esq.
519 Walnut Street
Reading, PA 19601
(610) 376-5313

Kenneth C. Myers, Esq.
534 Elm Street, 1st Floor
Reading, PA 19601
(610) 372-3650

3. *Volutza v. McBryan*, No. 03-15721 (C.P. Berks June 3, 2010), *aff'd*, 45 MDA 2010 (Pa. Super. Ct. Aug. 16, 2011). My opinion is supplied.

This was a medical malpractice action, wherein the decedent visited a hospital complaining of chest pains and heart attack-like symptoms. He was examined and given a stress test, after which the doctors concluded it was most likely a panic attack, and that the test was fine. A radiologist subsequently reviewed the test and noticed abnormalities, including a heart defect. The decedent died the next day of a heart attack, before his doctors could relay the radiologist's findings. The jury trial resulted in a \$4 million verdict for Plaintiff. I concluded entry of judgment was proper.

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4. *Commonwealth of Pennsylvania Department of General Services v. Firetree, Ltd.*, No. 08-6671 (C.P. Berks Oct. 17, 2008), *appeal dismissed*, 1545 CD 2008 (Pa. Commw. Ct. Apr. 28, 2009). My opinion is supplied.

Plaintiff and Defendant executed a commercial lease whereby Defendant would operate a drug and alcohol treatment center. Plaintiff properly exercised an option not to renew the lease. An ejectment action was filed and granted. Defendant petitioned to open/strike the confessed judgment because it had added fixtures and was trying to renegotiate the lease to maintain the property until the fixtures were amortized. I denied the petition and further enjoined Defendant from attempting to remove fixtures upon ejectment. The Commonwealth Court dismissed Defendant's claims as moot because the court's order had no preclusive effect on Defendant's pending Board of Claims action.

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5. *In re Condemnation by County of Berks*, No. 05-16489 (C.P. Berks Aug. 22, 2006), *aff'd*, 914 A.2d 962 (Pa. Commw. Ct. 2007). My opinion is supplied.

The county filed a declaration of taking for the “Antietam Lake” property, thereby condemning land owned by the city for use as a public park. The investment company that had negotiated with the city for an option to purchase tenancy in common in said property filed preliminary objections. I dismissed those objections and sustained the county’s objections. The Commonwealth Court affirmed, noting the company lacked standing because it failed to obtain an option to purchase property in question.

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6. *Lichtman v. Gibbons*, No. 03-6359, 46 Berks County Law Journal 257 (C.P. Berks Feb. 24, 2004). My opinion is supplied.

A New York woman filed suit in New York against a Berks County man, in a dispute stemming from a failed professional and romantic relationship between the two. Plaintiff filed in Berks County a Petition for Issuance of a Subpoena to depose the man’s wife, attaching and requesting enforcement of an order issued by the New York judge directing the wife to submit to deposition. On the wife’s motion, I quashed the subpoena on the grounds of personal jurisdiction and marital privilege. The case was dismissed by the Superior Court for failure to file a brief.

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7. *Bender v. Exeter Township School District*, 63 Pa. D. & C.4th 414 (C.P. Berks 2003), *aff'd*, No. 1182 CD 2003 (Pa. Commw. Ct. Dec. 16, 2003).

A school principal suspended a student and attempted to place her in a disruptive students' unit in an alternate school, and the student's family sought an injunction. I found for the student because the school had violated its contract with the student, which provided she would only be suspended for future violations and made no mention of alternate school placement. The Superior Court affirmed.

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8. *Keppley v. School District of Twin Valley*, No. 01-10464 (C.P. Berks June 4, 2004), *aff'd*, 866 A.2d 1165 (Pa. Commw. Ct. 2005). My opinion is supplied.

A high school student sought class certification in her action against a school district, alleging violations of state and federal law in connection with the operation of electronic surveillance and recording systems on school buses. I denied certification because the student would not have fairly and adequately asserted and protected the interests of the class. The Commonwealth Court affirmed.

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9. *Commonwealth v. Greth*, Criminal Docket No. 99-1250 (C.P. Berks Jan. 26, 2000), *aff'd*, 758 A.2d 692 (Pa. Super. Ct. 2000). My opinion is supplied.

Defendant failed field sobriety tests and consented to a blood test that showed his BAC was 0.135%. Defendant challenged the sufficiency of the evidence to sustain his conviction of driving with a BAC of 0.10% or greater, because the Commonwealth did not present expert testimony to refute Defendant's BAC expert. The Superior Court upheld a sentence of 30 days to 23 months.

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10. *Commonwealth v. McMullen*, Criminal Docket No. 98-3261 (C.P. Berks Dec. 1, 1999), *aff'd*, 756 A.2d 58 (Pa. Super. Ct. 2000). My opinion is supplied.

Defendant was convicted of driving under the influence as a minor and sentenced to 48 hours to 23 months incarceration. Defendant challenged the constitutionality of the DUI statute, arguing that it was impermissibly vague, that

it did not have a sufficient relationship to accomplishing its purpose, and that it created a presumption that undermined the Commonwealth's obligation to prove an element of the crime. The Superior Court affirmed my ruling against Defendant on these points, refused to consider an additional argument about presumptions in the statute because it was not raised at trial, and affirmed the sentence.

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Vojtasek v. Diocese of Allentown*, No. 04-14021 (C.P. Berks Dec. 15, 2005), *aff'd*, 916 A.2d 637 (Pa. Super. Ct. 2006). My opinion is supplied in response to Question 13(c).

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2. *Commonwealth v. Boxley*, Criminal Docket No. 99-4792 (C.P. Berks June 8, 2005), *aff'd*, 948 A.2d 742 (Pa. 2008). My opinion and supplemental are opinion supplied in response to Question 13(c).

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3. *Volutza v. McBryan*, No. 03-15721 (C.P. Berks June 3, 2010), currently pending decision in Superior Court. My opinion is supplied in response to Question 13(c).

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4. *Commonwealth of Pennsylvania Department of General Services v. Firetree, Ltd.*, No. 08-6671 (C.P. Berks Oct. 17, 2008), *appeal dismissed*, 1545 CD 2008 (Pa. Commw. Ct. Apr. 28, 2009). My opinion is supplied in response to Question 13(c).

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6. *Lichtman v. Gibbons*, No. 03-6359, 46 Berks County Law Journal 257 (C.P. Berks Feb. 24, 2004). My opinion is supplied in response to Question 13(c).

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7. *Bender v. Exeter Township School District*, 63 Pa. D. & C.4th 414 (C.P. Berks 2003), *aff'd*, 1182 CD 2003 (Pa. Commw. Ct. Dec. 16, 2003).

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8. *Keppley v. School District of Twin Valley*, No. 01-10464 (C.P. Berks June 4, 2004), *aff'd*, 866 A.2d 1165 (Pa. Commw. Ct. 2005). My opinion is supplied in response to Question 13(c).

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9. *Commonwealth v. Greth*, Criminal Docket No. 99-1250 (C.P. Berks Jan. 26, 2000), *aff'd*, 758 A.2d 692 (Pa. Super. Ct. 2000). My opinion is supplied in response to Question 13(c).

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10. *Commonwealth v. McMullen*, Criminal Docket No. 98-3261 (C.P. Berks Dec. 1, 1999), *aff'd*, 756 A.2d 58 (Pa. Super. Ct. 2000). My opinion is supplied in response to Question 13(c).

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- e. Provide a list of all cases in which certiorari was requested or granted.

None.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were 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, provide copies of the opinions.

Nationwide Mutual Insurance Co. v. Gingrich, No. 09-2266 (C.P. Berks June 21, 2010), *rev'd*, 184 MDA 2010 (Pa. Super. Ct. Mar. 1, 2011). Opinions supplied. Plaintiff and Defendant entered into arbitration over medical and wage loss benefits. Defendant requested a revised award because the arbitrator initially ruled contrary to a stipulation between the parties regarding the time period covering wage loss benefits. The arbitrator issued a revised award, factoring in the stipulation. Plaintiff appealed based on the doctrine of *functus officio*, under which an arbitrator's authority is ordinarily exhausted after making and publishing a final award. I found that the revised award was proper, because the arbitrator had failed to dispose of every issue that was presented to him. The Superior Court reversed, stating that the original award did not contain an irregularity significant enough to warrant issuance of a revised award.

Orange Stones Co. v. City of Reading Building/Fire Board of Appeals, No. 08-14947 (C.P. Berks May 4, 2011), *rev'd*, 287 CD 2011 (Pa. Commw. Ct. Sept. 27, 2011). Opinions supplied.

Defendant Board of Appeals ruled that Reading's Chief Building Official properly issued an "Enforcement Notice/Cease of Operations Order" to Plaintiff because its building lacked the required occupancy permit. I affirmed because the city had presented substantial eyewitness and documentary evidence showing that the building had changed in use from its previous occupant, thus requiring a new permit. The Commonwealth Court reversed, stating that the City's evidence was insufficient to sustain their burden, and that Plaintiff's evidence was improperly discredited by the trial court.

City of Reading v. FireTree, Ltd., No. 08-12204 (C.P. Berks Jan. 27, 2009), *rev'd*, 984 A.2d 16 (Pa. Commw. Ct. 2009). My opinion supplied.

After Defendants purchased a building and began to move in equipment and conduct business, the city issued an order to stop operations because a zoning permit and certificate of occupancy were needed due to a change in use. Defendants' appeal to the zoning hearing board, arguing there had been no change in use, was stayed. The city filed for a preliminary injunction to prevent Defendants from conducting operations. The city proffered testimony indicating people were working on the premises, but Defendants indicated only preparatory work was being done. I entered an order permitting Defendants to conduct preparatory work but not regular business, ordered limited discovery, and continued the hearing. After further continuance, Defendants appealed. My opinion held there were reasonable grounds for an injunction preventing any modifications to the property before the parties could present evidence as to whether permits were necessary. I also entered an order indicating the court would take no further action pending the appeal. The Commonwealth Court first held that the matter should have proceeded pending the appeal, because the underlying question regarding the permits was ancillary to the appeal of the temporary injunction. The Commonwealth Court also reversed the preliminary injunction, finding the continuation of business operations did not present a risk of immediate and irreparable harm to the public.

Stankiewicz v. City of Reading, No. 00-5768 (C.P. Berks May 10, 2007), *rev'd*, 466 CD 2007 (Pa. Commw. Ct. Feb. 26, 2008). Opinions supplied.

In this case, I considered the validity of various local ordinances relating to "dangerous" or "aggressive" dogs, defining certain breeds as more dangerous and setting restraint and muzzling requirements. Plaintiffs, who were pit bull owners, argued the ordinances were preempted by a 1990 Pennsylvania state law. The City argued the local ordinance was not preempted because it was passed several years after the Pennsylvania state law; I agreed and granted the City's Motion for Summary Judgment. The Commonwealth Court reversed, stating that the legislative preemptive intent was clear and ruling otherwise would differentiate between local dog laws passed before and after the 1990 statute. A dissenting opinion was authored that would have affirmed my ruling and supported my interpretation of the legislative intent behind the state ordinance.

Greth Development Group, Inc. v. Zoning Hearing Board of Lower Heidelberg Township, No. 05-3828 (C.P. Berks Aug. 9, 2006), *rev'd*, 918 A.2d 181 (Pa. Commw. Ct. 2007). My opinion supplied.

A real estate developer sought to construct a residential development on a tract zoned partly agricultural and partly residential, and applied for a special exception to allow residential use on the portion zoned agricultural. The ordinance expressly listed such an exception but required the provision of sewer and water facilities. The developer sought to develop the agricultural portion first, and demonstrated that the overall tract had sufficient sewer capacity for the initial phase. The zoning board denied the special exception, pre-allocating a large

amount of the sewer capacity to the future, residential-zone portion of the project. I affirmed the zoning board's denial. The Commonwealth Court reversed, reasoning that the zoning board exceeded its authority by reading into the ordinance a requirement that property zoned residential must be fully developed before allowing a special exception in an agricultural zone and that sewage capacity must be allocated to residential-zone development before agricultural-zone development. The zoning board improperly made its decision on the spirit of the ordinance rather than its express terms. Allocation of sewage capacity is instead the responsibility of the planning commission.

Township of Spring v. Zoning Hearing Board of Township of Spring, No. 05-5393 (C.P. Berks Mar. 9, 2006), *rev'd*, 2564 CD 2005 (Pa. Commw. Ct. Dec. 13, 2006). Opinions supplied.

Defendant Construction Consulting planned to develop a restaurant in excess of 7,000 square feet, which, pursuant to a township ordinance, required at least 203 off-street parking spaces. Defendant requested and received a variance to provide only 155 spaces, due to a hardship based on the irregular shape of the property and certain easements and building restrictions that were in existence. I affirmed the grant of the variance because I agreed that Defendant had met the requirements to show a hardship. The Commonwealth Court reversed, finding that Defendant could simply make the square footage of the restaurant smaller, requiring fewer parking spaces.

Barness Land Development Co., LLC v. Board of Supervisors of Washington Township, No. 03-4231 (C.P. Berks Oct. 28, 2003), *rev'd*, 852 A.2d 463 (Pa. Commw. Ct. 2004). My opinion supplied.

Barness Land Development Company filed a plan with Washington Township for the subdivision of 269.63 acres for the construction of single-family houses. In rejecting this plan, the Township relied on a recent zoning ordinance that changed the zoning classification from suburban residential to agricultural. However, Barness filed its plan prior to the lawful adoption of the zoning change. Barness appealed, and I overturned the decision of the Township, holding that the Township's rejection was improperly based upon an ordinance not yet in effect at the time of the application. Therefore, Barness was entitled to a deemed approval under Sections 508(2) and (3) of the Municipalities Planning Code. The Commonwealth Court reversed, holding that Barness was not entitled to mandamus since its right was not clear when it applied for subdivision approval. The validity of the ordinance was still pending appeal in a related case, and the Commonwealth Court reasoned that I should not have ruled until the validity of the ordinance was decided. After finding the ordinance valid in the related case, the Commonwealth Court reversed me and held that Barness was collaterally estopped from asserting that the zoning change was invalid.

Dashner v. Hamburg Center of the Department of Public Welfare, No. 00-11202 (C.P. Berks July 7, 2003), *rev'd*, 845 A.2d 935 (Pa. Commw. Ct. 2004). My opinion supplied.

Two mentally retarded men were sexually assaulted by an attendant at the Hamburg Center, a residential care facility operated by the Pennsylvania Department of Public Welfare. The residents' parents brought an action against the Commonwealth. I granted the Commonwealth summary judgment on counts concerning vicarious liability and corporate negligence, but I denied summary judgment with respect to Plaintiffs' allegations that the facility negligently hired the attendant, negligently supervised him, and failed to provide a safe treatment facility. I specifically held that the alleged torts were not institutional acts, but rather acts of the Center's employees. Thus, I concluded that sovereign immunity was inapplicable pursuant to an exception in the Sovereign Immunity Act related to acts of medical professionals employed by the Commonwealth. The Commonwealth Court disagreed, holding that the medical-professional liability exception to sovereign immunity did not apply and that the corporate theory of liability likewise did not apply to state-owned medical facilities.

Diesel Service, Inc. v. Engines, Inc., No. 02-13325 (C.P. Berks Aug. 11, 2003), *rev'd*, 457 MDA 2003 (Pa. Super. Ct. Aug. 19, 2004). Opinions supplied. Following a three-week trial, a jury entered a verdict in the amount of \$75,000 in favor of Plaintiff/Appellant Diesel Service, Inc., finding that Defendant/Appellee/Cross-Appellant Fredericks misappropriated Diesel's confidential customer list, but that Fredericks did not commit a breach of fiduciary duty in doing so. Diesel moved for judgment notwithstanding the jury's verdict that Fredericks did not breach a fiduciary duty. I denied this post-trial motion and Diesel appealed. Fredericks and his wife cross appealed from the verdict that they misappropriated confidential information, that Mrs. Fredericks was part of a civil conspiracy, and from the award of damages. The Superior Court affirmed the trial court with respect to the cross appeal of the Frederickses, but reversed on the trial court's denial of judgment notwithstanding the verdict on the breach of fiduciary duty claim. The Superior Court did not remand for a new trial on damages, but simply remanded for an entry of JNOV on that count only since Diesel's request for a new trial was made in the alternative, Diesel did not request a new trial in the event JNOV was granted, and the damage award was not challenged, so everything essentially remained the same.

City Council of Reading v. Eppihimer, No. 01-3624 (C.P. Berks Jan. 23, 2003), *rev'd*, 835 A.2d 883 (Pa. Commw. Ct. 2003). My opinion supplied. The City Council sought a declaratory judgment that the City Council and not the mayor had the authority to fill two newly created staff positions. I held that the doctrine of separation of powers, along with specific language in the City Charter, gives only City Council the authority to hire and fire with regard to these two positions. The Commonwealth Court reversed and held that under the City's home rule charter with the "Strong Mayor-Council Form of Government with a Managing Director," only the mayor and the City's managing director have the authority to hire and fire with regard to these positions. As a matter of first impression, the Commonwealth Court held that that the Pennsylvania State

Constitution does not provide for a separation of powers doctrine at the local government level.

Commonwealth v. Keller, CP-06-CR-0005189-2001 (C.P. Berks June 6, 2002), *rev'd*, 823 A.2d 1004 (Pa. Super. Ct. 2003). My opinion supplied.

The defendant was charged with two counts of driving under the influence of alcohol and other driving-related offenses. He filed a motion to suppress and a motion for a writ of habeas corpus. I granted defendant's motion to suppress, but only as to blood test results, and granted the defendant's motion for a writ of habeas corpus. I based my decision on a Pennsylvania Supreme Court opinion, *Commonwealth v. Shaw*, 770 A.2d 295 (Pa. 2001). The Commonwealth appealed. The Superior Court held that *Shaw* was distinguishable from the case at bar and that the police did not need a search warrant to obtain the results of a blood test where blood was drawn from the defendant by the hospital for medical treatment purposes.

Commonwealth v. Mehlman, CP-06-CR-0004080-2001 (C.P. Berks June 6, 2002), *rev'd*, 208 MDA 2002 (Pa. Super. Ct. May 20, 2003). Opinions supplied. Same as *Keller*, above.

Commonwealth v. Oliver, CP-06-CR-0000843-1999 (C.P. Berks Mar. 19, 2002), *aff'd*, 1843 MDA 2001 (Pa. Super. Ct. Jan. 13, 2003), *later remanded*, 1843 MDA 2001 (Pa. Super. Ct. Oct. 29, 2003), *dismissed on remand*, (C.P. Berks June 1, 2004), *subsequent appeal dismissed as moot*, 936 MDA 2004 (Pa. Super. Ct. July 20, 2004). Opinions and order supplied.

Defendant, who was charged with three counts of Attempt to Commit First Degree Murder and related charges, entered a plea of guilty on two of the three counts. As part of a plea agreement, the related charges were dismissed. I sentenced Defendant to ten to twenty years. The Defendant filed a petition under Pennsylvania's Post Conviction Relief Act, and I appointed conflict counsel to represent Defendant. Conflict counsel withdrew from the case after filing a no-merit letter. Subsequently, the Court dismissed Defendant's petition and he filed a pro se appeal. The Superior Court remanded the case for an evidentiary hearing on the following appellate claims: (1) did defense counsel's alleged ineffectiveness cause him to tender an unknowing and involuntary guilty plea?; (2) was the trial court's guilty plea colloquy ineffective?; and (3) were the Defendant's constitutional protections against double jeopardy and due process violated? I held the hearing, then issued another order dismissing the petition. Defendant filed another pro se appeal, but died in prison while this appeal was pending. The Superior Court denied the appeal as moot.

Mountain Village v. Board of Supervisors of Longswamp Township, No. 99-464 (C.P. Berks Sept. 17, 2002), *rev'd*, 828 A.2d 411 (Pa. Commw. Ct. 2003), *aff'd*, 874 A.2d 1 (Pa. 2005). My opinion supplied.

Mountain Village, a mobile home park, filed an application for a 110-unit expansion of its nonconforming use. Mountain Village paid \$6,500 to the

Township for review fees, but disputed a subsequent bill for \$14,070 in legal fees for plan review and related work by the Township's solicitor. Mountain Village filed an action in declaratory judgment, asking that the trial court find it was not required to pay any fees of the Township solicitor. I granted summary judgment to the Township, reasoning that such fees should be paid by the developer and not by the taxpayers. The Commonwealth Court reversed, holding that language in the Municipalities Planning Code, which allowed a township to charge fees for "professional consultants" or "consultants," referred only to "scientific professionals" – engineers, land surveyors, geologists and landscape architects – and did not permit charging for legal services of a township solicitor. The Supreme Court affirmed the Commonwealth Court's decision.

Mountain Village v. Board of Supervisors Longswamp Township, No. 98-12306 (C.P. Berks Jan. 13, 2003), *rev'd in part*, 2943 CD 2002 (Pa. Commw. Ct. Sept. 26, 2003). Opinions supplied.

The Board of Supervisors for Longswamp Township denied Mountain Village's application to expand its mobile home park. Mountain Village filed a series of land use appeals to the trial court, and I subsequently found that the Board's rejection of Mountain Village's application was not supported by substantial evidence, and held that the Board abused its discretion in rejecting the application. I further ordered that the previous plan approval be reinstated and that the Board review Mountain Village's final plan and materials. I also remanded the consolidated appeals to the Board for further proceedings. The Commonwealth Court affirmed me in every respect except that it reversed to the extent that my order directed the Board not to require evidence of compliance with all state, federal, and/or other water and sewer permits until after final plan approval.

Commonwealth v. Giusto, CP-06-CR-0000692-2001 (C.P. Berks Oct. 9, 2001), *rev'd*, 810 A.2d 123 (Pa. Super. 2002). My opinion supplied.

Defendant was charged with two counts of stalking his ex-wife. The statute states that a person is guilty of stalking when he engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority. A "course of conduct" is defined as at least two separate acts. All of the alleged acts of stalking in the case at bar, except for one, occurred outside the borders of Pennsylvania, and Pennsylvania's Territorial Applicability statute requires that all statutes prohibiting out-of-state conduct must be written in express language. Defendant moved for a writ of habeas corpus, asking the Court to dismiss the charges for lack of jurisdiction. I granted the motion. The Superior Court reversed the dismissal, finding that the statutory section defining "course of conduct" was an evidentiary rule and not a jurisdictional bar. The Superior Court further held that the Territorial Applicability Act looks at the result of prohibited conduct.

Commonwealth v. Sanford, CP-0005310-2000 (C.P. Berks Nov. 9, 2001), *vacated in part*, 1371 MDA 2001 (Pa. Super. Ct. Oct. 17, 2002). Opinions supplied.

Defendant pleaded guilty to one count of sexual assault as a felony of the second degree. I sentenced him to five to ten years and designated him a “sexually violent predator” under Pennsylvania’s Megan’s law statute. This designation occurred following a hearing, at which Defendant and the Commonwealth produced conflicting expert opinions on the likelihood of Defendant to re-commit sexually violent acts. Defendant appealed, arguing that I had erred in concluding that he met the statutory definition of a sexually violent predator and in denying his constitutional challenges to the Megan’s law statute. The Superior Court concluded that the opinion of the Commonwealth’s expert was based upon unproven allegations and that the evidence was, therefore, insufficient to support my designation of Defendant as a “sexually violent predator.”

Commonwealth v. Varallo, CP-06-CR-0004253-1999 (C.P. Berks Sept. 19, 2000), *rev’d*, 1070 MDA 2000 (Pa. Super. Ct. Apr. 3, 2001), *reh’g en banc*, (Pa. Super. Ct. Apr. 3, 2002). Opinions supplied.

Defendant was convicted at a bench trial of driving under the influence of alcohol and was sentenced to 6 days to 23 months imprisonment. Defendant had filed a pre-trial motion to suppress on the basis that the arresting officer did not have a reasonable suspicion to initiate a stop of Defendant’s vehicle. I had denied the motion, but the Superior Court reversed, holding that the officer could not lawfully stop Defendant’s vehicle, despite evidence that Defendant had crossed the fog line three times over a distance of three miles, because there was no evidence that Defendant’s driving created a safety hazard.

Commonwealth v. Bauman, CP-06-CR-0004329-1999 (C.P. Berks July 13, 2000), *rev’d*, 679 MDA 2000 (Pa. Super. Ct. Jan. 18, 2001). Opinions supplied.

Defendant was charged with driving under the influence of alcohol and involvement in an accident involving damage to an unattended vehicle. I had granted Defendant’s motion for a writ of habeas corpus as to the DUI charge. The Superior Court reversed, holding that there was sufficient evidence to establish a prima facie case because there was evidence that Defendant’s vehicle matched a description given to police by an eyewitness along with other corroborating evidence of Defendant’s guilt even though there was a delay in the arrest.

Commonwealth v. Espada-Alvarado, CP-06-CR-0001016-2000 (C.P. Dec. 7, Berks 2000), *rev’d*, 1951 MDA 2000 (Pa. Super. Ct. June 20, 2001). Opinions supplied.

Defendant was convicted at a bench trial of possession of a controlled substance/cocaine and was sentenced to 6 to 12 months. Defendant had filed a pre-trial motion to suppress on the basis that the arresting officer had conducted an illegal investigative detention, that his consent to search was the fruit of an illegal detention, and that the search exceeded the scope of consent granted by Defendant. I had denied the motion. The Superior Court reversed, holding that a mere encounter escalated into an unlawful investigative detention when the officer informed Defendant that he was going to run a warrants check to see if he

was wanted. The Court held that a consent to search given under these circumstances was invalid as it was the fruit of an illegal investigative detention.

Commonwealth v. Stitzel, CP-06-CR-0000544-1998 (C.P. Berks June 13, 2000), *remanded*, 342 MDA 2000 (Pa. Super. Ct. Mar. 23, 2001), *later aff'd*, 342 MDA 2000 (Pa. Super. Ct. Sept. 4, 2001). Opinions supplied.

Following a jury trial, Defendant was found guilty of two counts of driving under the influence of alcohol, homicide by vehicle while DUI, and related offenses. I sentenced Defendant to 40 months to 7 years. The victim was a pedestrian who had been released from a mental hospital shortly before his death. Defendant subpoenaed a number of mental health records with the hope that he could establish that the victim had suicidal tendencies. I refused to allow discovery on the grounds that such records were privileged. The Superior Court reversed and remanded for a hearing to determine whether any witness could, without violating a privilege, testify as to whether the victim suffered from suicidal tendencies. At this evidentiary hearing, none of the witnesses testified that the victim suffered from such tendencies. Accordingly, the Superior Court held that the victim's psychiatric history was irrelevant and affirmed the judgment of sentence.

Commonwealth v. Essig, CP-06-CR-0000981-1998 (C.P. Berks Apr. 14, 1999), *supplemental opinion*, (C.P. Berks Aug. 18, 1999), *rev'd*, 826 MDA 1999 (Pa. Super. Ct. June 16, 2000). Opinions supplied.

Defendant was charged with two counts of driving under the influence of alcohol, homicide by vehicle while DUI, involuntary manslaughter, and other related offenses. A jury acquitted Defendant of all misdemeanor and felony charges, but I had convicted Defendant of the summary offense of careless driving. I then imposed a \$25 statutory fine and ordered restitution in the amount of \$25,377 for damages caused by the death. The Superior Court reversed, holding that since Defendant was acquitted of the offenses involving death or serious bodily injury, the award for restitution could not stand.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Approximately 75-80% of my opinions are unreported memorandum opinions. These opinions are filed and lodged as part of the official trial record, and as part of the appellate record when applicable.

- h. 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, provide copies of the opinions.

None.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Pennsylvania Code of Judicial Conduct Canon 3(c) sets forth the basis by which a judge should disqualify himself or herself. To the best of my recollection, there are no cases in which I have been asked to recuse myself because of a conflict of interest.

I have recused myself in matters in which a local attorney I am close to is a party or a fellow elected official in the county is a party. In two cases involving Sheriff Barry Jozwiak and Prothonotary Marianne Sutton, I recused myself sua sponte because these are officials that work for the Courts. Out-of-County judges were brought in by the Administrative Office of Pennsylvania Courts to hear those cases.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Assistant Public Defender (1980-1981); Appointed by Berks Commissioners on recommendation of District Attorney George Yatron

Assistant District Attorney (1981-1986); Appointed by Berks Commissioners on recommendation of District Attorney George Yatron

Berks County Solicitor (1989-1997); Appointed by three separate Boards of County Commissioners

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held office in or rendered services to any political party or election committee. I have not held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I never served as a judicial clerk.

- ii. whether you practiced alone, and if so, the addresses and dates;

I practiced alone from 1981 to 1986. My office was located at 434 Penn Avenue, West Reading, PA 19611.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1980 – 1981
Berks County Public Defender
633 Court Street, 12th Floor
Reading, PA 19601
Assistant Public Defender

1981 – 1986
Berks County District Attorney
633 Court Street, 5th Floor

Reading, PA 19601
Assistant District Attorney

1989 – 1997
Berks County Services Center
Solicitor's Office
633 Court Street, 13th Floor
Reading, PA 19601
Berks County Solicitor

1986 – 1997
Rhoda, Stoudt & Bradley
The Berkshire, 6th Floor
Fifth & Washington Streets
P.O. Box 877
Reading, PA 19603
Partner (1988 – 1997)
Associate (1986 – 1987)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

Early in my career, I practiced mostly in the public criminal sector, first with the public defender's office and later with the district attorney's office. I tried every type of criminal case from DUI to murder as both a prosecutor and defense attorney.

At that time in Berks County, the positions of Assistant Public Defender and Assistant District Attorney were considered part time in that you could also have a private civil practice. In the spring of 1981, I did open up an office in West Reading, Pennsylvania. I maintained a law office for the general practice of law until I left the District Attorney's Office in 1986 and joined Rhoda, Stoudt & Bradley. At that time, I closed my private office and resigned from the District Attorney's Office to join the law firm and practice in a more traditional way.

As a solo practitioner, I handled wills, estates, real estate matters, workers' compensation cases, unemployment compensation cases, and minor civil matters. Then as a partner at Rhoda, Stoudt & Bradley, I did insurance defense work and plaintiffs' personal injury suits.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

Initially, my typical clients were low-income criminal defendants when I worked with the public defender's office. Then, at the district attorney's office, my clients were the County of Berks and the Commonwealth of Pennsylvania. During this period of my career, I specialized in criminal law, handling all types of criminal cases from DUI to murder as both a prosecutor and defense attorney.

Thereafter, my private practice always contained a strong base of individual clients for whom I performed the general practice of law, ranging from wills and estates to real estate closings. I also represented small businesses and, as part of the Rhoda, Stoudt, & Bradley Litigation Department, represented individuals, insurance companies and corporate clients in civil litigation.

I also represented plaintiffs in personal injury lawsuits, both when I was in solo practice and during my time with Rhoda, Stoudt, & Bradley.

Lastly, I represented municipal clients and clients who were involved with municipalities. I served as the Berks County Solicitor, representing Berks County, Pennsylvania, in all civil matters (1989 to 1997), serving three different administrations.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While I was an Assistant Public Defender and Assistant District Attorney, my practice was 90% litigation, and I was in the courtroom approximately 70% of the time. When I went into private practice, I would say my practice dropped to approximately 60% litigation and the time I actually spent in the courtroom dropped to about 25-30%.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 10%
 - 2. state courts of record: 85%
 - 3. other courts: 0%
 - 4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 70%
2. criminal proceedings: 30%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried approximately 200 cases to verdict, judgment, or final decision throughout my career. In almost all of those cases, I served as either sole counsel or chief counsel.

i. What percentage of these trials were:

1. jury: 95%
2. non-jury: 5%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Stapleton v. Berks County*, 593 A.2d 1323 (Pa. Commw. Ct. 1991); The Honorable Forest G. Schaeffer of the Court of Common Pleas of Berks County; Judge McGinley, Judge Kelley and Judge Narick of the Commonwealth Court of Pennsylvania; 1990 – 1992.

This was a taxpayer's lawsuit, alleging irregularities in the bidding process for a waste disposal contract. At the time, I was serving as Berks County Solicitor and

represented Berks County and the three County Commissioners. Plaintiff taxpayer sought a preliminary injunction from the trial court, requesting that the court issue an order to prevent the County from awarding the contract to Wheelabrator. Approximately two years previous to the lawsuit, the County began the process of selecting a contractor by its "Request for Qualifications" (RFQ), the purpose of which was to limit participation to firms which were reputable and financially secure. Only three competing bidders emerged from this process: Wheelabrator, WAI, and American Re-Fuel. The County submitted a draft copy of its "Request for Proposal" (RFP) to each of these three firms. Bid compliance with the RFP was to be measured on a pass/fail basis. The County's consulting team reviewed the proposals of WAI and Wheelabrator and found that both passed the technical criteria. The County Commissioners voted to accept Wheelabrator's proposal, despite the fact that the RFP process was flawed and despite the recommendation of its consulting team. After a hearing, the trial court refused to grant the taxpayer plaintiff's request for an injunction. The Commonwealth Court reversed. While the Commonwealth Court agreed with my legal argument that the state statute required only that the bidding process be fair, open, and competitive, they found that the County should have reformed the RFP process and recommenced the bidding process.

Opposing counsel:
Dennis L. Veraldi, Esquire.
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-5982

James W. Baumbach, Esquire
Obermayer Rebmann Maxwell & Hippel LLP
One Penn Center
1617 JFK Boulevard, 19th Floor
Philadelphia, PA 19103
(215) 665-3000

2. *Commonwealth v. Breidenstein*, Berks Criminal Docket Number 1275 of 1982 (C.P. Berks 1983); 1089 Harrisburg 1998 (Pa. Super. Ct. 1999); The Honorable Thomas J. Eshelman of the Court of Common Pleas of Berks County; 1982 – 1983.

This was a first degree murder case that I prosecuted while I was an Assistant District Attorney. The Defendant kidnapped the female victim from her place of employment, the records department at St. Joseph's Hospital, Reading, Pennsylvania, and then attempted to rape her at knifepoint. He then killed her. She died as a result of eighteen stab wounds. I represented the Commonwealth at the pretrial proceedings and at the jury trial, but I was not involved in the post-

conviction proceedings. The case was tried before a jury on January 21, 1983, and the Defendant was found guilty of first degree murder, criminal attempt-rape, and burglary. He was sentenced to a term of life in prison plus 5 to 10 years on the criminal attempt-rape plus 10 to 20 years on the burglary charge. He appealed to the Superior Court of Pennsylvania, but this appeal was denied. Several years later, on January 13, 1997, the Defendant filed a petition under Pennsylvania's Post Conviction Relief Act. This petition was denied at the trial level and Defendant again appealed to the Superior Court, which denied his appeal on November 9, 1999.

Opposing counsel:
Charles B. Coleman, Esquire
300 Kenhorst Boulevard
Reading, PA 19607
(610) 777-2728

3. *Schaeffer v. Frey*, 589 A.2d 752 (Pa. Super. Ct. 1991); Judge Beckert, visiting judge sitting specially for the Court of Common Pleas of Berks County; Judge Beck, Judge Kelly, and Judge Popovich of the Superior Court of Pennsylvania; 1990 – 1991.

The Honorable Forrest Schaeffer, President Judge of the Court of Common Pleas of Berks County, brought suit for injunctive relief to prohibit the recorder of deeds from debinding or cutting of deed books as part of a county contract to reproduce deed books onto microfilm. He argued that the state statute placed the physical integrity of the deed books within the discretionary power of the Court of Common Pleas and not with the recorder of deeds. At that time, as County Solicitor, I was appointed to represent Frey, the Berks County Recorder of Deeds. The trial court disagreed and denied Judge Schaeffer's relief. An appeal was taken, and I continued to represent Frey. The Superior Court held that the statute requiring recorders of deeds annually to submit books of records to inspection of the judges of the Court of Common Pleas does not substitute the Court of Common Pleas for the recorder of deeds as custodian with control and responsibility over the deed records. Accordingly, the Superior Court affirmed the trial court, finding that no immediate and irreparable harm was caused by the microfilming contract, that the debinding contract was lawful and did not constitute destruction of public records, and that the debinding process did not erode public confidence in the court.

Opposing counsel:
Paul R. Ober, Esquire
234 North Sixth Street
Reading, PA 19601
(610) 378-0121

4. *Cumru Township Authority v. Snekul, Inc.*, 618 A.2d 1080 (Pa. Commw. Ct. 1993); The Honorable Thomas J. Eshelman of the Court of Common Pleas of Berks County; Judge Craig, Judge Friedman, and Judge Lord of the Commonwealth Court of Pennsylvania; 1991 – 1993.

Snekul, Inc., was a developer of a tract of land containing approximately 103 acres in Cumru Township, Berks County, Pennsylvania. Prior to beginning development of this tract, Snekul entered into a contract with the Cumru Township Authority for the construction and financing of public sewer facilities, including a trunk line which was to connect the development's subdivision to the township's existing sewer line. A dispute arose between the parties concerning the township's charging connection fees to the owners of improved property within the Snekul tract. On behalf of Snekul, I sought a preliminary injunction and a declaratory judgment, seeking specific performance of the terms of the agreement. The trial court granted the preliminary injunction and the township and township authority appealed. I represented Snekul on appeal. The Commonwealth Court affirmed the trial court, holding that the enforcement of the agreement, which specifically limited charges that could be imposed against the developer, was not precluded on the theory that the police powers could not be abridged by contract. The Court held that enforcement would not violate the Constitution by forcing the township, in effect, to lend the municipality's credit to a private enterprise. Otherwise, any contracts entered into by a municipality could be tendered null and void at the municipality's request. The Court specifically held that the agreement was an integrated contract and that the contract provision allowing the township to set rates for owners of improved property did not apply to fees which could be assessed against the developer. Finally, the Court concluded that the enforcement of the contract was not precluded on the theory that it might result in discrimination in favor of the developer. The Commonwealth Court affirmed the trial court's determination that the agreement between the parties provided for only one tapping or connection fee against Snekul.

Opposing counsel:
Scott L. Huyett, Esquire
Stevens & Lee
111 North Sixth Street
P.O. Box 679
Reading, PA 19603
(610) 373-6453

5. *Cescon v. Dove*, 792 F. Supp. 998 (E.D. Pa. 1992); The Honorable Edward N. Cahn of the U.S. District Court for the Eastern District of Pennsylvania; 1991 – 1992.

Dove, a Pottsville Police Department officer, initiated a stop of a vehicle. After suspecting that the driver was under the influence of alcohol, Officer Dove had

the driver perform some field sobriety tests. During one of these tests, the driver, due to his intoxicated state, broke his ankle. He subsequently brought a civil rights suit against Officer Dove. I filed a 12(b)(6) motion on behalf of Officer Dove to dismiss the plaintiff's complaint for failure to state a claim. The District Court held that the driver failed to state a civil rights claim against the officer, as there was no showing of the use of force on the part of the officer. Accordingly, my motion to dismiss was granted; no appeal was taken.

Opposing counsel:
Edward E. Kopko, Esquire
15 Nottingham Drive
Ithaca, NY 14850
(607) 269-1300

6. *Peck v. Haberle*, 642 A.2d 509 (Pa. Super. Ct. 1994); The Honorable Frederick Edenharter of the Court of Common Pleas of Berks County; Judge Cirillo, Judge Johnson, and Judge Cercone of the Superior Court of Pennsylvania; 1993 – 1995.

The Plaintiff motorist, who was injured in a vehicular accident, brought an action against the other driver. I was assigned by Allstate to represent Haberle, the Defendant driver. My client skidded for approximately 75 feet on the roadway before striking the rear of Plaintiff's vehicle. The jury awarded a verdict in the total sum of \$6,530, which included only \$500 for non-economic injuries. Plaintiff filed a post-trial motion, seeking an additur or, in the alternative, a new trial. The trial court denied this motion and an appeal followed. My representation continued on appeal, and the Superior Court held that it was not a palpable abuse of discretion for the trial court to deny the post-trial motion.

Opposing counsel:
David M. Kozloff, Esquire
2640 Westview Drive
P.O. Box 6286
Wyomissing, PA 19610
(610) 670-2552

7. *Huber v. Commonwealth, Dept. of Transportation*, 551 A.2d 1130 (Pa. Commw. Ct. 1989); The Honorable Thomas J. Eshelman of the Court of Common Pleas of Berks County; Judge Craig, Judge Palladino, and Judge Narick of the Commonwealth Court of Pennsylvania; 1987 – 1989.

A motorist injured in a multicar collision filed an action against the Department of Transportation, alleging that its negligent failure to remove or treat ice and snow caused the collision and resulting injuries. At the time of the accident, the road was covered with ice and snow from a snowstorm. The trial court granted summary judgment for the Department, and the motorist appealed. The

Commonwealth Court affirmed, holding that the Department's duty on behalf of the general public – *i.e.*, to clear snow and ice on state highways – did not impose a duty with respect to the particular motorists to protect them from the harm suffered, and thus did not create a cause of action. I represented Gardecki, another motorist named as a co-defendant, at both the trial level (along with Jerry Richwine, Esq.) and the Commonwealth Court. I had to show that my client was not negligent, as his car did not hit Plaintiff and the accident was caused by a faulty condition that was the responsibility of PennDOT.

Opposing counsel:
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Liever, Hyman & Potter
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P.O. Box 782
Reading, PA 19603
(610) 375-6131

Co-counsel:
Jerry Richwine, Esq.
Roland Stock
627 North Fourth Street, P.O. Box 902
Reading, PA 19603
(610) 372-5588

Counsel for co-defendants:
William A. Slotter, Esquire
Office of Attorney General
1125 South Cedar Crest Boulevard, Suite 205
Allentown, PA 18103
(610) 821-6477

Daniel Bausher, Esquire
Stevens & Lee
111 North Sixth Street, P.O. Box 679
Reading, PA 19603
(610) 478-2207

8. *Commonwealth v. Hill*, Berks Criminal Docket Number 995 of 1981 (C.P. Berks 1985); 01627 Philadelphia 1984 (1986); The Honorable Thomas J. Eshelman of the Court of Common Pleas of Berks County; 1982 – 1983.

Defendant was charged with First Degree Murder and Criminal Conspiracy. I prosecuted this case and tried it before a jury as an Assistant District Attorney. At trial, it was elicited that the Defendant, Hill, agreed to assist Yingling in the killing of Eppihimer. Prior to the killing, Yingling offered Hill \$10 for the murder. The Defendant was tried by a jury and found guilty of both first degree

murder and criminal conspiracy. He was sentenced to a term of life in prison plus 2 to 7 years on the criminal conspiracy charge. I represented the Commonwealth of Pennsylvania, by way of the Berks County District Attorney's Office, at pretrial proceedings and at the jury trial. Defendant subsequently filed an appeal, which was denied by the Superior Court on February 6, 1986.

Opposing counsel:
Michael F. Flannery, Esquire (deceased)

9. *Commonwealth v. Bialek*, Berks Criminal Docket Number 1144 of 1982 (C.P. Berks 1984); 2057 Philadelphia 1984 (Pa. Super. Ct. 1984); The Honorable Arthur Saylor of the Court of Common Pleas of Berks County (deceased); 1984.

Defendant Bialek and co-defendant Debiec were charged with possession of a controlled substance, possession of a controlled substance with intent to deliver, possession of a controlled substance with intent to manufacture, and criminal conspiracy. Specifically, Defendant was found to have been growing over 50 marijuana plants in pots in a warehouse in the City of Reading. At the time, Defendant Bialek was the Chief City Building Inspector and Debiec was an elected constable. As an Assistant District Attorney, I prosecuted both individuals for manufacturing (growing) marijuana in a city warehouse. After a four-day jury trial, Defendant was found guilty of all counts. On June 27, 1984, Defendant was sentenced to an aggregate term of 12 to 59 months in the Berks County Prison. The Superior Court denied Defendant's appeal and affirmed the sentence. I represented the above-listed at the trial court level only. Debiec was also convicted in a subsequent trial.

Opposing counsel:
John S. Elder, Esquire
635 Walnut Street
Reading, PA 19601
(610) 376-7411

10. *Commonwealth v. Knoll*, 34 Pa. D. & C.3d 351 (C.P. Berks 1985); The Honorable Arthur Saylor of the Court of Common Pleas of Berks County (deceased); 1985.

As an Assistant District Attorney, I prosecuted the Defendant, who was charged with possession of marijuana and carrying an unlicensed firearm. The Court of Common Pleas suppressed all evidence, holding that an arrest used as an excuse to detain a defendant until he could be arrested for possession of marijuana and an unlicensed firearm is illegal and evidence obtained from a search incident to the arrest is inadmissible. I recall filing an appeal with the Pennsylvania Superior Court, but I represented the Commonwealth at the trial level only; there no longer exists any record of the appeal.

Opposing counsel:
Stephen B. Lieberman, Esquire [now Judge Lieberman]
The Court of Common Pleas of Berks County
Berks County Courthouse, 9th Floor
633 Court Street
Reading, PA 19601
(610) 478-6436

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

During my tenure as County Solicitor, I had to advise the County Commissioners on two significant legal issues. The first was the Pennsylvania Sunshine Law, and I authored an opinion that guided the Commissioners on how to properly conduct public meetings in compliance with the law. Also during that time, the County was required under Pennsylvania law to impose a countywide trash plan. The County's constituent municipalities each had to approve or reject the plan, with certain requirements, including written reasons, necessary to properly reject it. I had to interpret and rule on the Countywide plan and whether the municipalities successfully rejected it or not. Both of these matters were significant legal issues during my first term as Berks County Solicitor from 1989 through 1991.

As a Judge, I reconstituted the Berks County Self Represented Litigant Task Force. This Task Force provides forms and assistance to clients in child custody cases and criminal record expungement cases. The Task Force has been such a success I was asked to speak in Pittsburgh in April 19, 2012, at the Pennsylvania Trial Judges seminar explaining how it was formed and the steps we are using to provide access to justice in Berks County. That seminar was followed up with one in Berks County on June 1, 2012, outlining to Court personnel in ten counties the difference between procedural information and legal advice. This was important because it informed Court personnel what they could do to assist people and what constitutes legal advice which they would not be allowed to provide.

Furthermore, as President Judge I formed the Berks County Mortgage Foreclosure Diversionary Program. With the help of the Berks County Bar Association, we now stay owner-occupied mortgage foreclosure cases early in the case and order both sides to attend a conciliatory conference. Members of the Bar Association serve as conciliatories on a rotating basis in hopes of reaching an agreement between the clients and the lenders so that the home can be saved if possible. This program has been operating for 12 months and we are hopeful that it will allow a number of residents of Berks County to remain in their homes.

In addition, as President Judge I also instituted a Countywide Truancy Task Force to bring all of the interested stakeholders throughout our County together to address the significant and far reaching effects of the problem of truancy and how this problem could be handled on a legal, effective, and consistent countywide basis.

I have never performed any lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

From 1999 to present, I have served as an adjunct professor at Alvernia College, teaching a course entitled Judicial Process and Procedure. The course is offered as an upper-level criminal justice course, outlining the basic tenets of the Fourth, Fifth, and Sixth Amendments, and other criminal procedure issues. The Fall 2012 syllabus is supplied.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I do not foresee any potential conflicts that are likely to arise. There are no family members, categories of litigation, or financial arrangements that would present a conflict of interest for me as a District Judge.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I would address conflicts of interest through application of the Code of Conduct for United States Judges and other relevant canons and statutes. In addition, if a conflict of interest did present itself, where I either felt I could not be fair or if it would create the appearance of unfairness, I would immediately recuse myself.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

When I was a practicing attorney, I volunteered at Central Pennsylvania Legal Services one or two afternoons a year. They had various client interviews set up for participating attorneys, who would continue representing those clients until the cases had concluded. Those cases included child custody defense and civil matters/collection matters.

As already noted, as President Judge, I reconstituted the Berks County Self Represented Litigant Task Force, which provides forms and assistance to clients in child custody cases and criminal record expungement cases. In addition, I also recently formed the Berks County Mortgage Foreclosure Diversionary Program, which offers stays of owner-occupied mortgage foreclosure as well as a conciliatory conference. Both programs benefit members of our community who otherwise might not have access to counsel or the courtroom.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission

recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

Senator Robert Casey and Senator Patrick Toomey formed an Eastern District Nominating Committee made up of twenty individuals. On July 15, 2011, I submitted a written application to the Committee. I was interviewed by the Committee on December 5, 2011, in Philadelphia. On March 12, 2012, I interviewed with Senator Toomey in Allentown, Pennsylvania. On June 5, 2012, I interviewed with Senator Casey and his staff in Washington, DC.

Since June 22, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 31, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On November 27, 2012, the President submitted my nomination to the Senate. On January 4, 2013, the President submitted my renomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.


AFFIDAVIT

I, Jeffrey L. Schmehl, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

November 28, 2012

(DATE)


(NAME)


(NOTARY)

