I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

Michael Arthur Chagares

2. Address: List current place of residence and office address(es).

Residence: Wyckoff, New Jersey

Office: Court Plaza North
25 Main Street
Hackensack, New Jersey 07602

3. Date and place of birth.

I was born on May 1, 1962, in Pittsburgh, Pennsylvania.

4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

I am married to the former Margaret L. Meade. She is an attorney-at-law, but is not now employed outside of our home. She is focusing upon raising our children.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

I attended Gettysburg College in Gettysburg, Pennsylvania from 1980 until 1984. I received a Bachelor of Arts degree from Gettysburg College in June 1984.

I attended Seton Hall School of Law in Newark, New Jersey from 1984 until 1987. I received a Juris Doctor degree (with honors) from Seton Hall Law School in June 1987.

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

Partner (Member) - Cole, Schotz, Meisel, Forman & Leonard, P.A.
(2004 - present)

Hearing Officer, 9/11 Victim Compensation Fund (2003 - 2004)

Adjunct Professor - Seton Hall School of Law (1991 - present)

Assistant U.S. Attorney, District of New Jersey (1990 - 2004)
Chief, Civil Division (1999 - 2004)
Director, Affirmative Civil Enforcement Unit (1996 - 1999)

Attorney - McCarter & English (1988 - 1990)

Law Clerk to Hon. Morton I. Greenberg, Judge, U.S. Court of Appeals for the Third Circuit (1987 - 1988)

Summer Law Clerk - Porzio, Bromberg & Newman (1986)

Law Clerk - Horowitz, Bross, Sinins & Imperial (1985)

Office Clerk, Chagares Agency (1984)

Trustee - Association of the Federal Bar of the State of New Jersey (2004 - present)

Editorial Board Member - New Jersey Lawyer Newspaper (1999 - present)

Director - The Historical Society of the U.S. District Court for the District of New Jersey (2000 - present)

Board of Trustees - West Bergen Mental Healthcare (1995 - 2004)
President (2001 - 2004)
Executive Vice President (1998 - 2001)

Wyckoff Public Library
President, Board of Trustees (2000 - 2002, 2005 - present)
Trustee (1998 - present)

Torpedoes Soccer Club
Vice President (2004 - present)

Trustee (2002 - present)

7. **Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.**

I have had no military service.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.**

Director's Award for Superior Performance as an Assistant U.S. Attorney (2002, 1998)

Commendations and awards from agencies such as the Federal Bureau of Investigation, the Drug Enforcement Administration, the Defense Criminal Investigative Service, the Department of Labor, Office of Labor Racketeering, the Department of Interior, Fish and Wildlife Service and the U.S. Army Corps of Engineers

"AV" Peer Review Rating in Martindale Hubbell Legal Directory

Named a "New Jersey Super Lawyer" by New Jersey Monthly Magazine and Law and Politics (2006)

Honors Graduate, Seton Hall Law School

Seton Hall Law Review (1985 - 1987)
Editorial Board (1986 - 1987)
Associate Editor (1986)

9. **Bar Associations: List all bar associations, legal or judicial-related committees 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

New Jersey State Bar Association

Bergen County Bar Association

Association of the Federal Bar of the State of New Jersey (Trustee, 2004 - present)

The Historical Society of the U.S. District Court for the District of New Jersey (Director, 2000 - present)

Lawyers' Advisory Committee of the U.S. District Court, District of New Jersey

Federal Practice & Procedure Section of the New Jersey State Bar Association
(Chair, 1998 - 2000; Vice Chair, 1997 - 1998; Secretary, 1996 - 1997)

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I am not involved in any organization that is active in lobbying before public bodies, with the possible exceptions of the American Bar Association and the New Jersey State Bar Association.

In addition to the organizations previously listed in this questionnaire, I belong to Grace United Methodist Church.

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Bar of the State of New Jersey; admitted on December 18, 1987.

United States District Court for the District of New Jersey; admitted on December 18, 1987.

United States Court of Appeals for the Third Circuit; admitted on March 8, 1988.

None of my memberships have lapsed and I am in good standing with each of these courts.

12. **Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.**

Published Writings:

New Jersey Federal Civil Procedure [book, contributing author] (1999 & Supp. 2000, 2001, 2002, 2003, 2004, 2005/2006)

Lucrative Explosion in Qui Tam Suits, New Jersey Lawyer Newspaper, July 19, 1999, at 26-27

Summary Judgment Practice in Federal and State Court After Brill, 178 New Jersey Lawyer Magazine 31 (1996)

New Jersey Federal Civil Practice Handbook [book, contributing author] (1993 & Supp. 1994, 1995, 1996, 1997)

Determining the Validity of Waivers Under the Age Discrimination in Employment Act: The Third Circuit Approach and the Age Discrimination in Employment Waiver Protection Act, 19 Seton Hall Law Review 678 (1989)

Defining Damages for Breach of Contract [co-author], 129 New Jersey Lawyer Magazine 22 (1989)

Utilization of the Disclaimer as an Effective Means to Define the Employment Relationship, 17 Hofstra Law Review 365 (1989)

Parody of Piracy: The Protective Scope of the Fair Use Defense to Copyright Infringement Actions Regarding Parodies, 12 Columbia - VLA Journal of Law & the Arts 229 (1988)

Limiting the Employment-at-Will Rule: Enforcing Policy Manual Promises Through Unilateral Contract Analysis, 16 Seton Hall Law Review 465 (1986)

Toxic Torts, 16 Seton Hall Law Review 283 (1986)

As a member of the Editorial Board of the New Jersey Lawyer Newspaper, I drafted nine proposed editorials for consideration by the Board, according to my records. Each was approved by the Board and published, at times with minor edits. The titles of the proposed editorials were as follows:

Hurricane Katrina, Attorneys and the Justice System

Improving Access to Pro Bono Opportunities

In the Cause of Justice

The "Deck" is Stacked Against You

Attorney Civility

Spiffy for a Fee

Discrediting Rambo as an Attorney Role Model

Just a Reminder....

Chief Judge Anne Thompson

As a member of the Editorial Board of the Seton Hall Law Review, I was involved, in varying degrees, in editing virtually all of the material contained in volume seventeen of the Seton Hall Law Review. As an Associate Editor, I was involved in editing several pieces including a student note appearing at 16 Seton Hall Law Review 745 (1986).

The following is a list of programs, in chronological order, at which I was a speaker, moderator or both. In all cases my remarks were extemporaneous. I have no copies of text, notes, or outlines of these presentations.

Panelist, "1997 Federal Practice Update" (9/6/97)

Panelist, "Federal Appellate Practice Without Tears" (5/15/98, 6/18/98)

Panelist, "Employment Law in the Federal Courts" (12/11/98)

Moderator, Panelist, "Practice Before U.S. Magistrate Judges" (5/14/99, 10/14/99, 11/1/00, 10/1/02, 4/22/04, 11/16/05)

Moderator, Panelist, "Federal Civil Pro Bono Educational Program" (9/22/99, 9/20/00)

Panelist, "Healthcare Fraud & Abuse: Update 2000" (11/6/99)

Moderator, Panelist "Litigating Qui Tam Cases" (4/26/00)

Speaker, "Consumer Rights and Protection" (4/27/00, 5/3/00, 5/17/00, 6/19/03)

Panelist, "Handling Employment Cases Under Whistleblower Statutes & The Federal False Claims Act" (6/3/00)

Panelist, "Health Care Fraud Investigations" (12/9/00)

Speaker, The Historical Society of the U.S. District Court for the District of New Jersey, First Annual Gala (3/5/02)

Speaker, Ceremonial En Banc Session of Court of Appeals for the Third Circuit to Dedicate Portrait of Hon. Morton I. Greenberg, U.S.C.J. (5/30/02, reprinted in 326 Federal Reporter, 3rd Series)

Moderator, Panelist "Understanding the Federal False Claims Act" (10/27/04)

Moderator, U.S. District Court Judicial Conference, "Sealing Orders, Confidentiality and Public Access" (4/7/05)

Panelist, "Fear Not About Practicing in Federal Court (A Few Fundamental Lessons)" (5/20/05)

As an Assistant U.S. Attorney, I occasionally spoke publicly regarding specific cases at press conferences or in the context of an interview. I did not speak from a text in those instances.

Finally, I have lectured as an Adjunct Professor at Seton Hall Law School in the Appellate Advocacy and Civil Trial Practice courses given by the school. I have been an Adjunct Professor at Seton Hall Law School since 1991.

13. Health: What is the present state of your health? List the date of your last physical examination.

The state of my health is excellent. I had my last physical examination on September 28, 2005.

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have never been a judge.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

N/A

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

I was appointed Law Clerk to the Honorable Morton I. Greenberg, Judge, United States Court of Appeals for the Third Circuit and served in that capacity from September 1987, until September 1988.

I was appointed an Assistant U.S. Attorney for the District of New Jersey in July 1990, and held that office until October 2004.

I was appointed to serve as a Hearing Officer for the 9/11 Victim Compensation Fund and served in that capacity from December 2003, until June 2004.

I have not run for any elective public office.

17. **Legal Career:**

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

1. **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 served as Law Clerk to the Hon. Morton I. Greenberg, Judge, United States Court of Appeals for the Third Circuit from September 1987, until September 1988.

2. **whether you practiced alone, and if so, the addresses and dates;**

I have never practiced law alone.

3. **the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;**

10/88-6/90: Associate, McCarter & English, Four Gateway Center, 100 Mulberry Street, Newark, New Jersey 07102, (973) 622-4444.

7/90-10/04: Assistant U.S. Attorney for the District of New Jersey, 970 Broad Street, Suite 700, Newark, New Jersey 07102, (973) 645-2700.

Director, Affirmative Civil Enforcement Unit (1996-1999)

Chief, Civil Division (1999-2004)

9/91-present: Adjunct Professor, Seton Hall University School of Law

10/04-present: Partner, Cole, Schotz, Meisel, Forman & Leonard, P.A., Court Plaza North, 25 Main Street, Hackensack, New Jersey 07602, (201) 489-3000

b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

I was fortunate to begin my career as a law clerk to the Honorable Morton I. Greenberg, Judge, United States Court of Appeals for the Third Circuit. That appointment gave me the opportunity to become engrossed in the federal appellate process generally, and in the work of the United States Court of Appeals for the Third Circuit specifically.

A significant portion of my practice has been devoted to handling appeals and I have been counsel on over 100 cases before the Court of Appeals for the Third Circuit.

My interest in the appellate process extends beyond the courtroom and into the classroom. Indeed, I have taught many law students about the appellate process since 1991 in my capacity as an Adjunct Professor at Seton Hall Law School. I also have taught students trial advocacy since 1991.

I have handled an enormous variety of cases. Almost all of my cases, however, have been litigated in the federal courts. I have handled all aspects of cases including arguing appeals and conducting trials and other hearings.

As an Associate with McCarter & English, I handled various commercial and employment-related matters, and also worked on various appeals.

As an Assistant U.S. Attorney, I handled, for instance, cases involving Constitutional claims, discrimination claims and criminal charges. I also handled fraud cases, regulatory cases, civil rights cases, civil RICO cases and other cases wherein the United States sought relief.

In my capacity as Chief of the Civil Division of the U.S. Attorney's Office for the District of New Jersey, I directly supervised twenty-two Assistant U.S. Attorneys and kept a significant caseload. My responsibilities as Chief of the Civil

Division included approving appellate briefs prior to filing, approving positions to be taken in the trial courts and on appeal, assigning cases and approving settlements.

As a Partner in Cole, Schotz, Meisel, Forman & Leonard, I handle cases almost exclusively in the federal trial and appellate courts. My cases have involved, for instance, trademark law, Constitutional issues and civil rights law. I also handle a variety of criminal matters for my clients. As a result of my appellate experience, I am brought into cases on appeal before United States Courts of Appeals.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

During my time in private practice, my clients have been varied. They have included large companies, small companies and individuals. As an Assistant U.S. Attorney, my clients were the United States, its agencies and officials.

c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

As an Assistant U.S. Attorney (1990-2004), I appeared in court frequently, and at times, on a daily basis. As a Partner with my law firm (2004-present), I appear in court several times per month.

2. What percentage of these appearances was in:
(a) federal courts: 95%
(b) state courts of record: 5%
(c) other courts.

3. What percentage of your litigation was:
(a) civil: 85%
(b) criminal: 15%

4. State the number of cases in courts of record you tried to verdict or judgment (rather than

settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

As sole counsel, I have tried at least five cases to verdict or judgment. I have been associate counsel on at least two other trials.

5. What percentage of these trials was:
(a) jury: 20%
(b) non-jury: 80%

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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. **United States v. Hotel Employees and Restaurant Employees International Union**, U.S. District Court for the District of New Jersey, Case No. 95-4596 (Hon. Garrett E. Brown, Jr.). Case citations: 974 F.Supp. 411 (D.N.J. 1997) and 932 F.Supp. 636 (D.N.J. 1996).

In September 1995, the United States filed a civil RICO lawsuit against the 350,000 member Hotel Employees and Restaurant Employees International Union ("HEREIU") and its General Executive Board which alleged, among other things, that "[f]or over 25 years, various members and associates of organized crime groups have exercised influence over the HEREIU and [its] various constituent entities." The complaint also alleged that the General Executive Board of the HEREIU conspired with members and

associates of organized crime to conduct and participate in the affairs of the HEREIU through a pattern of racketeering activity consisting of extortion of members' rights, theft of union finds, and solicitation and acceptance of bribes from employers. In fact, the HEREIU was one of the "big four" unions identified by the President's Commission on Organized Crime in 1985 as being substantially influenced or controlled by organized crime.

Simultaneous to the filing of the lawsuit, a Consent Decree was executed by Judge Brown. Pursuant to the Consent Decree negotiated by members of the Department of Justice, Criminal Division, Organized Crime and Racketeering Section and I, a Monitor was appointed with the broad powers, including the power to remove or otherwise discipline HEREIU officials or members who, among other things, associated with members or associates of any organized crime group. This unique mechanism permitted an expeditious and efficient means for eliminating the influence of organized crime and corruption from the HEREIU.

Entry of the Consent Decree was just the start of a remedial process that required many matters to be investigated and to be litigated before the district court. After negotiations on the Consent Decree ended, I became sole counsel for the United States and as such, I supervised the continuing investigation and handled all litigated matters thereafter.

Insofar as this case was national in scope, the continuing investigation to extinguish organized crime and corruption within the HEREIU and its 157 local unions meant directing investigations in many cities across the country. I met with cooperating witnesses and marshaled evidence of wrongdoing for several years in this case.

On behalf of the United States, I litigated many matters in this case ranging from challenges to the constitutionality of the Consent Decree, to the court's authority under the All Writs Act, 28 U.S.C. § 1651, to extending the Consent Decree based upon the court's finding that there was probable cause to believe corruption or the influence of organized crime continued to exist in the HEREIU or its constituent entities.

The successes in this case were many. For instance, over thirty (30) HEREIU officials (including the HEREIU General President, Edward T. Hanley), members and associates were permanently barred from the union or otherwise disciplined. In addition, corruption and the influence of organized crime was purged from the HEREIU.

On behalf of the United States, I negotiated and executed a Final

Order of Dismissal of this case that was approved by the district court. That Order permanently enjoined all officers, employees and members of the HEREIU and its constituent entities from, among other things, associating with members or associates of any criminal group and permitting such persons "to exercise any control or influence, directly or indirectly in any way or degree, in the conduct or affairs of the HEREIU and its constituent entities." Further, the Order mandates that an independent Public Review Board with the power to expel members for violating, among other things, the permanent injunctive relief discussed above, be maintained indefinitely.

I was presented a Director's Award for Superior Performance as an Assistant United States Attorney by then-Attorney General Reno in 1998 as a result of my handling of this case.

Defendant HEREIU was represented by:

Robert J. Rotatori, Esq.
Rotatori, Bender, Gragel, Stoper & Alexander Co., L.P.A.
800 Leader Building
526 Superior Avenue East
Cleveland, Ohio 44114
(216) 928-1010

2. **Staiano v. File Aid of New Jersey, et al.**, U.S. Bankruptcy Court for the District of New Jersey, Adversary Proceeding No. 98-02257 (Hon. Novalyn L. Winfield, U.S.B.J.). Case citation: 233 B.R. 315 (Bankr. D.N.J. 1999).

This case involved a fraud scheme that victimized as many as 1000 or more people living in New Jersey's more urban areas who could ill afford to be deceived.

Through a variety of fraudulent, unfair, and deceptive advertisements and representations including guarantees of avoiding eviction and erasing all of their debt balances, the defendants lured people facing eviction from their apartments or who were suffering from other financial difficulties into paying them to prepare bankruptcy petitions for filing. The victims of this scheme generally had low incomes and had little or no knowledge about bankruptcy law or procedure.

Victims were largely solicited after the defendants received from the Superior Court of New Jersey the names and addresses of persons against whom eviction actions had been filed. The solicitations contained language including, "Notice has been

served upon you by:" followed in large, bold letters "THE SUPERIOR COURT OF NEW JERSEY." The solicitations also contained language notifying the recipient that he or she might be evicted soon and that the defendants might be able to help the recipient. This solicitation wrongly led the recipient to believe that the sender was connected to the court system or was a state agency offering assistance to persons in difficult financial circumstances. Solicitations also advised the recipients they could provide the recipients "WITH LEGAL OPTIONS YOU MAY NOT BE AWARE OF." None of the defendants, however, was an attorney. Further, the solicitations represented that with defendants' assistance, the recipient could stay in his or her "apartment or home for up to 6 months or longer" and that they could erase all of the recipient's debts. These guarantees had no legal basis and were misleading and deceptive.

After creating the false impression that they were qualified to give legal advice, the defendants would advise victims that filing bankruptcy was the solution to their problems, regardless of whether bankruptcy was an appropriate solution or not. If the victims could pay a $300 fee, the defendants would file a bankruptcy petition on behalf of the victim, but almost always without the necessary schedules and other documents necessary to continue their cases. The defendants were unavailable to assist their "clients" after the petitions were filed and, ultimately, the petitions would be dismissed.

On April 22, 1998, I filed this lawsuit on behalf of the bankruptcy trustee and was successful in obtaining a temporary restraining order effectively halting defendants' scheme. In May 1998, I handled a preliminary injunction hearing at which I examined witnesses, including several of defendants' customers, and presented other evidence to the court. The court granted plaintiff's application and issued a preliminary injunction which continued to halt defendants' scheme. Several of the defendants thereafter entered into consent decrees ending the cases against them and one defendant began to cooperate with the government.

In January 1999, I handled the trial of this case. Following the trial, the court permanently barred defendants from their scheme, ordered that all of the money collected by the defendants be disgorged and ordered that the defendants be fined the maximum amount provided by the applicable statute. Hence, the court granted all of the relief sought by the plaintiff. The opinion was published at 233 B.R. 315 (Bankr. D.N.J. 1999). Subsequently, my office returned monies to people who were victims of this scheme.

I handled the trial and every other aspect of this case by myself and I directed the investigation of the case.

Defendants were represented by:

Robert M. Vreeland, Esq.
The Rinaldo Suite
2444 Morris Avenue
Union, New Jersey 07083
(908) 687-8910

Michael P. Hrycak, Esq.
231 Elmer Street
Westfield, New Jersey 07090
(908) 789-1870

3. **United States v. International Boxing Federation, et al.**, U.S. District Court for the District of New Jersey, Case No. 99-5442 (Hon. John W. Bissell, U.S.D.J.).

The International Boxing Federation (the "IBF") is one of the three major professional-boxing sanctioning organizations in the world, and the only such organization located within the United States. The IBF's primary functions are to rate boxers in each of the seventeen weight divisions and to sanction bouts. The significance of a boxer's rating to his career trajectory cannot be overstated. A boxer's rating determines his career opportunities, including whom he will fight, how much money he will earn, and whether he will ever have an opportunity to fight for a title.

I was part of a team of criminal and civil Assistant U.S. Attorneys who directed an investigation of corruption by IBF officials.

Civilly, I was involved in drafting and filing a civil RICO complaint, an application for a temporary restraining order and preliminary injunction, eight certifications of personalities in the boxing profession and a lengthy brief in support of the United States' application.

I was part of the team that proved, in the civil injunction hearings, that Robert Lee, Sr., the President of the IBF, and other high-ranking IBF officials, had systematically corrupted the IBF's ratings by soliciting and accepting bribes from promoters and managers to fix ratings. The United States

presented evidence of dozens of bribes, spanning thirteen years. The United States further proved that ratings were fixed specifically to give certain boxers an opportunity to fight for a title. In the process, countless professional boxers, as well as the integrity of the sport itself, were victimized. Significantly, the IBF had ascended to the status of a major sanctioning organization by promoting itself as the honest, above-board alternative to other, corrupt sanctioning organizations, and had attracted prominent boxers under that guise.

Judge Bissell issued a preliminary injunction barring Lee and his son from the IBF, imposing a Monitor with broad powers and imposing strict financial controls over the IBF.

In addition, following a lengthy criminal trial, a jury convicted Robert Lee, Sr. for violations of 18 U.S.C. §§ 1952 and 1956, and 26 U.S.C. § 7206.

Following imposition of the preliminary injunction, I obtained from Robert Lee, Sr. and his son, Robert Lee Jr., consent orders permanently barring them from involvement or membership in any boxing organization or entity, and requiring Robert Lee, Sr. to relinquish and return to the IBF all financial interests and to pay $50,000 to the IBF.

As lead civil counsel in the case, I handled other matters in the course of the case. For instance, I opposed applications to modify or terminate the preliminary injunction issued by Judge Bissell. In addition, I negotiated the Consent Decree that was entered by Judge Bissell and permanently enjoined IBF leaders and members from soliciting or accepting money or anything of value that would affect the ranking of boxers or otherwise adversely affect the interests of the IBF. The Consent Decree also mandated enforcement of certain controls and the new IBF Code of Conduct. Finally, the Consent Decree required the IBF to form and maintain an "Independent Review Board" to investigate allegations of violations of the Consent Decree and IBF Code of Conduct and to assess discipline, including expulsion, when appropriate. The Consent Decree ended the IBF case.

In sum, this case resulted in the reformation of a historically corrupt but important sanctioning organization and a restoration of fairness and honesty to boxing ratings.

I received a Director's Award for Superior Performance as an Assistant United States Attorney in 2002 as a result of my

handling of this case.

The IBF was represented by:

Linda P. Torres, Esq.
McElroy, Deutsch, Mulvaney & Carpenter, L.L.P.
Three Gateway Center
Newark, New Jersey 07102
(973) 622-7711

My co-counsel for the United States was:

Michael A. Hammer
Assistant U.S. Attorney
970 Broad Street, Suite 700
Newark, New Jersey 07102
(973) 645-2700

4. **United States v. Hanley, et al.**, U.S. District Court for the District of New Jersey, Case No. 90-5017 (Hon. Garrett E. Brown, Jr., U.S.D.J.) and U.S. Court of Appeals for the Third Circuit, Case Nos. 92-5719, 92-5720. Case citations: 1992 WL 684356 (D.N.J. Dec. 3, 1992), aff'd, 6 F.3d 780 (3d Cir. 1993).

In December 1990, the United States filed a landmark civil RICO action against officials of Atlantic City-based Hotel Employees and Restaurant Employees International Union ("HEREIU") Local 54, individuals associated with the Bruno/Scarfo organized crime family, the union and its affiliated benefit plan, and the HEREIU General President, Edward T. Hanley. The Government charged that for 20 years prior to the suit, the Philadelphia-based Bruno/Scarfo crime family used violence and intimidation and acts of extortion, embezzlement and bribery to control the 22,000 member Local 54 and to strip the members of their rights as union members. The Government sought to eliminate organized crime's stranglehold of Local 54 and return the union to its members.

In April 1991, a team of government attorneys, including then-U.S. Attorney Michael Chertoff and I, negotiated and entered into a Consent Decree with the defendants, which provided for a Court-appointed Monitor to oversee the affairs of Local 54, to ensure that Local 54 would be free of the influence of organized crime and to restore "the independence, democratic functioning, and integrity of the union...." In addition, the President, Vice President and Secretary-Treasurer of Local 54, as well as other Local 54 officials, agreed to leave their positions.

Entry of the Consent Decree was just the start of a remedial process that required many matters to be investigated and to be litigated both before the district court and the court of appeals. Subsequent to entry of the Consent Decree, I became sole counsel for the United States and as such, I supervised the continuing investigation and handled all litigated matters thereafter.

Matters litigated included a challenge to Local 54's first contested election in over twenty years by two candidates who were barred by the Court-appointed Monitor from running for office. An investigation revealed that one of the candidates was the candidate sponsored by the Bruno/Scarfo crime family and the other had highly questionable associations and was an officer of another mob-dominated local union.

I handled the matter on behalf of the United States. In considering all of the arguments and evidence provided by the parties, the district court upheld the barring of the candidates. See 1992 WL 684356 (D.N.J. Dec. 3, 1992). I also handled the petition to stay the election in the district court, pending an appeal. That petition was denied by the district court.

The two barred candidates then appealed the district court decision and petitioned the court of appeals for a stay of the election. I wrote and submitted a brief on behalf of the United States in opposition to the stay petition and the court of appeals denied the petition.

The appeal involved novel issues such as whether Fifth Amendment due process and First Amendment freedom of association claims could be raised by the appellants. I briefed the issues before the court of appeals and argued, among other things, that appellants' Constitutional claims should be rejected because the requisite "state action" was lacking. Alternatively, I argued that these claims failed on the merits.

After considering the arguments of the parties, the court of appeals affirmed the decision of the district court. See 6 F.3d 780 (3d Cir. 1993)(table).

On behalf of the United States, I successfully moved for a permanent injunction and dismissal of the case in early 1997. The permanent injunction entered by the district court prohibits all officers, employees and members from, among other things, associating with members or associates of any criminal group and permitting such persons "to exercise any control or influence,

directly or indirectly, in any way or degree, in the conduct or affairs of Local 54 or the Local 54 Severance Fund." Further, the injunction directs that all Local 54 officials have "an affirmative and continuing obligation to be vigilant with respect to preventing and otherwise detecting and remedying the types of derelictions, abuses and corrupt practices identified in the Complaint...."

Local 54 was represented by:

Robert F. O'Brien, Esq.
O'Brien, Belland, & Bushinski, L.L.C.
2111 New Road
Northfield, New Jersey 08225
(609) 677-7930

Alfred C. DeCotiis, Esq.
DeCotiis, FitzPatrick, Cole & Wisler, L.L.P.
500 Frank W. Burr Blvd.
Teaneck, New Jersey 07666
(201) 928-1100

Edward T. Hanley was represented by:

Robert J. Rotatori, Esq.
Rotatori, Bender, Gragel, Stoper & Alexander Co., L.P.A.
800 Leader Building
526 Superior Avenue East
Cleveland, Ohio 44114
(216) 928-1010

5. **Price v. Runyon, et al.**, U.S. District Court for the District of New Jersey, Case No. 94-5120 (Hon. Clarkson S. Fisher, U.S.D.J.). Case citation: 951 F.Supp. 52 (D.N.J. 1996).

This was an action brought under Title VII the Civil Rights Act of 1964 by a United States Postal Service employee against the Postal Service and her supervisor. This case was significant in that it was one of the first Title VII cases to be tried to a jury and that it involved allegations of wrongdoing by a Postmaster.

Plaintiff had been terminated for taking bulk mail she was supposed to sort and, rather than sorting it, re-rerouted it and treated it as outgoing mail, only to have the same mail return days later. Plaintiff alleged causes of action including sexual

harassment and retaliation. More specifically, plaintiff alleged that she was the victim of discrimination following the dissolution of a consensual relationship with her supervisor, who was the Postmaster of a Postal Service facility.

This case was tried to Judge Fisher and a jury for roughly three weeks in May 1996. Following deliberations, the jury returned a verdict of no cause of action. In particular, the jury found that plaintiff's supervisor's actions were not unwelcome and that the officials responsible for her termination were not even aware that she had engaged in the equal employment opportunity process previously, thus making retaliation impossible.

Following the jury's verdict, plaintiffs moved for judgment as a matter of law or for a new trial. After briefing by the parties, Judge Fisher denied plaintiff's motion in a decision reported at 951 F.Supp. 52 (D.N.J. 1996).

I handled all aspects of the trial in this case, although I may have permitted a Postal Service attorney assigned to the case to handle a small part of the case, such as examining a witness or two. I am unable to recall the name of the Postal Service attorney. I also handled all of the briefing and motion practice in the case.

Plaintiff was represented by:

Lewis B. Cohn, Esq.
Witman, Stadtmauer & Michaels, PA
26 Columbia Turnpike
Florham Park, New Jersey 07932
(973) 822-0220

Defendant Curry was represented by:

Raymond D. Bogan, Esq.
Bogan & Bogan
526 Bay Avenue
Point Pleasant Beach, New Jersey 08742
(732) 899-9500

6. **Grabowski, et al. v. Bonner, et al.**, U.S. District Court for the District of New Jersey, Case No. 94-2363 (Hon. Nicholas H. Politan, U.S.D.J.) and U.S. Court of Appeals for the Third Circuit, Case Nos. 95-5532 and 98-6057. Case citation: 107 F.3d 7 (3d Cir. 1997)(table).

This case followed an internal Drug Enforcement Administration ("DEA") investigation regarding allegations of misconduct by DEA Special Agents assigned to "Group 33" in New York City. The investigation was initiated following allegations by confidential informants of the DEA regarding financial improprieties, including extortion of awards payable to confidential informants, as well as corruption, brutality and other misconduct by members of Group 33. The investigation was covered by the press and was used by several convicted defendants -- with some success -- attempting to use the information to obtain a new trial. See, e.g., United States v. Bravo, 808 F.Supp. 311 (S.D.N.Y. 1992).

Following the investigation, the DEA's Board of Professional Conduct (the "Board") concluded that there was a pattern of violations of DEA rules and regulations by certain members of Group 33 over a period of years. As a result, the Board proposed disciplinary actions against certain members of Group 33. One such member contested the discipline assessed against him and prevailed before the Merit Systems Protection Board. Other members were suspended for under fourteen days and one member was demoted.

The plaintiffs, who were nine members of Group 33, filed this lawsuit against the DEA and fifteen DEA officials and others they believed responsible for the investigation and disciplinary proceedings regarding Group 33. Plaintiffs claimed they were wrongfully treated by the defendants and sought over $20 million in damages.

This case presented novel issues regarding the right of federal employees to sue their employer and their supervisors. I represented the defendants.

The plaintiffs asserted multiple bases for liability including violations of the Constitution, the Back Pay Act, the Privacy Act, the Equal Access to Justice Act and the RICO statute and asserted various common law tort claims.

I wrote an extensive brief and filed a motion to dismiss the complaint. The main argument supporting defendants' motion was that the Civil Service Reform Act preempted the lawsuit and provided the plaintiffs their sole avenue of recourse for the actions of which they complained. The district court required several rounds of briefing and held lengthy oral argument on defendants' motion. Finally, the district court granted defendants' motion to dismiss the complaint.

Plaintiffs appealed the district court decision to the

U.S. Court of Appeals for the Third Circuit and the appeal was docketed as case number 95-5532. I wrote and submitted an appellate brief and a motion to the court of appeals. On September 30, 1996, I argued this case to the court of appeals.

The court of appeals affirmed the district court opinion, except that it vacated and remanded the issue of whether plaintiffs' civil RICO claims were precluded by the Civil Service Reform Act. See 107 F.3d 7 (3d Cir. 1997)(table). The court of appeals, in particular, sought an analysis by the district court of the whether the Civil Service Reform Act would preclude another statutory remedy, as opposed to a judicially-created remedy.

I wrote and submitted briefs in support of defendants' renewed motion to dismiss, focusing upon the issue of statutory construction framed by the court of appeals. Following oral argument, the district court granted defendants' motion to dismiss on April 8, 1998.

Plaintiffs appealed Judge Politan's order dismissing the case and that appeal was docketed as case number 98-6057. However, plaintiff/appellants did not pursue this, their second appeal, and the Clerk of the U.S. Court of Appeals for the Third Circuit granted their application to dismiss the appeal on October 14, 1998.

I alone handled every aspect of this case, including briefing and arguments, before the district court and court of appeals.

Plaintiff/appellants were represented by:

Thomas G. Roth
395 Pleasant Valley Way
Suite 201
West Orange, New Jersey 07052
(973) 736-9090

7. **United States v. Local 560, et al.**, U.S. District Court for the District of New Jersey, Case No. 82-689 (Hon. Harold A. Ackerman, U.S.D.J.) and U.S. Court of Appeals for the Third Circuit, Case Nos. 91-5440, 91-5441. Case citation: 974 F.2d 315 (3d Cir. 1992).

This case was instituted in 1982 and, at the time, was an unprecedented action under the civil provisions of the RICO statute against International Brotherhood of Teamsters Local 560, its Executive Board and several former officers of Local 560.

After a five-month trial in 1984, Judge Ackerman permanently barred two Local 560 officials who had previously been convicted of related predicate racketeering acts, issued an injunction temporarily removing the entire Local 560 Executive Board and imposed in its stead a judicially supervised trusteeship. A main purpose of the lawsuit was to rid Local 560 of the influence of the Genovese Crime Family.

In 1988, the United States sought additional relief with respect to one of the temporarily removed Executive Board members, Michael Sciarra. With a union election upcoming, the United States successfully persuaded the district court that Mr. Sciarra should be barred from seeking elective union office. Among the court's findings were that the Genovese Crime Family intended to maintain its control over Local 560, and that Michael Sciarra was their representative. In fact, the court held that if he were elected to office it was "highly likely that the Genovese Family, through [him], would regain control over Local 560." 694 F.Supp. 1158, 1191 (D.N.J.), aff'd, 865 F.2d 253 (3d Cir. 1988), cert. denied, 489 U.S. 1068 (1989). Nonetheless, following the election, Sciarra was named by the newly elected Executive Board to the position of business agent.

In 1990, the United States sought and received additional injunctive relief, preliminarily barring Sciarra from a position as a business agent or any other position of trust within Local 560. This application was supported by evidence that Sciarra, even as a business agent, continued to control and dominate the local union.

Later in 1990, a trial on the permanent injunction was held and the United States proved Sciarra's then-current contacts with the Genovese Crime Family. The permanent injunction prohibited Sciarra from influencing the affairs of Local 560, restricting his appearance at the Local 560 union hall and barring him from attending Local 560 functions. The district court found, regarding the breadth of the injunction, that the provisions contained therein were essential to achieve the purpose of the injunction.

I became involved in this case when Sciarra and Local 560 appealed the district court's issuance of the permanent injunctive relief against Sciarra. The appeal, among other things, involved issues regarding the First Amendment, the Labor-Management Reporting and Disclosure Act (the "LMRDA") and the scope of injunctions under RICO. I briefed each of these issues extensively.

I argued this case to the United States Court of Appeals for the Third Circuit on February 10, 1992, along with another Assistant U.S. Attorney. In particular, I argued that the compelling governmental interest in eradicating crime from Local 560 justified an abridgement of the First Amendment associational rights of the Local 560 members and that the injunction was sufficiently narrowly tailored so as not to violate the members' First Amendment rights. I also argued that the government's compelling interest justified an abridgement of the members' rights under the LMRDA. Finally, I argued that the injunction was validly issued under RICO and was both reasonable and necessary under the circumstances existing within Local 560.

On August 18, 1992, the court of appeals issued a detailed published opinion affirming the injunction against Sciarra. See 974 F.2d 315 (3d Cir. 1992).

Simultaneously, in 1991 and early in 1992, I was one of the three attorneys representing the United States in a seven day hearing before the district court to determine whether the trusteeship of Local 560 should be continued or modified. Thereafter, I was involved in negotiating an Interim Settlement Agreement and Consent Decree with the defendants entered by the court in February 1992. Finally, as Chief of the Civil Division of the U.S. Attorney's Office, I approved the Consent Decree that ended the seventeen year-long Local 560 case.

Appellant Local 560 was represented in the court of appeals by:

Samuel J. Buffone, Esq.
Ropes & Gray LLP
One Metro Center
700 12th Street, N.W.
Washington, D.C. 20005-3948
(202) 508-4600

Appellant Sciarra was represented in the court of appeals by:

Peter V. Ryan, Esq.
(current address and telephone number unknown)

My co-counsel for the United States were:

Colette R. Buchanan
Assistant U.S. Attorney
970 Broad Street, Suite 700
Newark, New Jersey 07102
(973) 645-2700

Robert C. Stewart, Esq.
Stewart Consulting
220 St. Paul Street
Westfield, New Jersey 07090
(908) 928-1100

8. **Oyebanji v. Gonzales**, U.S. Court of Appeals for the Third Circuit, Case No. 03-4143. Case citation: 418 F.3d 260 (3d Cir. 2005).

This appeal focused upon the issue of which crimes constitute a "crime of violence" pursuant to 18 U.S.C. § 16(b). The appellant in this case killed a woman while driving drunk and was convicted under New Jersey's vehicular homicide statute. Insofar as appellant was a lawful permanent resident, he was subject to removal from the United States if his offense "by its nature, involves a substantial risk that physical force against the person of property of another may be used in the course of committing the offense." Id. Appellant argued that "use" as employed in section 16(b) should be read to mean "intentionally use," thus imposing a scienter requirement in section 16(b).

I represented the appellee and argued that the plain language of section 16(b) does not contain a specific intent or scienter requirement and urged the court of appeals to reject appellant's invitation to add words to the statute when applying it. In addition, I cited over sixty examples of statutes explicitly including words such as "intentionally" or "knowingly" when using the words "use" or "used." I argued that those statues stood as strong proof that Congress knows well how to include a scienter requirement when employing the words use or used and its decision not to include words such as intentionally and knowingly in section 16(b) clearly evidenced its intent that the word "used" in section 16(b) does not include a scienter requirement.

I argued this matter before the U.S. Court of Appeals for the Third Circuit on June 18, 2004.

Subsequent to oral argument, the United States Supreme Court decided Leocal v. Ashcroft, 125 S.Ct. 377 (2004). Following the "considered dicta" of the Leocal Court, the court of appeals reversed the decision of the district court. 418 F.3d 260, 265 (3d Cir. 2005).

I researched and wrote appellee's brief by myself and I argued the case before the court of appeals.

The appellant was represented by:

Richard Coughlin
Federal Public Defender
800 Cooper Street, Suite 350
Camden, New Jersey 08102
(856) 757-5341

9. **United States, et al. v. Bierman, et al.**, U.S. District Court for the District of New Jersey, Case No. 99-2378 (Hon. Dickinson R. Debevoise, U.S.D.J.).

I successfully represented the government in this case seeking injunctive and other relief to stop a scheme that defrauded thousands of consumers through false and misleading direct mail sweepstakes promotions.

Defendants, employing various business names, sent consumers personalized "notifications" and other documents that represented the consumer was eligible for a large cash sweepstakes award which could not be released until an attached claim form -- requiring payment of a "transferal fee," "release fee" or other fee of approximately $15.00 -- was completed and returned. These notifications appeared to be official in character and many of them purported to be from or endorsed by award examiners and sweepstakes administrators. However, no award monies were ever paid by defendants.

At the time the complaint was filed, defendants were receiving approximately 3,000 responses per day and it was estimated that the defendants were receiving approximately $22,500.00 per day from unsuspecting consumers.

I represented the government throughout the investigation and civil prosecution of this case.

In an effort to stop the victimization of innocent consumers immediately, I sought (on behalf of the government) and was granted a temporary restraining order stopping defendants' mail responsive to defendants' solicitations. This order effectively halted defendants' scheme. Further, the court granted the government's application to seize two of defendants' bank accounts. Finally, the court granted the government's request for an order compelling expedited discovery from the defendants.

Judge Debevoise held a hearing on the government's application

for a preliminary injunction in August 1999. One issue dealt with at the hearing was the government's rebuttal of defendants' statement "[n]o reasonable consumer would think he had already won the prize," with letters retrieved from defendants' trash the day the case was filed, from consumers who believed they had won the cash prize.

Following the hearing, Judge Debevoise issued a preliminary injunction that continued stoppage of defendants' mail responsive to defendants' solicitations.

The defendants and the government later entered into a consent decree approved by Judge Debevoise permanently barring defendants from engaging in similar schemes, directing the Postal Service to return all letters from consumers in response to defendants' solicitations and appointing the Better Business Bureau to distribute refunds to victimized consumers.

The defendants were represented by:

Donald P. Jacobs
Budd Larner, P.C.
150 John F. Kennedy Parkway
Short Hills, NJ 07078-0999
(973) 315-4413

10. **Gamble v. Brown**, U.S. District Court for the District of New Jersey, Case No. 93-2962 (Hon. Alfred J. Lechner, U.S.D.J.) and U.S. Court of Appeals for the Third Circuit, Case No. 94-5100. Case citation: 40 F.3d 1239 (3d Cir. 1994)(table).

This was a matter wherein I represented the defendant/appellee Secretary of the Department of Veterans Affairs both at trial and before the court of appeals.

Plaintiff was a nurse at the Veterans Affairs facility in Lyons, New Jersey. One evening, while plaintiff was the designated supervisory official in the acute psychiatric ward, a patient on suicide status was apparently abused by hospital staff and suffered injuries. Plaintiff was terminated by the Department of Veterans Affairs (the "V.A.") for, among other things, abdicating her responsibilities, failing to chart the events properly, and failing to examine the patient after the events.

Plaintiff, a caucasian woman, sued the V.A. claiming she was the victim of race discrimination. At the outset of the case, defendant moved to dismiss plaintiff's case on the basis that it

was time-barred. Judge Lechner granted defendant's motion. Plaintiff's counsel appealed the dismissal to the U.S. Court of Appeals for the Third Circuit. I prepared and submitted briefs on behalf of the defendant/appellee. The court of appeals found that the statute of limitations was equitably tolled and, as a result, vacated the district court decision and remanded the case for further proceedings. See 40 F.3d 1239 (3d Cir. 1994)(table).

Following discovery, the case was tried before Judge Lechner in January 1998. Judgment was entered in favor of the defendant.

I handled every aspect of this case by myself before the district court and the court of appeals.

The plaintiff/appellant was represented by:

Mitchell Kastner
95 Smith Road, Box 5967
Somerset, New Jersey 08875
(732) 873-9555

19. 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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

I have handled an enormous variety of cases and matters, and many of these cases and matters were not tried or were not litigated extensively. For instance, I have handled cases to halt various fraud schemes and to protect the public from adulterated and misbranded drugs, devices and food. I have also handled cases employing the False Claims Act and other causes of action to recover millions of dollars for the United States. Such matters included health care fraud and procurement fraud matters.

I have handled matters involving the environment and natural resources, including matters under the Clean Water Act and the Endangered Species Act. I have also handled cases employing statutes as diverse as the Communications Act of 1934, the federal equity skimming statute, the Lanham Act, the Federal Meat Inspection Act, the Comprehensive Drug

Abuse Prevention and Control Act and the Displaced Persons Act of 1948.

I have been active in protecting the civil rights of individuals. For instance, I was appointed the New Jersey District Election Official for the Department of Justice in 2002 and served in that position until my departure from the U.S. Attorney's Office in 2004. In this capacity, and through my work (with other attorneys) in cases brought under the Voting Rights Act, I have worked to protect voting rights. I led the federal effort to monitor the controversial 2002 Newark, New Jersey election to ensure the voting rights of the citizens of that city. I have also worked with other attorneys to bring cases seeking relief under the Fair Housing Act and am currently co-lead plaintiff's counsel in a case alleging violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Constitution.

My involvement in the law is not limited to handling my own cases. I am very involved in advancing the legal profession through education. For instance, I have taught many students at Seton Hall School of Law since 1991. In addition, I have participated in at least twenty educational programs, many of which I organized and moderated. I have also made presentations to members of the public to advise them about fraud schemes.

Finally, I am involved in advancing the mission of the courts and the legal profession though my activity in various bar associations and court advisory groups. For instance, I have been active in developing proposed rules to implement electronic case filing and to develop court rules regarding sealing of documents and processing Social Security appeals. Further, I was involved in proposing protocols to the district court aimed to attract attorneys willing to handle pro bono assignments, to ensure fair distribution of such assignments and to ensure attorneys accepting pro bono assignments could be reimbursed for their expenses.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. **List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

   I participated in the Federal Employee Retirement System (FERS) and contributed to the Thrift Savings Plan during my employment with the U.S. Attorney's Office.

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

I do recognize that there may be litigation or financial arrangements related to my law practice or to my tenure at the U.S. Attorney's Office that may present a potential conflict-of-interest during my initial service as a judge, if I confirmed by the United States Senate. Again, if such a potential conflict-of-interest does arise, I will strictly adhere to the Code of Conduct for United States Judges as well as applicable statues, regulations and policies governing the federal judiciary.

3. **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.**

   No, I have no such plans, commitments, or agreements.

   I do have an interest in continuing to teach at a local law school. I will follow all rules and regulations regarding both obtaining permission to teach and accepting compensation for teaching.

4. 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, patents, 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.

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

See attached Net Worth Statement.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

No.

AO-10
Rev. 1/2004

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

Report Required by the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 101-111)

1 Person Reporting (Last name, First name, Middle initial)	2. Court or Organization	3. Date of Report
Chagares, Michael A	Third Circuit	1/25/2006
4 Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time)	5. ReportType (check appropriate type)	6. Reporting Period
Circuit Judge-Nominee	(•) Nomination. Date 1/25/2006 ( ) Initial ( ) Annual ( ) Final	1/1/2005 to 12/31/2005
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Cole, Schotz, et al. 25 Main Street Hackensack, NJ 07602	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions)

☐ NONE - (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Partner (Member)	Cole, Schotz, Meisel, Forman & Leonard
2.	Adjunct Professor	Seton Hall University School of Law
3.	Trustee	Association of the Federal Bar of the State of New Jersey
4.	Editorial Board Member	New Jersey Lawyer Newspaper
5.	Director	The Historical Society of the U.S. District Court for the District of New Jersey
6.	Trustee (& President)	Wyckoff Public Library
7.	Trustee (& President)	West Bergen Mental Healthcare (until 6/2004)
8.	Trustee (&Vice President)	Torpedoes Soccer Club

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions)

☑ NONE - (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Chagares, Michael A	1/25/2006

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp 17-24 of filing instructions)

A. Filer's Non-Investment Income

☐ NONE - (No reportable non-investment income.)

	DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
1.	2006	Cole , Schotz, Meisel, Forman & Leonard, P.A.	$10,000
2.	2005	Cole, Schotz, Meisel, Forman & Leonard, P.A.	$230,252.16
3.	2005	Seton Hall University School of Law	$2,000
4.	2004	Cole, Schotz, Meisel, Forman & Leonard, P.A.	$51,832.48
5.	2004	Seton Hall University School of Law	$2,000

B. Spouse's Non-Investment Income - (If you were married during any portion of the reporting year, please complete this section. Dollar amount not required except for honoraria.)

☑ NONE - (No reportable non-investment income.)

	DATE	SOURCE AND TYPE
1.		

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children. See pp. 25-27 of instructions.)

☐ NONE - (No such reportable reimbursements.)

	SOURCE	DESCRIPTION
1.		Exempt

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Chagares, Michael A	1/25/2006

V. GIFTS. (Includes those to spouse and dependent children. See pp. 28-31 of instructions.)

☐ NONE - (No such reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1.		Exempt	

VI. LIABILITIES. (Includes those of spouse and dependent children. See pp. 32-34 of instructions.)

☑ NONE - (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.			

FINANCIAL DISCLOSURE REPORT
Page 1 of 1

Name of Person Reporting	Date of Report
Chagares, Michael A	1/25/2006

VII. INVESTMENTS and TRUSTS -- income, value, transactions (includes those of the spouse and dependent children. See pp 34-57 of filing instructions)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A -H)	B. (2) Type (e g div. rent. or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	C. (2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g. buy, sell, merger, redemption)	If not exempt from disclosure (2) Date: Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
☐ NONE (No reportable income, assets, or transactions)									
1. Fidelity Cash Reserves	A	Dividend	K	T	Exempt				
2. Commerce Bank (checking acct.)	A	Interest	K	T					
3. Dreyfus Money Market	A	Dividend	K	T					
4. Fidelity IRA		None	J	T					
5. Fidelity Cash Reserves	A	Dividend	K	T					
6. Washington Mutual (escrow Acct.)	A	Interest	J	T					
7. Exxon Mobil Stock	A	Dividend	K	T					
8. Thrift Savings	C	Dividend	M	T					
9 William Penn Life Ins	A	Interest	J	T					
10. American General Life Ins.	A	Interest	J	T					
11. Smith Barney (brokerage acct)	A	Interest	K	T					
12.									

1. Income/Gain Codes: (See Columns B1 and D4)	A = $1,000 or less	B = $1,001-$2,500	C = $2,501-$5,000	D = $5,001-$15,000	E = $15,001-$50,000	
	F = $50,001-$100,000	G = $100,001-$1,000,000	H1 = $1,000,001-$5,000,000	H2 = More than $5,000,000		
2. Value Codes. (See Columns C1 and D3)	J = $15,000 or less	K = $15,001-$50,000	L = $50,001-$100,000	M = $100,001-$250,000		
	N = $250,000-$500,000	O = $500,001-$1,000,000	P1 = $1,000,001-$5,000,000	P2 = $5,000,001-$25,000,000		
	P3 = $25,000,001-$50,000,000		P4 = $More than $50,000,000			
3. Value Method Codes (See Column C2)	Q = Appraisal	R = Cost (Real Estate Only)	S = Assessment	T = Cash/Market		
	U = Book Value	V = Other	W = Estimated			

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Chagares, Michael A	1/25/2006

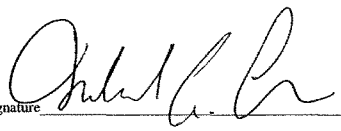
VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Chagares, Michael A	1/25/2006

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature  Date 1/25/06

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		32	448	Notes payable to banks-secured			
U.S. Government securities-add schedule				Notes payable to banks-unsecured			
Listed securities-add schedule		19	337	Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule		186	893
Real estate owned-add schedule		780	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		61	975				
Cash value-life insurance		14	141				
Other assets itemize:							
TSP Contributions		98	574				
Fidelity Cash Reserves Acct.		37	213				
Dreyfus Money Market Acct.		38	574	Total liabilities		186	893
3 Other Assets – see schedule		31	278	Net Worth		926	647
Total Assets	1	113	540	Total liabilities and net worth	1	113	540
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Exxon Mobil	$ 19,337
Real Estate Owned	
Personal residence	$ 780,000
Additional Assets Listed	
Fidelity IRA	$ 10, 573
Smith Barney (brokerage acct.)	16, 216
Escrow Balance on Mortgage	4,489
Total Additional Assets	$ 31,278
Real Estate Mortgages Payable	
Personal residence	$ 186,893

III. GENERAL (PUBLIC)

1. 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.

I have been very concerned about the provision of legal representation to the disadvantaged. Early in my career as a young associate attorney, I represented several pro bono clients in various matters. I was barred by regulation, however, from taking on pro bono representations while I was at the U.S. Attorney's Office for the District of New Jersey. Nonetheless, I was very involved in promoting the concept of pro bono representation.

For instance, with the endorsement of the U.S. District Court, I planned and acted as a moderator/speaker for a seminar titled: "Federal Civil Pro Bono Educational Program." The purpose of the program was to encourage attorneys to undertake pro bono assignments and to educate them regarding several substantive areas where pro bono assignments are common. I enlisted expert attorneys in the areas of civil rights litigation, immigration and social security appeals to speak at the program. I also gathered a notebook of helpful materials and forms for the attendees. I planned and spoke at a later, similarly named seminar as well.

I have served as the Chair of the U.S. District Court Lawyers' Advisory Committee's subcommittee on the court's pro bono program (the "pro bono subcommittee"). The pro bono subcommittee studied issues relating to pro bono assignments by the court and made specific recommendations designed to attract attorneys willing to handle pro bono matters and to ensure a fair distribution of such assignments. These recommendations were adopted by the court.

I also served as the Chair of the U.S. District Court Lawyers' Advisory Committee's subcommittee on reimbursement of pro bono attorneys. This subcommittee studied ways to reimburse attorneys taking on pro bono assignments for their expenses (such as for expert witness fees). The inability to so reimburse

attorneys, unfortunately, acts as a disincentive to attorneys who might otherwise accept such assignments. The subcommittee concluded, among other things, that if the court were to charge pro hac vice admittees a fee, that money could be employed to reimburse attorneys in pro bono matters. The court adopted the subcommittee's recommendation.

I have continued my strong interest in promoting pro bono representation since joining my current law firm. I am a charter member of my firm's pro bono committee. My firm has adopted our committee's draft policy encouraging our attorneys to undertake pro bono activities and stating that time billed to pro bono files will be treated as billable hours for evaluation purposes. Further, I have personally contacted several entities seeking pro bono work for distribution to attorneys at my firm. Finally, despite the fact that I have been establishing my practice over the past year, I have worked over 40 hours on pro bono matters. These matters have included work for an HIV positive inmate who was denied proper medical care and a minor who was the victim of a sexual assault while institutionalized.

Finally, I have spent a substantial amount of my time assisting charitable organizations (e.g., West Bergen Mental Healthcare) and engaging in efforts to improve the law, legal system and legal profession (e.g., Association of the Federal Bar, Lawyers' Advisory Committee for the U.S. District Court for the District of New Jersey).

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

I do not now and have never belonged to an organization that discriminates on the basis of race, sex or religion.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process,

from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

I am not aware of a selection commission regarding my nomination.

Regarding my experience in the judicial selection process, I was telephoned by White House Counsel's Office on May 18, 2005, to schedule an interview regarding the vacancy on the United States Court of Appeals for the Third Circuit. I was interviewed at the White House on May 25, 2005, by representatives of the White House Counsel's Office and Department of Justice. On June 28, 2005, I met with New Jersey Senators Corzine and Lautenberg in Senator Lautenberg's Washington office. On September 21, 2005, I received a call from White House Counsel's Office that the President had decided to move forward with me regarding the vacancy on the Court of Appeals for the Third Circuit. On January 25, 2006, President Bush nominated me to be a judge on the Court of Appeals for the Third Circuit.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped-many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;

b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;

c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;

d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and

e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

The federal judiciary has a limited role in our Constitutional system. As a threshold matter, federal judges must always remember that the jurisdiction of the federal courts is limited and must be assured that the court has jurisdiction of a case before proceeding to consider the substantive issues in the case.

Federal judges must decide only the issues properly before them and should scrupulously avoid usurping the roles of the other branches of government with their decisions.

Federal judges must be committed to the rule of law and must adhere to and apply the law and precedent. They should not permit their personal beliefs or points of view to corrupt their decisionmaking in the cases before them.

Not only does the Constitution mandate a restrained role for the judiciary, but also this restrained role is essential to promote uniformity and predictability in our legal system.

AFFIDAVIT

I, Michael A. Chagares, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

February 3, 2006 (DATE)

(NAME)

(NOTARY)

DIANE ROLFS
A Notary Public of New Jersey
My Commission Expires August 19, 2006