

**APPLICATION OF JOHN J. MURPHY, III
FOR NOMINATION TO THE
FOURTH DISTRICT COURT OF APPEAL**



**APPLICATION FOR NOMINATION TO THE 4th DISTRICT
COURT**

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

DATE: November 16, 2012 Florida Bar No.: 0230707

GENERAL: Social Security No.: [REDACTED]

1. Name John J. Murphy, III E-mail: jjmurphy@17th.flcourts.org

Date Admitted to Practice in Florida: 5-31-1977

Date Admitted to Practice in other States: New York 1989

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

State of Florida Circuit Court Judge 17th Judicial Circuit

3. Business address: 201 SE 6th Street, Room 930-B

City Fort Lauderdale County Broward State FL ZIP 33301

Telephone (954-) 831-1648 FAX (N/A) -

4. Residential address: [REDACTED]

Since March 2010 Telephone [REDACTED]

5. Place of birth: Brooklyn, New York

Date of birth: [REDACTED] Age: 59

6a. Length of residence in State of Florida: Resident since 1962

6b. Are you a registered voter? ☒ Yes ☐ No

If so, in what county are you registered? Broward

7. Marital status: Married

If married: Spouse's name
Date of marriage
Spouse's occupation

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

N/A

8. Children

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

9. Military Service (including Reserves)

Service *Branch* *Highest Rank* *Dates*

N/A

Rank at time of discharge Type of discharge

Awards or citations

HEALTH:

10.

11a.

11b.

12a.

12b.

13.

14.

15.

16.

17.

EDUCATION:

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

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
Stetson College of Law	41/83	1974-1976	JD
Villanova University	74/364	1970-1974	BS

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

None

NON-LEGAL EMPLOYMENT:

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

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
None			

PROFESSIONAL ADMISSIONS:

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

<i>Court or Administrative Body</i>	<i>Date of Admission</i>
Florida Bar	1977
New York	1989
U.S. District Court (Southern Dt.)	1978

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

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

<i>Position</i>	<i>Name of Firm</i>	<i>Address</i>	<i>Dates</i>
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SEE ATTACHED
ADDENDUM FOR
QUESTION #21

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

Before I became a judge, I was a practicing attorney from 1978 until 2002 (24 years). During my first year out of law school, I was an Assistant State Attorney. Thereafter and for thirteen of the next twenty-three years, I worked my way from associate to name and equity partner. We represented a wide variety of clients. The firm's largest client was a federally chartered savings and loan association. This S&L called upon us to represent it in real estate closings and in mortgage foreclosures, both commercial and residential. During this period of time I also represented a state wide general contractor and its various bonding companies. As this general contractor grew into one of the largest in the State, I was named its general counsel. I litigated cases where its subcontractors had breached their subcontract, typically by failing to perform the work in a timely or workmanlike manner and/or failing to pay its subcontractors and/or suppliers.

Occasionally we were called upon to represent our client in disputes with the owner/developer. Since the projects were all bonded, I also defended its various bonding companies. One of the bonding companies retained me to represent it in other matters where other general contractors had defaulted and abandoned various projects. I instituted suit on behalf of the bonding company and against the defaulting general contractors and defended claims made by subcontractors and suppliers against its bond as a result of the general contractors' default.

For ten of those years in two separate segments, I had my own private practice. During this period of time the general contractor remained my largest client; but I still needed to develop my practice. That meant I was not only practicing in many new areas of law such as divorce, custody, drafting wills, litigating probate matters, and representing buyers and sellers of real estate, I was also running my practice. I was responsible for the day to day management of my law practice. I took on clients in new and diverse areas of the law. This was a new challenge. I had to find clients, practice law effectively by winning cases and advise and counsel clients in a variety of legal matters. I understand and am sympathetic to the problems which confront lawyers in their daily practice.

The following is a sampling of some clients I represented. In one case, I represented a young girl who had given her child up for adoption; but she had second thoughts and sought to vitiate her consent to the adoption. With the blessing of her family, I instituted suit to nullify the adoption and was successful in keeping mother and child together. In another case, I represented a client which owned and operated Gepetto's Tale 'O the Whale restaurant. Prior to my involvement, Gepetto's had borrowed \$100,000.00 from Landmark First National Bank and later defaulted. Landmark obtained possession of the collateral pursuant to a prejudgment writ of replevin, thereafter obtained a final summary judgment and then conducted a private sale of the security without notice to the borrower and guarantor. This is the point at which I became involved in the litigation. I filed a petition in the trial court for declaratory relief and set off. The petition was denied. Then I filed my first appeal. The 4th District Court of Appeal reversed the trial court. The case was again appealed to the Supreme Court of Florida, which accepted jurisdiction, quashed the decision of the 4th District Court of Appeal and remanded with instructions for the trial court to conduct an evidentiary hearing to determine my client's damages. On my first foray into the world of appeals, I found myself representing a client before the Supreme Court of Florida. In another case I represented a lender in a twenty million dollar (\$20,000,000.00) construction loan on leased premises at the Hollywood-Fort Lauderdale International Airport. After being engaged in the practice of law for 24 years, handling these and a wide variety of other legal matters, I felt prepared for the opportunity and challenges in the next phase of my career on the trial bench.

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

Court		Area of Practice	
Federal Appellate	<u>0</u> %	Civil	<u>55</u> %
Federal Trial	'98-'02- <u>2</u> %	Criminal	<u>0</u> %
Federal Other	<u>0</u> %	Family	<u>5</u> %

State Appellate	<u>'98-'02-</u> <u>2</u> %	Probate	<u>15</u> %
State Trial	<u>'98-'02-</u> <u>44</u> %	Other	<u>25</u> %
State Administrative	<u>'98-'02-</u> <u>2</u> %		
State Other	<u>'98-'02-</u> <u>50</u> %		
	<u> </u> %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

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

Jury? 25 Non-jury? 100
 Arbitration? 1 Administrative Bodies? 5

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

No

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

No

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

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

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

- 27c. During the last five years, how frequently have you appeared at administrative hearings?
 average times per month

- 27d. During the last five years, how frequently have you appeared in Court?
 _____ average times per month
- 27e. During the last five years, if your practice was substantially personal injury, what percentage of your work was in representation of plaintiffs? _____%
 Defendants? _____%
28. If during any prior period you have appeared in court with greater frequency than during the last five years, indicate the period during which this was so and give for such prior periods a succinct statement of the part you played in the litigation, numbers of cases and whether jury or non-jury.
29. For the cases you have tried to award in arbitration, during each of the past five years, indicate whether you were sole, associate or chief counsel. Give citations of any reported cases.
30. List and describe the six most significant cases which you personally litigated giving case style, number and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant. Give the name of the court and judge, the date tried and names of other attorneys involved.
31. Attach at least one example of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach writing for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

I believe I wrote the writing samples in their entirety.

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:

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

Yes, I am currently a Circuit Court Judge in and for the 17th Judicial Circuit of Florida.

I have served on the circuit bench continuously from January 2003 until the present.

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

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
N/A		

Types of issues heard:

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

No

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

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

David Alan Frankel, Esq. 1316 SW 18th Street Fort Lauderdale, FL 33315
(954) 557-2244

Gordon James, III, Esq. Sedgwick, LLP 2400 E. Commercial Blvd., Ste. 1100
Fort Lauderdale, FL 33308 (954) 958-2500

Kenneth J. Reilly, Esq. Shook, Hardy, Bacon, LLP 201 S. Biscayne Blvd. Ste.
2400 Miami, FL 33131 (305) 358-5171

Juan Pablo Bauta, II, Esq. The Ferraro Law Firm 4000 Ponce de Leon Blvd., Ste.
700 Miami, FL 33146 (305) 375-0111

Deborah Zimet, Esq. ASA Broward County State Attorneys Office 201 SE 6th
Street, 6th Floor, Fort Lauderdale, FL 33301 (954) 831-7923

Maria M. Schneider, Esq. ASA Broward County State Attorneys Office 201 SE 6th
Street, 6th Floor Fort Lauderdale, FL 33301 (954) 831-6971

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

From January 2003 through February 2010, I was assigned to Circuit Criminal Division FP. During my seven years in the criminal division, I presided over all types of criminal cases. The cases ran the gamut from 3rd degree felonies such as possession of cocaine and driving under the influence up to and including 1st degree murder. I have presided over thousands of hearings including: first appearances, arraignments, suppression motions, speedy trial discharge motions, competency, motion to permit Williams rule testimony, probation violations, trials and sentencings. On average, I presided over 30 to 40 jury trials per year. I am death qualified and have presided over two death penalty cases to verdicts in both phases. I presided over multiple 1st degree murder trials in which two juries were impaneled in each trial, one for each defendant, because of a Bruton issue. (One defendant had implicated his co-defendant in his confession. Two juries were required because the confession could only be introduced against one of the co-defendants and only presented to his jury.) I have presided over jury trials in which the defendants were charged with armed robbery, sexual battery, child sexual battery, armed burglary and trafficking. In one case, the defendant filed a Motion to Dismiss on grounds of immunity under the "Stand Your Ground Law". This was the first "Stand Your Ground" case in the Fourth District. The case presented major challenges for me to interpret a controversial law that ended a common law doctrine that stood for hundreds of years. I had to not only hear the Motion to Dismiss but I also had to determine how to conduct the hearing without

precedential opinions from the Fourth District guiding me. The resolution of criminal cases has life altering consequences for defendants, victims and their families. Each case is different. All cases have their own unique challenges.

From February 2010 until the present, I have been assigned to Circuit Civil Division (21). In July of this year I was also assigned Asbestos Civil Division (27). I currently preside over both divisions. I have presided over thousands of hearings including motions to dismiss, change of venue, compel discovery, limit discovery, summary judgment, declaratory judgment, injunctions and trial. On average I dispose of 100 to 125 cases per month in division (21) and 20 to 30 cases per month in division (27). I am currently presiding over 10 to 15 jury trials per year and 10 to 15 non-jury trials per year. I have presided over 3 of the Engle progeny cases and an asbestos litigation.

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

SEE ATTACHED ADDENDUM FOR QUESTION #32 d (iii)

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

- 1.) Andrew Nelson, Petitioner v. State of Florida, Respondent

993 So. 2d 1072 (Fla. 4th DCA 2008)

State of Florida, Petitioner v. Andrew Nelson, Respondent

993 So. 2d 1072 (Fla. 2010)

I chose this case as one of the most significant cases I have ever been involved with because it was a case of first impression determining the effect of a post expiration defense continuance on the procedural provisions of the speedy trial rule. This case resolved an important criminal law concept that had been ambiguous for a long time; and it left an indelible mark on me as a judge, which is the rest of the story. The case involves Andrew Nelson who as a juvenile was arrested for armed burglary and carrying a concealed weapon. Both the 90-day juvenile and 175-day adult speedy trial period commenced on the date of his arrest. Prior to the expiration of either speedy trial period, the State filed a petition for delinquency. Shortly before the speedy trial period expired, the juvenile court commenced an adjudicatory hearing. At the commencement of this hearing, a defense continuance was requested and granted. The case proceeded without resolution or completion of an adjudicatory hearing. After the adult speedy trial had expired, the State direct filed an Information charging Mr. Nelson as an adult with armed burglary of a dwelling and numerous counts of grand theft. The case was removed to adult felony court and I was assigned the case. Mr. Nelson moved for discharge on speedy trial grounds. The motion was heard and denied. The denial of the motion to discharge was the subject of an appeal to the 4th DCA, which reversed and remanded with instructions to discharge Mr. Nelson. Accordingly, Mr. Nelson was discharged and released from custody. The matter was subsequently appealed to the Supreme Court of Florida which again reversed, quashed the decision of the 4th DCA and remanded the case for trial. In the time after I was reversed and before the Supreme Court ultimately affirmed

my decision, Mr. Nelson having been set free by the decision of the Fourth District, murdered his father. Mr. Nelson currently remains in the county jail awaiting trial on the charge of 1st degree murder. What I learned from this was that all judges, even when they do their best, are human and can make mistakes that can lead to disastrous consequences. It reinforced in me a dedication to do all I can to get it right.

Gabriela Novo, Esq. 200 SE 6th Street #200 Fort Lauderdale, FL 33301 (954) 523-7949 represented the State of Florida.

Lorena V. Mastrarrigo, APD Public Defenders Office 201 SE 6th Street, Room 3881 Fort Lauderdale, FL 33301 (954) 831-8541 represented Defendant Andrew Nelson.

The case was heard November 7, 2008.

- 2.) William Telli, an individual, Plaintiff v. Dr. Brenda C. Snipes, in her official capacity as Supervisor of Elections for Broward County, Florida, Ken Detzner, as the Florida Secretary of State and the Elections Canvassing Commission, Defendants Case No.: CACE12-20729 (21)

37 Fla. L. Weekly D2532b

I have chosen this case as significant because the main import of democracy is the right as well as the responsibility of the people to vote. There is no small issue in politics; voting assures the people participation in their government by naming their political representatives. In this case plaintiff, William Telli, filed suit seeking to "open" the Democratic Party's primary election for Broward County Commissioner. The Florida Election Code generally provides for "closed" primary elections - that is, elections in which only registered members of a political party may participate in the nomination of that party's candidate for the general election ballot. The actual election of candidates to office occurs at the general election, in which all duly-registered electors may vote regardless of their party registration. In 1998, the Florida Constitution was amended to require "open" primary elections. In any contest in which all candidates for an office have the same party affiliation and the winner will have no opposition in the general election, the Florida Constitution provides that the primary election for that office be open to all qualified electors, regardless of party affiliation. During the candidate-qualifying period held between June 4 and June 8, 2012, five candidates qualified to seek election to the office of Broward County Commissioner for District 7 by filing legally-sufficient qualifying papers with the Broward County Supervisor of Elections. Three of these candidates filed qualifying papers to seek the primary nomination of the Democratic Party. Two candidates filed qualifying papers as write-in candidates. Mr. Telli argued that the Florida Constitution provides that "Plaintiff, and all registered voters residing in Broward County District 7, ha[ve] the right to vote in the 2012 Democratic Primary for the office of Broward County Commissioner... notwithstanding any contrary provision of Florida law." Specifically, Mr. Telli asked this court to determine whether duly-qualified write-in candidates that are not actively campaigning for election and whose names will not appear on the ballot are "opposition" as the term is used in the Constitution. Defendants argued that because the Broward Commissioner's contest includes candidates of different party affiliations, and because the winner of the Democratic

Party's primary in this contest would be faced in general election by both write-in candidates, the write-in candidates are "opposition" and therefore, the Florida Constitution does not call for the primary elections to be open to all qualified electors. This Court agreed and therefore the Democratic primary for the Broward County Commissioner race remained closed. The Fourth District recently affirmed my decision. Here, the law is clear and unambiguous. It is not the function of the judiciary to indulge its personal beliefs as to the viability of any duly qualified candidate, who is and is not meaningful opposition. Instead I was compelled to interpret the law as legislated. The decision as to the viability of each candidate is reserved to the electorate not the courts.

William R. Scherer, Esq., Daniel Weinger, Esq. and Eric Rayman of Conrad & Scherer, LLP P.O. Box 14723 Fort Lauderdale, FL 33302 (954) 462-5500 represented Plaintiff William Telli

Burnadette Norris-Weeks, Esq. Law Office of Burnadette Norris-Weeks, P.A. 401 NW 7th Avenue Fort Lauderdale, FL 33311 (954) 768-9770 represented Dr. Brenda C. Snipes Supervisor of Elections of Broward County, Florida

Daniel E. Nordby, General Counsel and Ashley E. Davis, Assistant General Counsel Florida Department of State 500 S. Bronough Street Tallahassee, FL 32399 (850) 245-6536 represented Florida Secretary of State and Florida Elections Canvassing Commission.

The case was heard August 3, 2012.

3.) State of Florida vs. Andre Hall

25 So. 3d. 569 (Fla. 4th DCA 2009)

I chose this case because it is a classic example of everything bad that can happen in a criminal case. This defendant was intent upon delay, to thwart and frustrate our criminal justice system. The facts presented as follows, at 11:40 PM on April 24, 1999 a witness driving under a bridge at West Sunrise Boulevard and I-95 observed a vehicle in the sand off the roadway. The vehicle's trunk was ajar. Upon closer inspection a body was observed in the trunk. Police were summoned and the body of Dwight Brown was found. The trail of evidence led police investigators to Andre Hall who was then housed at the county jail awaiting trial on the murder of Mr. Bowen. Mr. Brown, the current victim, was also implicated in the murder of Mr. Bowen. Eventually it was uncovered Mr. Hall beat, bound and shot Mr. Brown, his accomplice in the Bowen murder, while he lay in the trunk of his vehicle begging for his life. The stakes couldn't have been any higher as the State sought imposition of the death penalty. The case dragged on slowly. In serial fashion, prominent attorneys were appointed to represent Defendant, but withdrew. After four years of dilatory tactics, the Judge assigned to the case recused himself and it was assigned to me. At this time, Mr. Hall was pro se. The case was set for trial; Defendant again requested counsel and counsel was again appointed. As the trial approached, counsel advised he had received phone calls, from unknown persons, stating he would be killed if this case proceeded to trial. Prior counsel had withdrawn because of alleged threats from Mr. Hall. Challenged, Mr. Hall denied he had any involvement in making these threats against his current counsel. His counsel fearing for his life began carrying a

firearm for self-protection. The trial commenced, jurors were selected and witnesses were called to testify. Unwittingly and during trial, counsel was arrested for carrying a concealed firearm into the courthouse. A mistrial was required and new counsel was again appointed. Prior to the next trial, Defendant attempted an escape. He was seriously injured in the escape attempt and almost bled to death. Eventually the case did proceed to trial. Precautions were implemented which assured not only Defendant a fair trial but also a safe trial for all concerned. Both the guilt phase and penalty phase were tried to verdict. This case presented many challenges. These two murders were intertwined. Mr. Brown, the victim of the second murder, was Mr. Hall's accomplice to the first murder, that of Mr. Bowen. The same firearm was used in both murders; but only discovered as a result of the investigation into the Bowen murder. The firearm was discarded in the intercoastal waterway by Mr. Hall's girlfriend while he was in custody on the Bowen murder. When police first interviewed Mr. Hall on the Brown murder he was already in custody on the Bowen murder and he implicated himself in both murders. Evidence overlapped and required careful analysis as to which evidence could be admitted at trial and which evidence required exclusion. The case is significant to me personally not only because all death cases are different but because of the difficulties this Defendant presented. I learned some of the attributes of a good judge are temperament, patience and perseverance.

Brian Thomas Cavanagh, ASA Broward County State Attorney's Office 201 SE 6th Street, Ft. Lauderdale, FL 33301 (954) 831-7923 represented the State of Florida.

James Stewart Lewis, Jr., Esq. 200 SE 6th Street, Suite 200 Ft. Lauderdale, FL 33301 (954) 523-7949 represented Defendant Andre Hall in the guilt phase.

Mitchell Polay, Esq. 224 SE 9th Street, Ft. Lauderdale, FL 33316 (954) 763-4664 represented Defendant Andre Hall in the penalty phase.

The case was tried commencing January 28, 2008 and continued through February 7, 2008.

- 4.) Complex Litigation Unit case #08-80000 (19) pertains to Marvin Calloway case # 08-021770, Marvin Calloway, as Personal Representative of Johnnie Calloway v. Phillip Morris, USA, RJ Reynolds Tobacco Company, Lorillard Tobacco Company and Liggett Group, LLC.

I chose this case because tobacco litigation is the most complicated type of case I have presided over. This civil case involved a wrongful death action filed by the surviving spouse of a deceased smoker against four cigarette manufacturers. It is one of the so-called Engle Progeny cases. Mrs. Calloway claimed that her deceased husband was a member of the former Engle class. The complaint included counts for negligence, strict liability, fraudulent concealment and conspiracy to conceal. Mrs. Calloway also sought punitive damages. Defendants denied the allegations and maintained Mr. Calloway was not addicted to cigarettes and if addicted his addiction was not a legal cause of his death. Instead, Defendants contended that Mr. Calloway was not sufficiently motivated to quit smoking, he was well informed about the health effects and addictive nature of cigarettes and he chose to smoke. The case is significant because tobacco litigation requires a substantial amount of scarce judicial resources. There are numerous and complicated motions which require time and attention. Voir Dire is

long and tedious. Jurors have strong feelings about cigarettes, tobacco manufacturers and plaintiffs' filing lawsuits years after the smoker died. The trial was trifurcated. The first phase asked the jury to determine if Mr. Calloway was a member of the Engle class. The second phase required Mrs. Calloway to prove causation and damages. The third phase the jury was asked to consider an award of punitive damages. The trial consisted of three phases requiring three opening statements, three closings statement, three sets of jury instructions and three verdicts. Evidence from one phase overlapped and bled into next phase. The preliminary motions were complex and numerous. The parties are represented by teams of outstanding lawyers who are well funded. Well-respected experts provide conflicting testimony. The lawyers on both sides have compelling legal arguments. The damages sought are significant. The trial was lengthy, requiring several weeks. I learned about my ability to handle a very complex case with great lawyers.

Jonathan R. Gdanski, Esq. Scott Schlesinger, Esq., Steven Hammer, Esq. and Crane Johnstone, Esq. Schlesinger Law Firm 1212 SE 3rd Avenue Fort Lauderdale, FL 33316 (954) 320-9507 represented Plaintiff.

Ben Reed, Esq., and Amy Hurvitz, Esq. Carlton Fields, PA 100 SE 2nd Street, Ste. 4200 Miami, FL 33131 (305) 530-0050 represented RJ Reynolds Tobacco Company.

Thomas M. Sherhouse, Esq. Shook Hardy & Bacon, PA 201 S. Biscayne Blvd. Ste. 2400 Miami, FL 33131 (305) 358-5171 and Kathleen Gallagher, Esq. (via pro hac vice) 1221 McKinney Street, Ste. 4500 Houston, TX 77010 (713) 951-3700 represented Phillip Morris, USA.

Ann Marie St. Peter-Griffith, Esq. Kasowitz, Benson, Torres & Friedman, LLP 1441 Brickell Ave. Ste. 1420 Miami, FL 33313 (786) 587-1054 represented Liggett Group, LLC.

Elliott Pedrosa, Esq. Greenberg Traurig, PA 333 Avenue of the Americas, Ste. 44 Miami, FL 33131 (305) 579-0743 represented Lorillard Tobacco Company.

The case was tried commencing April 10, 2012 and continued through May 31, 2012.

- 5.) Charles B. Garrison and Cynthia Garrison, his wife v. Georgia Pacific, LLC, et al case #2010-12353 (08).

I chose this case because it was a complicated products liability action. This action was brought by the Garrisons against Defendant Union Carbide Corporation. Plaintiffs alleged that Charles Garrison's mesothelioma, a cancer of the lining of the lungs, was caused by his inhalation of airborne asbestos fibers from products manufactured by Georgia Pacific, LLC containing asbestos sold and or supplied by Union Carbide Corporation. Plaintiffs allege that Union Carbide Corporation was negligent by failing to adequately warn Georgia Pacific and or Charles Garrison of the health hazards associated with the inhalation of asbestos fibers from Georgia Pacific drywall compound products. Plaintiff's also allege strict liability because the asbestos sold was defective and unreasonably dangerous. Union Carbide Corporation denied Plaintiffs allegations of negligence, strict liability, causation and damages. Union Carbide Corporation denied that it

negligently failed to warn Georgia Pacific and or Charles Garrsion of the alleged dangers associated with asbestos. Union Carbide Corporation further denied that the drywall joint compound products were defective or unreasonably dangerous. The case was significant because the parties are represented by teams of outstanding lawyers who are well-funded. Well-respected experts provided conflicting testimony. The trial was scheduled around Charles B. Garrisons chemotherapy treatments. The effect of the mesothelioma and chemotherapy to the Charles Garrison was life altering. The damages he sustained were substantial. The issues presented were complicated and required thorough analysis.

Juan Pablo Bauta, Esq. of the Ferraro Law Firm 4400 Ponce de Leon Blvd., Ste. 700 Miami, FL 33146 (305) 375-0111 represented the Plaintiffs.

Michael G. Terry, Esq. (via pro hac vice), Hartline Dacus Barger Dreyer, LLP 800 N. Shoreline Blvd., Ste. 2000-N Corpus Christy, TX 78401 (361) 866-8080, Colin K. Kelly, Esq. (via pro hac vice) Alston & Bird, LLP 1201 West Peachtree Street NW, Ste. 4200 Atlanta, GA 30309 (404) 881-7670 and Bruce Bishop, Esq. (via pro hac vice) Willcox & Savage, P.C. 440 Monticello Ave. Norfolk, VA 23510 (757) 628-5573 represented Defendant Union Carbide Corporation.

The case was tried commencing September 1, 2011 and continued through September 16, 2011.

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

No

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

No

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

N/A

BUSINESS INVOLVEMENT:

- 33a. If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

No

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

Yes, I was an adjunct professor at Broward Community College in 2004-2005. As an adjunct professor at BCC, I taught business law. I was also an adjunct professor at Florida International University in 2007-2008. As an adjunct professor at FIU, I taught

criminal law and procedure.

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

None other than above. In 2007 I was paid \$1,210.63 as an adjunct professor at FIU. In 2008 I was paid \$3,955.78 as an adjunct professor at FIU.

POSSIBLE BIAS OR PREJUDICE:

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

No, there are not any types of cases, groups, entities, extended relationships, or associations which would limit me sitting as a presiding judge.

There is no type or classification of cases or litigants for which I as a general proposition believe it would be difficult for me to sit as a presiding judge.

In my ten years on the bench I have recused myself on a small number of occasions upon receipt of a legally sufficient motion to recuse. I cannot recall specifics. I did also recuse myself on a number of occasions (between five and ten cases I believe) on a series of Hurricane Wilma cases handled by the same attorney who I felt was unethical and possibly acting criminally and accordingly, after reporting him to the Bar and the State Attorney's office, recused myself on my own motion.

Disclosure of possible bias is imperative but does not always require recusal. I presided over a criminal trial where the defendant was convicted of Attempted Murder with a Firearm. At sentencing, his 13 year old daughter testified on his behalf. Within two years the daughter, then 15 years of age was charged with 2nd Degree Murder of her classmate, on school grounds at Dillard High School. Although I disclosed my experience with defendant and her family and offered to recuse myself, both sides requested I remain the trial judge.

MISCELLANEOUS:

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

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

Where convicted? _____ Date of Conviction: _____

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

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

Where convicted? _____ Date of Conviction: _____

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

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

Where convicted? _____ Date of Conviction: _____

36a. Have you ever been sued by a client? If so, give particulars including name of client, date suit filed, court, case number and disposition.

No

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

No

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

No

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

No

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

No

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

Yes, 17th Judicial Circuit, Broward County

John Murphy v. Travelers Indemnity Company COCE 11-003264 (56)

I sued my insurer for failing to fully satisfy a claim on my automobile insurance policy. Once the suit was filed the insurer paid the balance of the claim in full, together with interest, costs and attorneys fees.

A Voluntary Dismissal With Prejudice was entered 5/24/11

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

No

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

No

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

No

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

No

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

Yes ☒ No ☐ If no, please explain. _____

- 43b. Have you ever paid a tax penalty?

Yes ☐ No ☒ If yes, please explain what and why. _____

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

No

HONORS AND PUBLICATIONS:

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

N/A

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

Judge of the Year awarded by MADD Broward County 2004.

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

Broward Sheriff's Office Boot Camp Graduation, keynote speaker 11/07/2003

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

PROFESSIONAL AND OTHER ACTIVITIES:

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

Broward County Bar Association

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

Kiwanis Club Hollywood-Sunrise 1978-1985

Kiwanis Club Hollywood-Sunrise Vice President 1983-1984

Kiwanis Club President Hollywood-Sunrise 1984-1985

During my tenure as an officer of this club, we performed numerous community service activities, including and most notably the development and construction of Kiwanis Park in Hollywood, Florida.

- 48c. List your hobbies or other vocational interests.

Golf

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

No

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

Prior to January 2003, I accepted cases from and made financial contributions to Broward Lawyers Care. Broward Lawyers Care is a pro bono project of the Legal Aid Service of Broward County, Florida. I also performed pro bono services on my own. Two cases I specifically recall dealt with guardianships. In one, I prepared a will for a dying woman while in the hospital. Her son and sole heir suffered from Down's Syndrome. I administered her estate, filed the guardianship and continued to prepare the annual accountings and attended all guardianship hearings until I became a judge. In the second, I was contacted by a mother who received a settlement from a medical malpractice case. Because of problems with the delivery, her child was brain damaged and severely developmentally challenged. At 13 years of age the child could neither walk nor talk and possessed limited cognitive ability. I filed the annual accountings and attended all guardianship hearings until I became a judge.

SUPPLEMENTAL INFORMATION:

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

Yes, I have attended numerous education programs during the last five years. I have

attended the Florida College of Advanced Judicial Studies and the annual education program of the Florida Conference of Circuit Judges. During the last three years, I exclusively attended the classes available in the civil track. Classes included evidence, products liability, civil law update, liability and damages. Prior to the last three years I attended the courses on the criminal track and attended the refresher course on the death penalty in order to remain death qualified. I also attended a one week seminar at the National Judicial College on Logic and Opinion Writing. I have also attended two one week seminars at George Mason University entitled Economics Institute For Judges and Case Analysis Seminar.

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

Yes, I participated as a panel member in a continuing legal education program entitled "Winning Practices for Trying a Foreclosure Case" sponsored by the Broward County Bar Association. I was also guest speaker in a continuing education program entitled "Common Issues In Presiding Over The Trial Of Complex Cases" sponsored by the Broward County Bar Association.

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

N/A

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

It is often said experience is a great teacher. If that is true, I have been well taught. My career began in 1977 as a young Assistant State Attorney in Broward County, Florida. There I was introduced to the basics of criminal law and trial procedure. I received my first taste of the practical aspects of our judicial system. I discovered jury trials had theatric elements. It wasn't just about the facts, but often in what light they were presented. There was a theme to each trial and a logical progression from jury selection through closing argument. Who was impaneled as jurors sealed victory or defeat as often as any other phase of the trial. I learned trial practice is a skill honed by study and repetition. As a young lawyer, I was mentored by lawyers and judges, both good and bad, and I learned from both.

When elected to the bench in 2003, I had been a full-time practicing lawyer for twenty-four years. I was excited for the opportunity and awaited the challenges of being a trial judge. Most every division has a huge caseload. Trials are prevalent. Judges have the opportunity to preside over as many trials as they wish, and to choose from a wide variety of subject matters, issues and lawyers. Almost by osmosis, one develops an expertise in the rules of evidence and trial procedure. I welcomed the opportunities, honed my craft and developed an advanced understanding of the fundamental elements of our legal system as well as its practical and concrete details.

The questionnaire requested five significant cases, I could have easily listed fifty. I presided over twenty murder trials, each is significant; included in that number are four or five murder cases where the accused was a teenager. Appellate Judges are called upon to be decisive, make the hard calls and tough decisions. No decision is harder than sentencing a minor to life in prison without the possibility of parole.

We are all human and our decisions and character are built upon and tempered by our own unique life experience. My own life experience commenced in Brooklyn, New York where I was born. My father was one of six children, my mother one of ten. My grandparents immigrated from Ireland. My parents were happily married for almost sixty years. Sadly, both are now deceased. Shortly after mom died, pop had a stroke. When he was released from the hospital he moved in and lived the rest of his life (eight years) with my wife and I. Pop was a fireman; mom was a homemaker. Neither of my parents graduated high school but both stressed the need for an education and instilled in me qualities that they embodied such as honesty, hard work, a sense of fairness and of compassion.

I have been married to Lynn for twenty-eight years. She is my best friend and soul mate. We are the proud parents of two children. Our youngest child was born with Goldenhar Syndrome (a combination of craniofacial and other anomalies including a heart defect). She has endured at least twenty-five surgeries, all of her surgeries have tested her and our family and have made all of us stronger. She is in her last year at Florida State University and wants to study medicine not law, needless to say I have mixed feelings about this because I have loved my own career in law. I know she will succeed and be a wonderful doctor.

I believe I possess the qualities that would make a good appellate judge. Ideally a good appellate judge should be independent and possess the qualities of hard work, dedication to the rule of law, clarity of thought and expression. During my entire life and specifically during the last ten years of my career as a trial judge, I have demonstrated these qualities. I have a reputation of being prepared, fair, just and impartial. I have devoted my time to the faithful performance of my duties as a trial judge. I currently preside over two divisions. Dedication and hard work are not new to me. I have experience as both a lawyer and as a trial judge. I understand from both sides of the bench, the importance of each party having a fair opportunity to present their case, explain their positions on the facts before the court and argue the application of the law. In every judicial decision the sole objective is for the parties before the court, to receive justice based upon the facts presented, consistent with the law. I not only understand the theory of the judicial process but also its practice.

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

In either 2001 or 2002 I applied to the judicial nominating commission for a vacancy on the Circuit Court in the 17th Judicial Circuit.

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

I do not believe that courts are designed to be popular institutions. Decisions should never be made because they are popular or politically expedient. A judge can never act based upon his perception of how a decision will be received in the media. The court's function is to interpret, apply, and generally administer and enforce the law. Appellate judges' views, interpretation and application of the law should be discussed, challenged and defended in a collegial atmosphere with other members of the court. I believe I possess the courage and temperament to engage in such discussions.

I am not a political person. I respect and defend the separation of powers; and believe wholeheartedly in supporting our State and Federal Constitutions. I subscribe to the American sense of justice and fair play which is satisfied only when every person is accorded the same rights that we claim for ourselves. I have compassion for and an understanding of the concerns of litigants as people. I love being a trial judge, and aspire to bring my experience to the appellate court where I can have a greater impact on our community.

REFERENCES:

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

William Scherer, Esq.

Michael J. Satz, Esq.

Susan J. Cole, Esq.

The Honorable Elijah H. Williams

Brian Thomas Cavanagh, Esq.

The Honorable Jack Tuter

The Honorable Thomas M. Lynch

William Spencer, Esq.

The Honorable Eileen M. O'Connor

Bruce S. Rogow,

CERTIFICATE

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

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

Dated this 16 day of November, 2012.

JOHN J MURPHY III

Printed Name

[Signature]

Signature

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