

APPLICATION FOR NOMINATION TO THE TENTH JUDICIAL CIRCUIT COURT

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

DATE: April 8, 2013 Florida Bar No.: 0028861

GENERAL: Social Security No.: 

1. Name Andrea Teves Smith E-mail: Asmith@petersonmyers.com

Date Admitted to Practice in Florida: 10/7/1994

Date Admitted to Practice in other States: N/A

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

Peterson & Myers, P.A., since 1994, shareholder since 2006.

3. Business address: 225 E. Lemon St., Suite 300

City Lakeland County Polk State FL ZIP 33801

Telephone (863) 683-6511 FAX (863) 904-1335

4. Residential address: 

City 

Since July, 1999 Telephone 

5. Place of birth: Saint John, New Brunswick, Canada

Date of birth:  Age: 43

6a. Length of residence in State of Florida: 38 years

6b. Are you a registered voter? Yes No

If so, in what county are you registered? Polk

7. Marital status: Married

If married: 

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.

Not applicable.

8. Children

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



9. Military Service (including Reserves)

Service *Branch* *Highest Rank* *Dates*

Not applicable.

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>
Manatee High School		1983 - 1987	High School Diploma
University of Florida	Top 3%	1987 - 1991	B.S. in Business Administration
Stetson University College of Law	51/131	1992 - 1994	J.D.

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

- Phi Delta Phi International Legal Fraternity
- Stetson Law Journal, Research Editor
- President and member, Moot Court Board
- Federal Judicial Intern for Magistrate Charles R. Wilson (presently U.S. Circuit Judge for the United States Court of Appeals, Eleventh Circuit)
- Best Oralist, Stetson Moot Court Competition (Research & Writing II)
- Research & Writing Teaching Fellow (Research & Writing I and II)

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>
Summer 1990	Computer Data Entry	Manatee County Property Appraiser	915 4th Ave. W. Bradenton, FL 34205

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>
•Supreme Court of the State of Florida	10-07-1994
•United States Court of Appeals, Eleventh Circuit	05-25-1999
•U.S. District Court for the Middle District of Florida	02-24-1995
•U.S. District Court for the Northern District of Florida	06-02-2008
•U.S. District Court for the Southern District of Florida	05-02-2012

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>
•Teaching Fellow, Research & Writing I & II	Stetson University College of Law	St. Petersburg, Florida	January 1992 - May 1994
•Research Assistant	Department of Law & Mental Health at Univ. of South Florida	Tampa, Florida	May 1993 - August 1993
•Federal Judicial Intern	Magistrate Judge Charles R. Wilson, U.S. Dist. Ct., Middle District of Florida	Tampa, Florida	May 1993 - August 1993

•Law Clerk - Appellate Division	Haas Austin Ley Roe & Patsko, P.A. (firm no longer exists)	Tampa, FL	August 1993 - January 1994
•Civil Government Intern	State of Florida Department of Health & Rehabilitation Services	St. Petersburg, FL	January 1994 - May 1994
•Attorney	Peterson & Myers, P.A.	225 E. Lemon St. Suite 300, Lakeland, FL 33801	Sept. 1994 - Present

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.

Peterson & Myers was established in 1948 and has represented primarily businesses in the Polk County community and throughout the state of Florida. As a litigator since joining Peterson & Myers in 1994, my practice has involved the representation of business clients and individuals in a variety of situations, including general civil and complex litigation, collection of commercial accounts, contractual disputes, eminent domain (for both the condemnor and condemnee), employment issues (injunctive relief, discrimination, wage and hour, non-competition and general human resource matters), land use, and the general range of issues that go with a business-oriented practice.

Throughout my career, I have been regularly involved with complex litigation and appeals in both state and federal court. I have also represented clients in administrative proceedings before various governmental agencies, including the State of Florida Unemployment Appeals Commission, Equal Employment Opportunity Commission, Florida Commission on Human Relations, Office of Federal Contract Compliance Programs, and the United States Department of Labor.

Early in my career in 1995, through representing creditors, I continued representing clients in the bankruptcy proceedings when defendants sought bankruptcy protection. I assist my individual, business and financial institutional creditor clients by filing the necessary papers to preserve their rights in bankruptcy. The matters include: defending preference and/or fraudulent transfer actions brought by the trustee or debtor, filing motions for relief from the automatic stay to pursue foreclosure actions or liquidate claims, objecting to bankruptcy chapter 11 and 13 plans, seeking the appointment of chapter 11 trustees to oversee business operations when there is evidence of mismanagement, filing complaints objecting to the bankruptcy discharge of creditor's claims when fraud or theft are present. Finally, my bankruptcy practice has also included a decade of experience as special counsel to a chapter 7 trustee pursuing

fraudulent transfer claims in a nationwide ponzi scheme matter. This ponzi scheme matter is discussed below as one of my six most significant cases in my career.

I have gained some experience in the area of criminal law through my complex litigation practice in the following areas: criminal injunctions and theft in the employment context, exceptions to discharge in bankruptcy based upon theft, and criminal contempt proceedings. These matters regularly involved working with the U.S. Attorney's Office, the FBI, and local law enforcement. Most recently, I spent a day monitoring a felony trial where a former employee, who had sued for wrongful termination, was tried for drug possession while she was working. Because of this overlap between civil and criminal, it is necessary to research the law in both the civil and criminal context.

Another part of my practice involves conducting independent investigations. I have conducted independent investigations for clients regarding discrimination, sexual harassment, and hostile work environment claims in the work place. I have also conducted independent investigations for universities in the employment area, as well as investigations of athletic programs where there are complaints and/or suspicions of bullying and hazing. While I typically represent businesses in my employment practice, I have represented a select number of plaintiffs who were sexually harassed and/or discriminated against in the workplace.

My employment experience lends itself to transactional work, which includes the drafting of employee handbooks and related forms, employment agreements, non-competition and non-solicitation agreements, and separation and release agreements.

I have had the occasion over the years to represent clients in probate court. I have represented personal representatives in the administration of the estate and beneficiaries in probate litigation. I am currently representing a personal representative in probate, where we were successful in ousting the original personal representative. I am also representing two personal representatives resolving creditors' claims and defending litigation matters brought against the estate.

Typical clients that I have represented over the last eighteen years include individuals, small businesses, health care providers, trucking companies, waste handling equipment manufacturers, colleges, and financial institutions. I regularly represent CenterState Bank, C&W Trucking, Inc. (and its subsidiaries), Farm Credit of Central Florida, ACA, Florida Southern College, Newsom Eye & Laser Center, Inc. (and its affiliates), Lakeland Regional Medical Center, Inc., Southeastern University, AtlanticBlue Group (and its affiliates), and U.S. Foodservice, Inc.

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>5</u> %	Civil	<u>87</u> %
Federal Trial	<u>25</u> %	Criminal	<u>1</u> %
Federal Other	<u>10</u> %	Family	<u>1</u> %
State Appellate	<u>20</u> %	Probate	<u>2</u> %
State Trial	<u>25</u> %	Other	<u>9</u> %
State Administrative	<u>10</u> %		
State Other	<u>5</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?	<u>4</u>	Non-jury?	<u>7 * excluding summary judgments</u>
Arbitration?	<u>2</u>	Administrative Bodies?	<u>6</u>

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).

(i) Dennis Cox v. Gene Hyde Trucking Co., Inc. Case No. 2010CA-8765 (10th Cir. Ct., Polk County, FL) (Bench Trial before Circuit Judge Donald Jacobsen; February 2011)

Represented: Plaintiff, Dennis Cox

Co-Counsel: Timothy E. Kiley, of Peterson & Myers (863) 676-7611

Opposing Counsel: Christi Adams, of Foley & Lardner, LLP, (407) 423-7656.

(ii) Polk County v. John Robert Peace, Case No. 53-2008CA-0011688, Parcels 129, 132 (10th Cir. Ct., Polk County, FL) (Jury Trial before Circuit Judge Karla F. Wright, June 2009)

Represented: Petitioner/Condemnor, Polk County

Opposing Counsel: Brent Simon, of Simon & Holloway, P.A.,

(727) 847-0311.

(iii) Yoder v. Century Realty Funds, Inc., DOAH Case No. 07-2538 (State of Florida Commission on Human Relations) (Bench Trial before ALJ Jeff Clark, December 2007)

Represented: Respondent, Century Realty Funds, Inc.

Opposing Counsel: Not applicable. Plaintiff was pro se

Administrative Law Judge: Jeff Clark, Division of Administrative Hearings, (850) 488-9675.

(iv) DOT v. Thayer, Case No. 2002-CA-002258 (10th Cir. Ct., Polk County, FL) (Jury Trial before Circuit Judge John Laurent, September 2005)

Represented: Respondent/Landowner, Thomas Thayer

Co-Counsel: Deborah A. Ruster, Peterson & Myers, P.A., Lake Wales Office, (863) 676-7611

Opposing Counsel: Andrew J. DeNering, Florida Department of Transportation, (863) 519-2830.

(v) Polk County v. Edward M. Turner, Case No. 2001 CA-4109 (10th Cir. Ct., Polk County, FL) (Jury Trial before Circuit Judge John Laurent, October 2005)

Represented: Petitioner/Condemnor, Polk County

Opposing Counsel: Not applicable

(vi) Carrollwood Executive Center v. Catania, Case No. 01-C-025001 (13th Cir. Ct, Hillsborough County) (Bench Trial before County Judge Eric R. Myers, August 2003)

Represented: Plaintiff, Carrollwood Executive Center

Co-Counsel: Kelly A. Overfield, of Kelly A. Overfield P.A. (813) 960-8625

Opposing Counsel: Stacey Turmel, Maxey Law Offices, PLLC,
(727) 230-4949

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).

(i) Betty Bent, Desiree Thomas-Greenidge, and Crystan Cumberbatch v. Lake Wales Family YMCA, Equal Employment Charge Nos. 15D201300225, 511-2013-00524, and 511-2013-01143 (Settled March 2013)

Represented: Respondent Lake Wales Family YMCA

Opposing Counsel: None - pro se

Mediator: Kim Reynolds (863) 738-7031

(ii) [REDACTED] v. Tropic Star Seafood, Inc [REDACTED]

[REDACTED]
(11th Cir.); (Settled February 2013)

Represented: Defendant Tropic Star Seafood, Inc.

Opposing Counsel: Melissa Horwitz and Richard E. Johnson, attorneys for Plaintiff, Law Office of Richard E. Johnson, (850) 425-1997

(iii) Ribar, Inc. v. Howard, Case No. 53-2006 CA 002657-0000-WH (Settled December 2012)

Represented: Defendant Margie Howard

Opposing Counsel: Lori Dorman, attorney for Plaintiff RIBAR, Inc., (941) 747-0888; and Michael S. Edenfield, attorney for Plaintiff Alice Arnwine, (813) 685-3014

(iv) Prince v. PLR, LLC, EEOC Charge No. 511-2011-01008 (Equal Employment Opportunity Commission) (Settled August 2012)

Represented: Employer PLR, LLC and insurer Lloyds of London

Opposing Counsel: None – pro se

EEOC Investigator: Karen Oshiro, Tampa Field Office (813) 202-7927

(v) Smith v. Stone Holdings, Inc., FCHR NO. 2012H0223/HUD NO. 04-12-00556-8 (Florida Commission on Human Relations) (Settled May 2012)

Represented: Respondent/park owner, Stone Holdings, Inc.

Opposing Counsel: None – pro se

Investigator: Lisa Sutherland (850) 597-8471

(vi) Stewart v. Tommy L. Louisville, M.D., P.A. Case No. 8:12-cv-02002-VMC-AEP (M.D. Fla.) (November 2012)

Represented: Defendant/employer Tommy L. Louisville, M.D., P.A.

Opposing Counsel: Ryan Morgan, Morgan & Morgan (407) 420-1414

27c. During the last five years, how frequently have you appeared at administrative hearings?
.0833 average times per month

27d. During the last five years, how frequently have you appeared in Court?
4 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? N/A% Defendants?
N/A%

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.

N/A

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.

I have not tried an arbitration case to award within the last five years. However, for the two arbitration cases I have tried to award, I was co-counsel in one and lead trial counsel in the other.

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.

(i) Employment Discrimination Defense: [REDACTED] v. Tropic Star Seafood, Inc., State [REDACTED]

Reported Decisions: [REDACTED] v. Tropic Star Seafood, Inc., 388 Fed.Appx. 902 (11th Cir. 2010); [REDACTED] (chapter 7 bankruptcy trustee for [REDACTED]) v. Tropic Star Seafood, Inc., 2008 WL 4621073 (N.D. Fla. 2008); and [REDACTED] v. Tropic Star Seafood, Inc., 2009 WL 903351 (N.D. Fla. 2009)

This matter was significant because of the issues of first impression by the Eleventh Circuit Court of Appeals. In this case, I represented the Defendant/employer Tropic Star Seafood defending an eight count complaint based upon employment discrimination and retaliation in the workplace under Florida's Workers' Compensation Laws, Florida's Whistleblower Laws, and the Florida Civil Rights Act. The case was instituted in state court based solely upon state law, and later removed to federal court by the employer when the employee amended the complaint to include federal claims. After ten months of litigation in federal court, the district court granted summary judgment on all eight counts, and the employee appealed. Summary judgment was affirmed per curiam by the Eleventh Circuit Court of Appeals on seven of the eight counts.

In a separate related appeal, the Eleventh Circuit reversed the district court's decision, which held that the removal of the workers' compensation claim to federal court was a defect in procedure, which was waived by the Plaintiff, when he failed to file the motion to remand within the 30 day statutory period. Because the Eleventh Circuit held that the district court lacked subject matter jurisdiction of the workers' compensation claim, the district court's decision was reversed and the matter was remanded back to state court for further litigation. The fact that the parties heavily litigated the workers' compensation claim in federal court for ten months was held to be irrelevant. On the matters Defendant prevailed, it appealed the denial of its motion for attorneys' fees pursuant to Florida's offer of judgment statute. The Eleventh Circuit affirmed per curiam finding that the offer of judgment was invalid, because it failed to address Plaintiff's injunctive relief.

I was lead counsel in both the state and federal cases, with the assistance of my law partners, Joshua K. Brown, Lake Wales office of Peterson & Myers (863) 676-7611, and Stephen R. Senn, Lakeland office of Peterson & Myers (863) 683-6511.

Other attorneys involved in the litigation include: Melissa Horwitz and Richard E. Johnson, attorneys for Plaintiff, Law Office of Richard E. Johnson, Tallahassee, FL (850) 425-1997

(ii) Eminent Domain Representation: Florida Department of Transportation (FDOT) v. Yager et al., Case No. 04-CA-2057 (Parcel Nos.: 138,139, 800) (10th Cir. Ct. Polk County, FL) (Circuit Judge John F. Laurent)

I have practiced in the area of condemnation over the last sixteen years. In all of those years, I have never had a more complicated and lengthy order of taking trial than this matter. Here, I represented the Yagers, the Respondents/landowners, in a condemnation action brought by the FDOT to acquire land for roadway improvements -- the extension of Harden Boulevard. Early in the litigation, the FDOT sought to disqualify the judge and filed a petition for writ of prohibition with the Second District Court of Appeal. The petition was denied, and the litigation proceeded. The order of taking trial involved a complicated and unusually lengthy five day bench trial with nine expert witnesses before the court. The Yagers challenged the FDOT's engineering, the necessity of route chosen, and the taking of the Yagers' particular property. The Yagers also sought to strike the FDOT's appraisal. The record evidence developed miscalculations and inaccuracies in the FDOT's appraisal. At the conclusion of the hearing, the court substantially increased the deposit required to be made by the FDOT by over \$800,000.00. The parties later mediated and resolved the case at an even larger amount than the deposit.

Principal responsibility was shared with my law partner, Deborah A. Ruster, of the firm's Lake Wales office, (863) 676-7611.

Other counsel involved in the litigation included: Roger A. Mallory, Esq., as counsel for the FODT, Bartow, FL, who is now counsel for the City of Lakeland Police Department, Lakeland, FL (863) 676-7611

(iii) Federal Fair Housing Discrimination Defense: New Life Outreach Ministry, Inc. et al. v. Polk County, State Court Case No.: 2006CA-003768 (10th Cir. Ct., Polk County, FL) (Circuit Judge J. David Langford); Federal Court Case 8:06-cv-1547-T-27MAP (M.D. Fla.) (United States District Judge James D. Whittemore); and United States of America v. Polk County, FL, Case No. 8:10-CV-2196-T-27EAJ (M.D. Fla.) (District Judge James D. Whittemore).

Reported Decision: New Life Outreach Ministry, Inc. v. Polk County, FL 2007 WL 2330854 (M.D. Fla. 2007)

Because I have a complex litigation practice, it is not unusual to have simultaneous matters pending in both state and federal court. However, this case is significant because it was successfully dismissed in both the state and federal lawsuits with prejudice, only later to be resurrected when Polk County was sued by the U.S. Department of Justice for the same claims. I was lead trial counsel for Polk County in this litigation, which was first initiated in federal court. The plaintiffs soon after filed suit in state court for relief. After both cases were dismissed with prejudice, on the eve of the expiration of the statute of limitations period, the United States Department of Justice

brought suit against Polk County for the identical claims.

In the initial proceedings in state and federal court, the plaintiffs claimed discrimination based upon their substance abuse/mental health disabilities and sought an accommodation from the Polk County Land Development Code to build housing for the disabled plaintiffs. On appeal, the Polk County Board of County Commissioners recognized that the previous use of the property was grandfathered in as a legal non-conforming use when the Land Development Code was enacted. However, because plaintiffs' use of the property was not similar to the previous use of the property, the Board held that the operations of that non-conforming use had ceased for twelve months, and thus, the plaintiffs no longer had the benefit of the grandfathering clause. Plaintiffs' claims were dismissed and later challenged by the Plaintiffs as a dismissal without prejudice. The district court held that because the plaintiffs failed to comply with a court order the dismissal was with prejudice, despite the lack of the wording "with prejudice." Once plaintiffs were barred from bringing suit, plaintiffs sought the assistance of the United States Department of Justice. Polk County ultimately resolved the claims with the Department of Justice and entered into a consent judgment after almost two years of negotiations and pre-suit mediation.

I was lead trial counsel in the the state and federal court actions brought by the plaintiffs. I shared principal responsibility in the action brought by the Department of Justice with J. Davis Connor, of the Lake Wales office of Peterson & Myers, (863) 676-7611. Other attorneys of record in the case include:

A. Brent Geohagan, of A. Brent Geohagan, P.A., attorney for plaintiffs, Lakeland, FL (863) 665-6930;

Michael S. Craig, attorney for Polk County, Bartow, FL (863) 534-6482; and

Norrinda Brown Hayat, Steven H. Rosenbaum, Michael S. Maurer, attorneys U.S. Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section, Washington, D.C. (202) 305-3826.

(iv) Recovery for Victims of Fraud: Anderson et al. v. Paramount Payphones, Inc., Case No. 1997-CA-007236-NC (12th Cir. Ct, Sarasota County, FL) (Circuit Judge Robert Bennett); Albright et al. v. American Diversified, et al., Case No. 8:98-cv-01300-RAL (M.D. Fla.) (District Judge Richard A. Lazzara); and In re: Paramount Payphones, Inc., Case No. 8:98-bk-15744-KRM (Bankr. M.D. Fla.) (Bankruptcy District Judge Timothy Corcoran)

Reported Decision: Woodard v. Branch (In re Paramount Payhones, Inc.), 256 B.R. 341 (Bankr. M.D. Fla. 2000)

This matter is significant for several reasons. Foremost, this case was litigated in all types of courts: state, federal, arbitration and bankruptcy. Second, this case lasted over a decade. Finally, I recovered approximately two million dollars for the victims of a payphone ponzi scheme. From 1997 through 2008, my firm represented approximately 300 victims of an alleged ponzi scheme, in which limited partnership interests in payphones were sold to unsophisticated elderly investors as safe investments with high returns, guaranteed by a financial security bond. The case was originally filed in state court and sought a receivership of the business and an injunction

against the sale of assets. A receiver was appointed over the Payphone company after an evidentiary hearing. Additionally, a special master was appointed to assist with the extensive and voluminous inspection of the books and records. When the Payphone company and its principal were on the edge of contempt of court, they filed for bankruptcy protection to stay the contempt proceedings. The debtors were, however, unsuccessful because such proceedings fell outside the bankruptcy automatic stay. A separate lawsuit was filed on behalf of the victims in federal court against other affiliated companies and defendants involved in the ponzi scheme. The victims obtained money judgments in the federal suit. While the federal suit was proceeding, I was retained as special counsel to the Chapter 7 trustee in bankruptcy to pursue fraudulent transfer actions against the individuals and their affiliated companies who received fraudulent transfers from the Payphone company. I was lead special counsel in the bankruptcy litigation proceedings and recovered approximately two million dollars from the defendants in the fraudulent transfer action.

I was lead counsel in the bankruptcy proceedings, and shared principal responsibility of the state and federal court litigation with my law partners, Stephen R. Senn (863) 683-6511, and J. Davis Connor (863) 676-7611. Other attorneys in the litigation included:

Susan K. Woodard, Chapter 7 trustee in bankruptcy, P.O. Box 7828, St. Petersburg, FL 33734, (727) 521-3355;

Allen C. Watkins, counsel for Chapter 7 trustee in bankruptcy, Watkins Law Firm, P.A., 707 North Franklin Street, Suite 750, Tampa, FL 33602, (813) 226-2215;

John Lauro, Counsel for Defendants, David Branch, et al., in federal and bankruptcy court; Tampa FL (813) 222-8990; and Chris Kise, for Defendants Dan Hansen et al, in federal and bankruptcy court, Foley & Lardner, Tallahassee, FL 32301, (850) 222-6100;

Joseph DeMaria, counsel for defendants in the state court receivership proceeds, Tew Cardenas, LLP, Miami, FL (305) 536-1112;

Daniel S. Newman, counsel for defendants in state court receivership proceedings, Broad and Cassel, Miami, FL (305) 373-9400;

Harry Haskins, counsel for defendants in state court receivership proceedings, Sarasota, FL (941) 366-1388;

Liane McCurry, Esq., Special Master in state court proceedings, Sarasota, FL (941) 330-0052

In addition to the direct litigation against the organizers of the ponzi scheme above, a separate legal malpractice action was brought to recover additional monies from the attorneys who issued opinion letters on the solicitation materials to the investors. These opinion letters were personally relied upon by the brokers and investors in the purchase of the limited partnership interests. After several failed attempts by the defendants to dismiss the legal malpractice action, the parties resolved the litigation in 2005. The action was styled - - Albright et al. v. DeSantis, et al., Case No. 01-1995-AG (15th Cir. Ct., Palm Beach County, FL) (Circuit Judge Wroble).

In the legal malpractice action, principal responsibility was shared with my law partner, Stephen R. Senn. Other counsel involved in this case were:

Brett Preston, of Hill, Ward & Henderson, Tampa, FL (813) 227-8419;

Stephen A. Mendelsohn, Greenberg Traurig, LLP, Boca Raton, FL (561) 955-7629.

(v) Death of Client - One Month Before Jury Trial: PLR, Inc. v. Commonwealth Land Title Insurance Company, Case No. 53-2008-ca-011652 (10th Cir. Ct., Polk County, FL) (Circuit Judge Stephen Selph), transferred to Case No. 51-2011-CA-003276 (6th Cir. Ct., Pasco County, FL) (Circuit Judge Linda Babb); and In re: Estate of John Forier, Case No. 51-2011-CP-001461 (6th Cir. Ct., Pasco County, FL) (Circuit Judge Walter L. Schafer, Jr.)

I represented the purchaser of land, PLR, in this title insurance litigation matter against the insurer title company. There were numerous title defects and encumbrances on the purchaser's land that were not listed as exceptions to the 4.2 million dollar title policy. This matter was significant for several reasons. Foremost, because of the real estate decline since 2007, it was imperative to obtain a date of value for the appraisal of the subject property at the time the title policy was issued. Circuit Judge Karla Foreman Wright, the original judge in this matter, granted the Plaintiff's motion in limine determining that the date of value was the date the title policy was issued. The defendants in the case were successful in obtaining numerous continuances of the jury trial. After delays in the litigation, new third party defendants were brought in and sought to transfer venue to Pasco County. In an effort to avoid a further potential delay due to an appeal of the change of venue, the plaintiff stipulated to a change of venue at the hearing avoiding an appeal and further delay.

Secondly, this matter was of great significance in that one month prior to the jury trial, the sole managing member of PLR died in a car crash over the Thanksgiving holiday. After his death, the court entered a handful of partial summary judgments against PLR's claims, and eventually a final summary judgment dismissing all of the plaintiff's claims. Decedent's two daughters, who resided in two different states outside Florida and were not at all familiar with the particulars of the litigation, took over the litigation as the personal representatives. Despite the adverse final judgment against PLR, the parties realized there was a good risk of the judgment being reversed on appeal. Therefore, the defendants agreed to mediate the matter. A successful resolution was reached at the mediation allowing for a substantial recovery to the plaintiff, who had lost all of its claims at the lower court.

Finally, this matter was also of great significance because the settlement agreement required approval by the probate court, due to a wrongful death claim against the estate. Less than thirty days after the settlement was reached, the probate court approved the settlement. I am currently assisting my law partner, Jack Dykxhoorn, of our Lake Wales office, with the probate of the estate regarding objections to claims and other litigation matters.

I was lead counsel in the litigation. Other attorneys involved in the litigation include my law partners: J. Davis Connor, Esq. and Timothy E. Kiley, Lake Wales office (863) 676-7611. Other counsel for defendants include:

Shawn Rader, of Lowndes Drosdick Doster Kantor & Reed PA, Orlando, FL (407) 843-4600; and

Shirin Vesely, of Keane, Reese, Vesely & Gerdes, P.A., St. Petersburg, FL (727) 823-5000.

(vi) Successful Defense Verdict and Post Judgment Collection: Wagner v. Uthoff et al., Case No. 1997-CA-001608 (10th Cir. Ct., Polk County, FL) (Circuit Judge Ralph Artigliere)

Reported Decisions: Wagner v. Uthoff, 868 So.2d 617 (Fla. 2d DCA 2004)

I was lead counsel in this litigation representing the defendants in an action brought by the former employee against my clients, the owner of a fire truck manufacturing company and the company. This litigation spanned almost a decade and resulted in five separate appeals. One of the significant appeals dealt with the trial court's award of frivolous attorneys' fees under Section 57.105, Florida Statutes. The Second District Court of Appeal affirmed the decision below finding that the plaintiff submitted a fraudulent affidavit on his residency in opposition to the defendant's motion to dismiss for failure to file a statutory non-resident plaintiff's bond. The matter was concluded after the trial court granted summary judgment on the claims and entered judgment in favor of the defendant and against the plaintiff. My client was successfully awarded attorneys' fees based upon the frivolous action and Florida's Offer of Judgment Statute. The attorneys' fees award was affirmed on appeal. Also of significance in this case was the post-judgment collection of the sizeable attorneys' fee award. I successfully obtained a prejudgment writ of garnishment for a substantial sum against a bank account held by the plaintiff/debtor after I learned that he received proceeds from the sale of a real estate asset. The monies were held during the appeals and later disbursed after the conclusion of all of the five appeals.

I was lead attorney in this action. Stephen R. Senn of my firm also had involvement. Other plaintiff's counsel of record included:

Thomas C. Saunders, Saunders Law Group, Bartow, FL (863) 533-6200; and Neal O'Toole, Lilly O'Toole & Brown LLP, Bartow, FL (863) 533-5525

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.

Attached as Tab 1 are three examples of my legal writing. I personally wrote each of the three examples attached. The first example is a response to a petition for writ of certiorari. The second example is a motion for summary judgment for an employer in an employment discrimination case in federal court. The third example is a motion to strike business damages in a condemnation proceeding.

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.

Nominee as follows:

November 30, 2012 - Tenth Judicial Circuit Judge Nominee, nominated by the Tenth Judicial Circuit Judicial Nominating Commission; and

December 21, 2012 - Tenth Judicial Circuit Judge Nominee, nominated by the Tenth Judicial Circuit Judicial Nominating Commission

32b. List any prior quasi-judicial service:

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
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Not applicable.

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.

Not applicable.

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

Not applicable.

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

Not applicable.

(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.

Not applicable.

- (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.

Not applicable.

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

Not applicable.

- (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.

Not applicable.

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.

Not applicable.

- 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.

No.

- 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.

POSSIBLE BIAS OR PREJUDICE:

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

None.

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.
No.

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

No.

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

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.

Not applicable.

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

Best Oralist, Stetson Moot Court Competition, Fall 1993

Leadership Lakeland, graduating class of XXI, May 20, 2004

46. List and describe any speeches or lectures you have given.
- Prevention of Employment Discrimination and Harassment, presented to the Kiwanis Club, Bartow Chapter
 - Pre-Judgment and Post-Judgment Collections lecture, presented to the National Association of Credit Managers
 - Perfecting Construction Liens lecture, presented to the National Association of Credit Managers
 - Sexual Harassment & Employment Discrimination lecture, presented to the National Federal of Paralegal Association
 - Sexual Harassment & Employment Discrimination lecture, presented to the Tampa Bay Federal Paralegal Association
 - Avoiding and Defending Discrimination and Harassment Claims lecture, presented at the Winter Haven Chamber of Commerce with Stephen R. Senn
 - Construction and Lien Law Update lecture, presented with Doug Lockwood to Peterson & Myers clients
 - Law Practice lecture, to Legal Studies Class at George Jenkins High School
 - Legal Profession, on Career Day, to middle school class at Lawton Chiles Middle School
 - Being a Lawyer, on Career Day, to elementary class at Ressurrection Catholic School
47. Do you have a Martindale-Hubbell rating? Yes If so, what is it? ___ No
- AV

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.

I am currently a member of the following associations and professional societies:

- American Bar Association
- Federal Bar Association
- Lakeland Bar Association
- Polk County Trial Lawyers Association

Other professional associations in which I previously belonged to, but no longer maintain membership in, include:

- The Florida Bar Standing Committee on Professionalism
- The Florida Bar Committee on Relations with Certified Public Accountants
- Polk County Chapter, Florida Association of Women Lawyers
- Willson American Inn of Court

- 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.

Current Memberships:

- Secretary, Explorations V Children's Museum (2013 - Present)
- Board of Director, Explorations V Children's Museum (2011 – Present)
- Board of Director, Florida Southern College Legal Advisory Board (2011 – Present)
- Church of the Resurrection (Member since 1999)
- Leadership Lakeland Alumni Association (Member since 2005)

Past Memberships:

- Executive Director, General Counsel, Lakeland Area Chamber of Commerce (2008-2009)
- Board of Director, Lakeland Area Chamber of Commerce (2010-2012)
- Quality of Life Committee, Lakeland Area Chamber of Commerce
- Member Value Committee, Lakeland Area Chamber of Commerce
- Smart Community, Lakeland Area Chamber of Commerce
- Grasslands Golf & Country Club
- Junior League of Greater Lakeland

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

Travel with my family, golf, snow skiing, reading, and community service.

- 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.

My community service has included active support for and involvement with the following non-profit organizations:

- Explorations V Children's Museum, a non-profit organization, founded in July 1991, and located in historic downtown Lakeland, Florida. The museum is a hands-on museum dedicated to education and cultural development, and also provides financial education programs for families in need. I have served on the board of the Museum since 2011.

- Learning Resource Center, a non-profit organization, providing academic assistance throughout Polk County. I assisted the organization with revising and updating their Employee Handbook. (2011)
- Lakeland Area Chamber of Commerce, a non-profit organization dedicated to creating a climate where business can prosper. I served on the Executive Board of the Chamber and assisted the Chamber with revising and updating their Employee Handbook and with general legal matters during my term. (2008-2009)

In addition to service on and with these boards, I have also regularly engaged in direct pro bono representation as part of my practice throughout my career. Matters in which I have represented clients on a pro bono basis include the following:

- Representation of an employee in challenging the termination of her long term disability plan benefits. (2010- Present)
- Representation of an employee in appealing the denial of her long term disability plan benefits. (2008)
- Representation of convenience store owner whose husband was killed in armed robbery, after which the petroleum supplier shut off gas pumps in violation of the Petroleum Marketing Practices Act, *Jaber v. Giant Oil*, Case No. 8:07-cv-02070-RAL-MAP (M.D. Fla) (2007-2008)
- Representation of an employee in a criminal injunction proceeding brought by his employer. (2006)
- Representation of defendant in criminal assault matter. (2010)
- Representation of mother and step-father in the termination of the biological father's parental rights, and the adoption of the child by the step-father. (late 1990's)
- Representation of a migrant worker in a suit for damages after he dropped his truck off for repairs, and the repair shop sold his truck and kept the money he had prepaid. (late 1990's)
- Representation as guardian ad litem for the Tenth Circuit Guardian Ad Litem Program. (late 1990's)

SUPPLEMENTAL INFORMATION:

- 49a. Have you attended any continuing legal education programs during the past five years? If so, in what substantive areas?
- Yes. Substantive areas in the past five years include: Eminent Domain, Employment Law, Bankruptcy, and Ethics.
- 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?
- No.

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

My experience as an independent investigator in matters involving discrimination in the workplace, and bullying and hazing has allowed me to wear a different hat than the one I normally wear as a litigator. These investigations require similar exercises that judges deal with in every day practice. For example, during these investigations, I am mindful of the need to remain objective at all times when gathering and listening to both sides of the story. These investigations have also allowed me to sharpen my skills at assessing the credibility of witnesses.

Over the last several years, I have spent considerable time on my firm's summer associate and associate recruiting and hiring committee. I have worked a great deal with each of these individuals introducing them to litigation and instructing them along the way. These experiences have allowed me to mentor and develop our young lawyers. I have learned in developing young summer associates and associates, you need a great deal of patience, a desire to help and educate, and the ability to allow young lawyers to grow with your guidance.

These are just some of the strengths that I hold and believe are well-suited for holding a judicial office.

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

I have thoroughly enjoyed my work in private practice over these last eighteen years. My passion for the law began as early as elementary school when I chose my profession for a class project. My grandfather was a town judge for over forty years in the Philippines where my dad grew up. I also had several friends whose parents were also lawyers and judges, whom I admired. While completing law school, I experienced first-hand the judicial system at its best, when my father, as a party, succeeded in a jury trial and later in the appeal, which was my first view of oral arguments. This experience showed me on a more personal level the valuable role and need of lawyers in the lives of individuals.

I find great reward in working out resolutions for my individual and business clients, as well as advocating their positions through trial if necessary. I welcome the challenges of different cases, clients, legal theories and facts. The cases I have handled throughout my career are anything but cookie-cutter, and tend to be more complex civil litigation. I have practiced in all types of forums, state, federal, bankruptcy, arbitration and other administrative proceedings. This breadth in my practice has allowed me to obtain experience in areas outside my normal practice areas, including criminal, probate and family law. Therefore, I am comfortable learning areas of the law that I have not regularly practiced in.

Professionalism is a great part of what we are as lawyers and counselors. I have practiced and strived for professionalism throughout my career, not only in the courtroom, but in all phases of litigation. I joined the Florida Bar's standing committee on professionalism early in my career, because I believed that professionalism starts in the classroom and is also the direct result of good and early mentoring. Colleagues, opposing parties and counsel, and judges have all commented on my professionalism and civility in the handling of my cases. At the conclusion of one of my last jury trials,

the opposing parties came over, shook my hand, and thanked me for treating them with respect and professionalism. More recently, I have graciously offered my office facilities to opposing counsel from out of town, in other matters, during and after the close of a very lengthy and difficult real estate litigation matter.

Finally, I have been urged by several people I admire in the legal community to submit my application. These individuals have all praised me for my demeanor, patience, courage, tenacity, common sense, humility, and my ability to effectively and clearly communicate in the most complex matters. If I were selected, I am confident that all of these qualities and my experiences would be of great contribution to this position.

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.

Not applicable.

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

I have had a successful eighteen-year career with Peterson & Myers, working my way up from an associate to senior shareholder. While I value the years of experience in private practice, I am eager to take on new challenges and serve my community in additional, meaningful ways.

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.

1. Jack Brandon.
2. Hank B. Campbell.
3. Michael W. Craid.
4. Honorable Mayor Gow Fields,
5. The Honorable Beth Harlan
6. The Honorable J. Michael Hunter,
7. Dr. Anne B. Kerr.
8. Robert Puterbaugh.

9. Abel Putnam,

10. Vick Troiano,

CERTIFICATE

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

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

Dated this 8th day of April, 2013.

ANDREA TEVES SMITH
Printed Name


Signature

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