

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Amy Mil Totenberg

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

United States District Judge for the Northern District of Georgia

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

Law Office of Amy Totenberg  
P.O. Box 17521  
Atlanta, Georgia 30316

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

1950; New York, New York

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

1974 – 1977, Harvard Law School; J.D., 1977  
1969 – 1974, Harvard/Radcliffe College; A.B. (magna cum laude), 1974

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

1998 – Present  
Law Office of Amy Totenberg  
P.O. Box 17521  
Atlanta, Georgia 30316  
Attorney / Arbitrator / Mediator

2005 – Present  
United States District Court for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001  
Court Monitor (2006 – Present)  
Court Appointed Mediator (2005 – 2006)

2000 – Present  
United States District Court for the District of Maryland  
101 West Lombard Street, Chamber 2D  
Baltimore, Maryland 21202  
Special Master

2004 – 2007  
Emory University School of Law  
1301 Clifton Road  
Atlanta, Georgia 30322  
Adjunct Professor

1994 – 1998  
Board of Education of the City of Atlanta  
130 Trinity Avenue, SW  
Atlanta, Georgia 30303  
General Counsel

1982 – 1994  
Law Office of Amy Totenberg  
The Hurt Building  
50 Hurt Plaza  
Atlanta, Georgia 30303  
Attorney

1988 – 1993  
City of Atlanta Municipal Court  
150 Garnett Street, SW  
Atlanta, Georgia 30303  
Part time *pro hac vice* Municipal Court Judge

1977 – 1982  
The Law Project  
57 Forsyth Street  
Atlanta, Georgia 30303  
Partner

1975 – 1977

Education/Instrucción (since dissolved)  
Roxbury, Massachusetts  
Legal Assistant

1975

Law Firm of James M. Haviland (since dissolved)  
Charleston, West Virginia 25301  
Summer Legal Intern

Other Affiliations:

1992 – 2008

GreenLaw (formerly the Georgia Center for Law in the Public Interest)  
State Bar of Georgia Building  
104 Marietta Street, Suite 430  
Atlanta, Georgia 30303  
Board Member (1992 – 2008) (Unpaid)  
President (1993 – 1994) (Unpaid)

2002 – 2003

Georgia State Personnel Board  
205 Jesse Hill Jr. Drive, SE  
Twin Towers West  
Atlanta, Georgia 30334  
Board Member (Unpaid)

1999 – 2000

Governor's Education Reform Commission  
State Capitol  
Atlanta, Georgia 30334  
Commission Member (Unpaid)

1999 – 2000

Hands On Atlanta  
600 Means St. NW  
Atlanta, Georgia 30318  
Board Member (Unpaid)

1996 – 1999 (Approximate)

The National Faculty (since dissolved)  
100 Peachtree Street  
Atlanta, Georgia 30303  
Board Member (Unpaid)

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

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

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

Federal Bar Association, Maryland Chapter, Award for Public Service (2007)  
Martindale-Hubbell, AV Rated (Highest Ranking for Legal Ability & Ethical Standards)  
Joseph Henry Lumpkin American Inn of Court, Master (1994 – Present)  
State Personnel Board, Special Leadership Recognition Resolution (2003)  
Open Society Institute, Scholar/Fellowship Award (1998 – 1999)  
Georgia Minority Counsel Program, Corporate Service Award (1996)  
Alliance of SE Atlantans for Neighborhood Development, Public Service Award (1985)  
Committee for State Employee Rights, Outstanding Service Award (1984)  
Kendall Foundation of Boston, Special Grant for Public Service Legal Work (1976)

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

State Bar of Georgia:

General Counsel Overview Committee (1998 – 2000) (Approximate)  
Individual Rights Section, Secretary (1983 – 1984)  
Individual Rights Section, Vice Chair (1984 – 1985)

American Arbitration Association  
American Bar Association  
American Constitution Society  
Atlanta Bar Association  
The Georgia Academy of Mediators & Arbitrators  
Georgia Association of Women Lawyers  
JAMS (formerly Justice, Arbitration, Mediation Services)  
Joseph Henry Lumpkin American Inn of Court, Master (1994 – present)  
Lawyers Committee for Civil Rights under Law  
Merit Selection Panel for Re-Appointment of Magistrate(s) of the United States District Court, Northern District of Georgia, Co-chair (1992)  
National Employment Lawyers Association  
National Lawyers Guild  
National School Boards Association Attorneys Network

**10. Bar and Court Admission:**

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

Georgia, 1977. There have been no lapses in my membership.

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

Supreme Court of the United States, 1988

United States Court of Appeals for the Fifth Circuit, 1981

United States Court of Appeals for the Eleventh Circuit, 1981

United States District Court for the Middle District of Georgia, 1978

United States District Court for the Northern District of Georgia, 1978

Supreme Court of the State of Georgia, 1977

Georgia Court of Appeals, 1977

Fulton County, Georgia Superior and State Courts, 1977

I recently learned that my admission to the Court of Appeals for the Fifth Circuit has lapsed. I have not practiced before the Fifth Circuit in many years, and I was unaware of the lapse until inquiring about my admission status to answer this question. I am aware of no other lapse in membership.

**11. Memberships:**

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

East Atlanta Community Assn., 1983 – 1986 (Approximate); 2007 – present

Harvard/Radcliffe Alumni Assn., 1980 – present (Approximate and Intermittent)

Lake Yonah Association, 1995 – present (Approximate)

YMCA of Metropolitan Atlanta, 2000 – present

American Civil Liberties Union, 1977 – 2008 (Approximate)

GreenLaw (formerly Georgia Center for Law in the Public Interest):

Board Member, 1992 – 2008

President, 1993 – 1994

Advisory Board, 2008 – 2009

Atlanta Public Schools PTA, 1980 – 2005

Paideia School Diversity Committee, Chair, 1999 – 2001 (Approximate)

Hands On Atlanta, Board Member, 1999 – 2000  
The National Faculty, Board Member, 1996 – 1999 (Approximate)

Additionally, I have made financial contributions to a wide range of organizations. The following organizations may consider me a member solely by virtue of my financial contribution:

Atlanta Zoo, 1985 – present (Approximate)  
High Museum of Art, 1983 – present (Approximate)  
Museum of Contemporary Art of Georgia, 2003 – present  
Natural Resources Defense Council, 1994 – 2008 (Approximate and Intermittent)  
Oxfam, 2006 – present (Approximate)  
WABE / WPBS / NPR, 1980 – present (Approximate and Intermittent)  
Amnesty International, 2000 – 2008 (Approximate and Intermittent)  
Georgia Women's Action for New Directions, 1995 – 2008 (Approximate)  
Mexican American Legal Defense and Educational Fund, 2005 – 2006  
(Approximate)  
National Association for the Advancement of Colored People, 2004 – 2006  
(Approximate)  
Environmental Defense Fund (Unknown years)  
National Organization for Women (Unknown years)  
National Partnership for Women and Families (Unknown years)  
Sierra Club (Unknown years)

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

None of the organizations of which I have been a member presently discriminates or discriminated while I was a member.

**12. Published Writings and Public Statements:**

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

“Use of Special Masters in Complex Litigation,” JAMS Atlanta Newsletter, Spring 2002.

“Restructuring School Management,” *Fellow Observer*, Vol. iii, No. 1, Spring 2000.

“Drug Testing of Public Employees,” *The Verdict*, Vol. 16, No. 2, March/April, 1991. [Elizabeth J. Appley, co-author.]

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I served on the Georgia State Bar’s General Counsel Overview Committee in the period 1998 to 2000 (approximate). The committee made recommendations to the State Bar’s Executive Committee, President, and/or General Counsel. The recommendations were reached through a collaborative committee process. I do not have access to the reports containing these recommendations.

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

I presented the recommendations of the Ad Hoc Committee to the Board of Education for the State of Georgia regarding revisions of State Board rules and policies required to implement current requirements of the Individuals with Disabilities Education Act.

I made an oral presentation to a committee of the Governor’s Education Reform Commission in Georgia in 1999 regarding education issues impacting students with disabilities, including: federal legal requirements for participation of students with disabilities in school administered standardized testing, disparities in dropout data, school completion data, and legal mandates for placement in the least restrictive environment. I did not provide a written submission and do not have a copy of any transcripts of the committee proceedings.

As a Member of the State Personnel Board (2002 – 2003), I made occasional comments regarding state personnel policies under review. Similarly, as a member of the Governor’s Education Reform Commission (1998 – 99), I made public comments at times during the Commission’s meetings as to education policy and reform changes under consideration. Finally, as General Counsel to the Atlanta Board of Education, I responded to questions of Board members at various times regarding general legal issues in public meetings of the Board. I do not have copies of the transcripts of these meetings or proceedings.

I testified before an ad hoc committee of Georgia legislators regarding the functioning of the Georgia Office of Fair Employment Practices sometime in the mid 1980s. I do not have any records or transcripts relating to this testimony.

I gave testimony before the United States Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on Housing and Urban Affairs in 1976 on civil rights issues raised by the administration of the Community Development Block Grant Program. A copy of my report, "Broken Promises: An Analysis of Discrimination in the Implementation and Distribution of Federal Community Development Block Grants," was provided to the Committee. I do not have a copy of the transcript of those hearings or the final report filed with the Committee.

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

I have given presentations and participated in panels in a variety of continuing legal education programs. I also have given speeches and presentations in universities, colleges, law schools, K-12 public schools, and community groups. I have a record of participating as a presenter or panel member in the following seminars, conferences, classes, or programs:

*Twombly & Motions to Dismiss* / Inn of Court (October 20, 2009, Atlanta, GA) (No text or notes)

Compliance Issues Raised by the United States' Ratification and Implementation of the Education Articles on the Rights of the Child / The Convention on the Right of the Child, Georgetown University Law Center. (June 1, 2009, Washington, D.C.)

Advocacy in Arbitration, Lumpkin Inn of Court. (January 2009, Athens, GA) (No text or notes)

Education Adequacy and Equity Litigation, Emory University. (March 2007, Atlanta, GA) (No text or notes)

Employment Arbitration under Pre-Dispute Mandatory Clauses: Practical Issues and Challenges, ADR On My Mind in Georgia / ABA Annual Dispute Resolution. (April 2006, Atlanta, GA)



Mandatory Binding Arbitration of Employment Disputes, ADR Institute and 2005 Neutrals' Conference ICLE. (October 2005, Atlanta, GA)

Education Adequacy Litigation in Georgia, Southern Education Fund. (March 2005, Atlanta, GA) (No text or notes)

Case Management of Complex Biotechnology Conflict, EINSHAC Judicial Institute on Bioscience and Biotechnology. (March 2004, Concepción, Chile)

Evaluative Processes: Whether, When and How, ADR Neutrals Conference ICLE. (November 2003, Lake Lanier Islands, GA) (No text or notes)

Careers in Public Interest Law, Emory University. (October 2003, Atlanta, GA) (No text or notes)

Complex Remedies in Institutional Reform Litigation, University of Georgia School of Law. (November 2000, Athens, GA) (No text or notes)

Education Reform and the Georgia Education Reform Act of 2000, Hands on Atlanta Citizen Academy. (May 2000 and October 2000, Atlanta, GA) (No text or notes)

The Bar Disciplinary Process, Lumpkin Inn of Court. (April 2000, Atlanta, GA) (No text or notes)

Legal and Labor Relations Issues Impacting School Reform, Brown University. (October 1999, Providence, Rhode Island) (No text or notes)

Attorney-Client Privilege/The Lawyer as Witness, Lumpkin Inn of Court. (February 1999, Athens, GA) (No text or notes)

Suing the Government in Georgia, WPBS TV: The Layman's Lawyer. (September 1998, Atlanta, GA) (No text or notes)

School and College Law, School & College Law Section of the State Bar of Georgia. (September 1995, Atlanta, GA) (No text or notes)

Intake and Evaluation of Sexual Harassment Cases, Atlanta Bar Association. (February 1994, Atlanta, GA) (No text or notes)

The First Amendment Rights of Public Employees, Employment Discrimination ICLE Seminar. (December 1993, Atlanta, GA) (No text or notes)

Special Litigation Problems Under the Disabilities Act and the Americans with Disabilities Act, ICLE. (March 1993, Atlanta, GA) (No text or notes)

The New Civil Rights Act of 1991 and Litigation of Employment Discrimination Cases under Title VII, State Bar of Georgia and the Georgia Commission for Equal Opportunity. (June 1992, Atlanta, GA) (No text or notes)

Employment Law in Georgia, WPBS TV: The Layman's Lawyer. (July 1992, Atlanta, GA) (No text or notes)

The Impact of the Supreme Court's Recent Decisions: A Panel Discussion, Peach State Public Radio. (June 1992, Atlanta, GA) (No text or notes)

Development Issues Affecting Metropolitan Atlanta, American Bar Association Local Government Section Annual Convention. (1991, Atlanta, GA) (No text or notes)

The Impact of Recent Supreme Court Cases on Employment Law, Georgia State University School of Law. (April 1991, Atlanta, GA) (No text or notes)

Viewpoints on Employment Issues, Council on Education for Management. (February 1991, Atlanta, GA) (No text or notes)

Georgia and Federal Employment Law, Georgia Trial Lawyers Association. (1991, Atlanta, GA) (No text or notes)

State and Federal Constitutional Issues Posed by Affirmative Action Programs, Emory University School of Law. (April 1990, Atlanta, GA) (No text or notes)

Collateral Estoppel and Res Judicata Issues in Constitutional and Civil Rights Litigation, Network Attorney Seminar of Georgia Association of Educators. (1990, Atlanta, GA) (No text or notes)

New Challenges for Employment Attorneys: Viewpoints on the Supreme Court's Recent Decisions, Atlanta Bar Association. (October 1990, Atlanta, GA) (No text or notes)

A Summary of Case Law Under the Georgia Open Records Act, State Bar of Georgia Individual Rights Section ICLE. (September 1990, Atlanta, GA) (No text or notes)

White Collar Terminations, Atlanta Bar Association. (June 1989, Atlanta, GA) (No text or notes)

Discovery, Depositions, Privileges, and Objections, National Employment Lawyers Association. (November 1989, Atlanta, GA) (No text or notes)

Section 42 U.S.C. § 1983 and the Constitutional Rights of Public Employees, State Bar of Georgia Individual Rights Section ICLE. (November 1988, Atlanta, GA) (No text or notes)

The Trial of a Sex Discrimination/Retaliation Case: A Mock Trial, State Bar of Georgia Individual Rights Section ICLE. (October 1988, Atlanta, GA) (No text or notes)

Women's Equality and Employment Law, Business and Professional Women's Association Annual National Convention. (May 1988, cannot recall location in Georgia) (No text or notes)

Employment Discrimination: Choosing Your Client, State Bar of Georgia Individual Rights Section ICLE. (October 1987, Atlanta, GA) (No text or notes)

State and Federal Constitutional Issues Affecting Teachers, Georgia Association of Educators Network Attorney Seminar. (November 1986, cannot recall location in Georgia) (No text or notes)

Public Employees' Rights to Due Process: A Review of Recent Constitutional Developments, State Bar of Georgia Individual Rights Section ICLE. (October 1986, Atlanta, GA) (No text or notes)

Recent Developments in Supreme Court Jurisprudence in Employment and Related Areas, Constitutional Law Conference Sponsored by American Jewish Congress. (March 1985, Atlanta, GA) (No text or notes)

Georgia and Federal Employment Law, Georgia Trial Lawyers Association. (1985, Atlanta, GA) (No text or notes)

Legal Practice in Small Law Firms, Harvard Law School. (November 1984, Cambridge, MA) (No text or notes)

Constitutional Developments, State Bar of Georgia Individual Rights Section ICLE. (October 1984, Atlanta, GA) (No text or notes)

Free Speech, Association, and Due Process Rights of Public Employees, State Bar of Georgia Individual Rights Section ICLE. (October 1982, Atlanta, GA) (No text or notes)

Equal Pay Issues for Women under Federal and State Law, University of Georgia. (April 1981, Athens, GA) (No text or notes)

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these

interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

As General Counsel for the Atlanta Public Schools, as a litigator of a range of cases of public interest, and as a member of the Governor's Education Reform Commission, I have made comments that were quoted by a variety of media outlets regarding legal case developments, court rulings, and educational policies under review. I have identified the following articles and interviews:

*Daily Report*, "State Preps for Dust Up Over Rural School Districts" (1/19/07)  
*Daily Report*, "Rural Schools Look to Court for Funding Solution" (12/1/05)  
*Atlanta Journal Constitution* ("AJC" hereinafter), "Rural Schools Sue for Bigger Share" (6/24/05)  
*Augusta Chronicle*, "School-Funding Suit is on Hold" (6/24/05)  
*Associated Press*, "Rural Schools Lawsuit Gets First Hearing in Court" (6/23/05)  
*Washington Post*, "Judge Goes off the Clock to Settle Case" (5/8/00)  
*Baltimore Sun*, "Deal Nears for Special Education" (4/29/00)  
*AJC*, "Critics Say Tests Aren't the Answer" (4/16/00)  
*AJC*, "Education Reform Panel to Look at Accountability" (6/7/99)  
WPBS TV, The Layman's Lawyer program (9/98)  
*AJC*, "Schools' Lawyer Leaving" (4/30/98)  
*Daily Report*, "Totenberg Leaves Board Post for Fellowship" (4/23/98)  
*AJC*, "City Schools Resolve Suit on Set-Asides" (4/21/98)  
*AJC*, "School Lawsuit May Be Settled" (4/20/98)  
*AJC*, "Contractor, Adviser Have Ties" (4/4/98)  
*AJC*, "Judge Attacks City Schools' Affirmative Action Plan" (1/17/98)  
*AJC*, "School Employees Sue Over Changes in Job Status" (11/27/97)  
*AJC*, "High Court Upholds Atlanta Property Tax" (4/17/97)  
*AJC*, "City Schools Must Defend Set-Asides" (4/2/97)  
*AJC*, "Pennies For Schools, Billions in Taxes" (3/14/97)  
*AJC*, "Phone Tower Lease Gets Static" (3/6/97)  
*AJC*, "Just Politics? Schrenko Support For Local Control Selective" (1/27/97)  
*Daily Report Card*, "Legal Marathon: Battle Over Millage Cap Ends in Atlanta" (7/31/96)  
*Dow Jones Newswires*, "Court Backs Atlanta Schools' Millage Hike" (7/22/96)  
*AJC*, "Ruling a Boost For City Schools" (7/20/96)  
*AJC*, "Ruling Due on School Funds Challenge" (7/16/96)  
*AJC*, "Schools Get a Break, At Least Temporarily, on Sales Tax Funding" (5/17/96)  
*AJC*, "Tax Arrangement: Atlanta's Contributions to Schools Ruled Illegal" (9/1/95)  
*The Bond Buyer*, "Atlanta's Sales Tax Payout to School Board is Illegal, Says County Judge" (9/1/95)  
*New York Times*, "Despite Ruling, Wide Drug Testing of Students is Not Foreseen" (6/28/95)  
*AJC*, "Sales Tax For Schools Doesn't Cost City" (5/14/95)

*AJC*, "Metro In Brief: City Sues School Board" (5/11/95)  
*AJC*, "Court to Rule on Revenue Sharing" (4/26/95)  
*AJC*, "Minority Business Programs" (4/4/95)  
*AJC*, "Catch-up Program Designed to Create 'Level' Playing Field" (3/30/95)  
*AJC*, "School System Sued" (3/30/95)  
*The Wall Street Journal*, "Atlanta Firm Plans Suit to Contest Program for Minority Contractors" (3/29/95)  
*AJC*, "Peach Buzz Talk of Our Town" (12/18/94)  
*Daily Report Card*, "Legal Eagles: Education in the Courts" (10/17/94)  
*AJC*, "School Taxes in Atlanta Too High, Suit Claims" (9/22/94)  
*AJC*, "Sexual Harassment: What's Behind the Ruling" (11/10/93)  
*AJC*, "Demoted PSC Employee Awarded Back Pay, Pension" (9/2/93)  
*Daily Report*, "PSC Made to Pay for Bad Faith" (9/93)  
 WPBS TV, The Layman's Lawyer program (7/92)  
*AJC*, "Amy Totenberg," (6/17/92)  
 Peach State Public Radio: The Impact of the Supreme Court's Recent Decisions: A Panel Discussion (6/92)  
*AJC*, "Women Who Should Know, Examine Steinem Mystique" (1/17/92)  
*AJC*, "Who's Minding Your Kids; A Parent's Guide to Childcare" (8/11/91)  
*The New York Times*, "Workers Find it Tough Going Filing Lawsuits Over Job Bias" (7/24/91)  
*AJC*, "Clarence Thomas: Nominee under Scrutiny," (7/3/91)  
*AJC*, "Drug Tests for New State Employees Won't Be Defended in Court" (11/20/90)  
*Daily Report*, "Challenge to Drug Statute Halts Testing," (7/25/90)  
*AJC*, "State Told to Halt Drug Tests on Job Seekers," (7/21/90)  
*AJC*, "Teachers Group to Challenge Drug-Test Law" (7/4/90)  
*AJC*, "U.S. Judge Won't Halt Transfer" (7/22/89)  
*AJC*, "8 Ex-Workers at DeKalb Farmers Market Settle Federal Suit" (6/8/89)  
*Daily Report*, "Done Deal? Farmers Market Settlement Near" (6/6/89)  
*The Wall Street Journal*, "New Age Training Suit Against Market Settled Out of Court" (5/31/89)  
*AJC*, "Skin Tone, As Well As Race, May Spur Bias" (5/13/89)  
*The Los Angeles Times*, "Challenged By Workers, New Age Pep Talks, a Backlash" (3/25/89)  
*The Wall Street Journal*, "Atlanta Officials Vow to Replace City's Court-Nullified Affirmative Action Plan" (3/6/89)  
*AJC*, "8 Former Workers Sue DeKalb Farmers Market" (12/8/88)  
*AJC*, "Piggyback Critics Claims They're Being Taken for a Ride" (9/22/88)  
*AJC*, "Ex-Workers Say Farmers Mart Guilty of Bias" (12/19/87)  
*AJC*, "Desegregation Ruling Threatens Local Schools in 3 States, DeKalb Appeal Says" (11/1/89)  
*Fulton County Daily Report*, "Sisters-in-Law" (3/23/88)  
*AJC*, "Meyers: Engineering the Piggyback Project" (12/16/85)  
*AJC*, "Financial Reward Small for 66 Bias Victims" (11/30/85)  
*AJC*, "Ordeal for Sex Bias Victim Over" (9/13/85)

*AJC*, "Piggyback Supporters and Opponents Seem Optimistic" (7/25/85)  
*AJC*, "Seaboard May Be In Engineer's Seat Now on Piggyback Terminal" (6/23/85)  
*AJC*, "Debate on Piggyback Continues in Wake of High Court's Decision" (6/20/85)  
*AJC*, "Piggyback Plan Gets New Life From Top Court" (6/19/85)  
*AJC*, "Judge Voids Piggyback Permit" (3/13/85)  
*AJC*, "Piggyback Foes Cheer Court Ruling" (3/13/85)  
*AJC*, "Seaboard Vows to Fight Piggyback Decision" (3/13/85)  
*AJC*, "Piggyback Plan Still the Center of Debate" (1/17/85)  
*AJC*, "Back Wages to Go to Black Workers at Georgia Mental Facility" (12/1/82)  
 Stuart E. Weisberg, *Barney Frank: The Story of America's Only Left-Handed, Gay, Jewish Congressman* (2009), 119-20

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

Municipal Court Judge, *pro hac vice*, for the City of Atlanta, 1986 – 1993:

I was appointed by the Mayor of the City of Atlanta. The Municipal Court has jurisdiction to try and punish violations of the city ordinances, city and state traffic laws, and other matters as provided by general law, including a range of criminal misdemeanor offenses. The court handles a high daily volume of cases, primarily involving vehicular offenses, sentencing, fines, and the approval of plea agreements. Daily sessions involved brief hearings usually spanning from two to thirty minutes in duration. Depending on the year, I served anywhere from approximately twice a month to five times during the course of a year.

Special Master, United States District Court for Maryland, 2000 – present:

I was appointed through an Order of Reference, pursuant to Rule 53 of the Federal Rules of Civil Procedure, by Judge Marvin J. Garbis. The Order of Reference authorizes me to monitor, conduct evidentiary investigations and hearings, and issue reports, including findings and remedial recommendations, to the federal court pursuant to Rule 53 of the Federal Rules of Civil Procedure. I am also authorized to mediate and resolve disputes between the parties. Consistent with Rule 53 and the Order of Reference, the District Court reviews my recommended findings of fact and recommendations and adopts such, based upon that review and the nature of objections, if any, from the parties.

Monitor (previously mediator), United States District Court for the District of Columbia, 2006 – present:

I was appointed by Judge Paul L. Friedman through an Order of Reference entered pursuant to the provisions of the Consent Decree entered in the case on August 24, 2006. The Order of Reference authorizes me to conduct evidentiary investigations and issue reports regarding the status of defendants' compliance with the Consent Decree and

applicable law as well as make remedial recommendations. It also authorizes me to mediate and facilitate resolution of disputes between the parties.

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

As a municipal court judge *pro hac vice*, I heard approximately 1,500 cases.

- i. Of these, approximately what percent were:

jury trials:	
bench trials:	100%
civil proceedings:	
criminal proceedings:	100%

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

None.

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

Given the nature of municipal court offenses, my rulings on municipal court cases were routine and short.

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

I did not write opinions.

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

None.

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

I did not write opinions.

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

I did not write opinions.

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

None.

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

I have not sat by designation.

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

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

Due to the specific nature of municipal court proceedings and my limited service, I was never called upon by motion or case circumstances to recuse myself.



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

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

General Counsel, Board of Education for the City of Atlanta and Atlanta Public Schools (1994 – 1998) (appointed by the Atlanta Board of Education).

Member, Governor's Education Reform Commission (1999 – 2000) (appointed by Governor Roy Barnes). The Commission was charged with the responsibility for making comprehensive recommendations for the revision of Georgia's education laws and programs.

Chair, Ad Hoc Committee to the Georgia Board of Education (2000 – 2002) (appointed by the Georgia State Board of Education).

Board Member, State Personnel Board (2002 – 2003) (appointed by Governor Roy Barnes). The Board is charged under law with responsibility for issuance of regulations regarding state employment and review of administrative appeals of state employee cases.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office. I served a partial term on the State Personnel Board. The newly elected governor, who took office six months after my appointment by Governor Barnes, did not submit my name to the state legislature for ratification. My service ended in April 2003.

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

Between 1988 and 2008, I did occasional volunteer work for Democratic presidential campaigns, such as driving voters to the polls. In the 2008 presidential campaign, I performed voter protection work, assisting in the effort to ensure that citizens were able to register, confirm their voting status and voting precinct, and exercise their right to cast a ballot in conformity with the law. I also served as a volunteer state-wide poll watcher in the November 2008 elections.

I recall being listed on event host committees for State Senator Nan Orrock and for former Atlanta Mayor Shirley Franklin, although I do not recall the date or dates. I may have been listed on other event host committees, but I do not recall specifics of them.

I worked on a volunteer basis as a scheduler for the congressional campaign of Robert Drinan in 1970 (May – November).

I have been a member of the Democratic Party intermittently between 1988 and 2008. I have never held a paid position with a political campaign or political entity.

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

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

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

I did not serve as a clerk to a judge.

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

While I have maintained a solo practice through a substantial portion of my career, I have consistently affiliated with other attorneys in handling litigation due to the broad scope of many of the cases handled. In the last decade, I have maintained my legal practice while spending the majority of my time as a special master, monitor, and arbitrator/mediator. My office has been located at various addresses: The Healy Building 57 Forsyth St., Atlanta, GA 30303 (1982 – 1984); The Grant Building 44 Broad St., Atlanta, GA 30303 (1984 – 1987); The Hurt Building 50 Hurt Plaza, Atlanta, GA 30303 (1987 – 1994); P.O. Box 17521, Atlanta, GA 30316 (1998 – present).

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

1977 – 1982  
The Law Project  
57 Forsyth St.  
Atlanta, Georgia 30303  
Partner

1994 – 1998  
Board of Education of the City of Atlanta  
130 Trinity Ave SW (current address)  
Atlanta, GA 30303  
General Counsel

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

A primary area of my responsibility in the past decade has been to serve as a mediator in the two major federal court cases described below. I have also handled a wide range of arbitration and mediation cases. Due to the confidential nature of many ADR cases, I have not provided a full case identification for some of the cases or specific terms of resolution.

1. Mediation to Develop Class Action Remedial Decree: In 2005 Judge Paul L. Friedman appointed Judge David Tatel (of the U.S. Court of Appeals for the D.C. Circuit) and me as co-mediators to work with the parties in *Blackman v. District of Columbia*, C.A. No. 97-1629 (PLF) and *Jones v. District of Columbia*, C.A. No. 97-2402 (PLF) in an effort to develop an appropriate systemic remedy in these consolidated class action special education cases. Over a period of a year in 2005 – 2006, Judge Tatel and I conducted more than 44 mediation sessions with the parties as well as 20 additional conferences. I was exclusively responsible for the mediation in many of these sessions, given the demands of Judge Tatel's judicial schedule. A comprehensive consent decree tailored to address the specific violations at issue in this case was developed and ultimately approved by the District Court on August 24, 2006 subsequent to a fairness hearing. One year later, the parties agreed to my mediating (along with Clarence J. Sundram) pending disputes and crafting remedies to address serious compliance and educational service delivery issues evident from our monitoring report and reviews. Through this process, the parties were able to reach an agreement, rather than look to the Court for further hearings and external intervention.

2. Mediation of Systemic Remedy Issues under Consent Decree: As special master in *Vaughn G. v. Mayor and City Council of Baltimore*, C.A. No. MJG-84-1911, I have handled mediation responsibilities from the date of my appointment in 2000, including the development of objective outcome measures for the case to ensure its manageability; delivery of compensatory educational services to students; and annual district-wide education remedial plans. Significant progress has been made in this case, and it is now at the final resolution stage.

3. Mediation of *Bonnie Anderson v. CNN, et. al.* United States District Court, Northern District of Georgia, Atlanta Division, C.A. No. 1:03-CV-2482-JEC. This was a high profile employment discrimination and retaliation case brought by a former CNN Vice President that addressed both the plaintiff's individual treatment and the network's anchor recruitment practices.

4. Arbitration of Large Group of Related Employment Discrimination Cases: Since June 2008 I have arbitrated a large number of related individual racial employment discrimination cases arising out of a class action, ultimately not certified, against a major national corporation. Significant case management and streamlining have been required to handle these cases, given their large volume and difficult evidentiary issues.

5. Mediation of *Jennifer DeBruyn v. the City of Marietta, et. al.*, a case filed in the United States District Court, Northern District of Georgia, Atlanta Division, C.A. No. 1:03-CV-3889 (JOF). The lawsuit involved sexual harassment allegations against certain city officials and the claim that the City had ignored the alleged conduct over time.

6. Arbitration of Viatical Insurance Contract Dispute: The case of *HF v. Estate of NZ* involved a dispute involving a company engaged in the purchase and sale of “life settlements” for insured individuals who need (usually due to fatal illness) to obtain advance cash payment in exchange for selling their life insurance interests. The company sought to recover funds it had paid for the insurance policy of the deceased policy holder as well as substantial attorney fees. Issues in the case included the mental competence of the policy holder, unconscionability in contractual practices, defenses under the McCarran Ferguson Act, and several other contract defenses. I ruled in favor of the company on substantive grounds, but denied attorneys’ fees.

7. Arbitration of Constitutional Claims of Small Business Owner, *Rucker v. City of Lavonia*, United States District Court, Middle District of Georgia, Athens Division, C.A. No. 3:04-CV-075 (CDL): The plaintiff challenged the constitutionality of the city’s occupation tax ordinance, alleging that the city had closed his business on the basis of his speech and associational activities and on arbitrary and capricious grounds, in violation of the First and Fourteenth Amendments. My decision found for the plaintiff on his Fourteenth Amendment claim but rejected plaintiff’s First Amendment speech and association claims. As the plaintiff’s business was small and the city similarly was small in population and resources, the hearing and court arbitration process offered an efficient, fair, and constitutionally meaningful public review of the claims in dispute.

8. Arbitration of Employment Discrimination Case: This employment pro se race discrimination case against a national corporation was tried over the course of multiple days. Substantial patience and communication efforts were required to ensure that the pro se plaintiff was able to understand the proceedings sufficiently for his case to be presented fairly

and adequately for decision, without alternatively improperly prejudicing the defendant.

9. Mediation of First Amendment Constitutional Claims of Students, *Shingler et al. v. Seminole County School District*, U.S. District Court, Middle District of Georgia, Albany Division, C.A. No. 6:01-CV-36-WLS: In this case, a group of students asserted that the school district's prohibition of the wearing of t-shirts and clothing reflecting the confederate flag and other similar insignia violated their rights under the First Amendment. The case involved a delicate and difficult balancing of the school district's legitimate educational policy interests with the potential constitutional interests of the plaintiff students.

10. Mediation of Estate Dispute: This mediation arose from protracted probate litigation of the estate of a prominent Atlanta attorney. Multiple parties with conflicting interests and claims, including ERISA as well as probate and contract claims, were involved. After a seventeen-hour mediation, the case was brought to a successful resolution.

b. Describe:

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

After law school, from 1977 to 1982, I worked with the Law Project, primarily handling civil litigation concentrated in the areas of federal constitutional and employment law, although I also maintained a general civil practice. I continued with this litigation practice focus when I started my own law firm in 1982. In the period 1982 to 1994, I handled all forms and levels of litigation, ranging from trial and appellate litigation in the state and federal courts to representation of clients in administrative hearings and arbitrations.

In 1994, I was appointed to serve as the first in-house general counsel for the Atlanta Public School District. I built a legal department for the school system and exercised close management over a wide range of legal affairs involving the school district. I advised the Board and top administration of the school district on a daily basis. I supervised outside and in-house counsel and handled selected litigation personally.

In late spring of 1998, I returned to my private practice after receiving a fellowship award by the Open Society Institute to study labor relations and legal issues affecting teacher quality in the public schools. While the fellowship study and work with the Governor's Education Reform Commission constituted a primary focus of my work over the course of the next year and a half, I also handled an array of education and

employment related cases and matters, and I subsequently began my arbitration and mediation practice.

Since January 2000, I have devoted the majority of my time to work as a special master and monitor for the U.S. District Courts in Maryland and the District of Columbia. This work entails ongoing monitoring and review of implementation of federal court orders and legal compliance issues arising out of special education class action lawsuits against the city school systems in Baltimore and Washington, D.C. As a Special Master, I have played a critical role in working with the district court to manage the Baltimore case and in conducting hearings. I have combined this work with an active arbitration and mediation practice and additionally have handled some civil litigation during this period.

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

Between 1977 and 1994 I represented a broad range of individuals, including teachers, hospital attendants, nurses, law enforcement personnel, clerical employees, community groups, pilots, state administrators, and many others. My practice principally focused on constitutional and civil rights litigation, particularly in the employment realm. From 1994 through May 1998, I exclusively represented the Atlanta Board of Education and the staff of the school system. This representation involved many legal areas, including contract, construction, tort, employment, constitutional law, intellectual property, education law, local government, and communications law issues. Since 1998, my primary "clients" have been the Districts Courts in Baltimore and the District of Columbia as well as school districts in Georgia. As an arbitrator and mediator, I have handled employment, commercial, and civil rights disputes involving businesses, individuals, and governmental entities.

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

My practice focused on civil litigation through 2004. As the cases I handled most frequently entailed lengthy periods of discovery and preparation, trials were the culmination usually of at least two years of work. While I appeared in court with some regularity, this type of litigation practice does not involve frequent trials. As general counsel of the Atlanta Board of Education, my management and litigation oversight responsibilities precluded me from regularly appearing in court. However, I personally handled a number of cases requiring oral argument in court throughout my tenure. I also collaborated with outside counsel in developing trial and appellate strategy in other major cases as well as participated in the hearings in some of these cases.

Since 2000, my practice has significantly shifted to focus on work as a special master, monitor, and arbitrator/mediator. In this capacity, I have conducted or participated in hearings on a regular basis. I also participated in state litigation that entailed appearances in court for oral argument. The percentages provided below are based on my cumulative law practice over the past thirty years and are an approximation.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 65% |
| 2. state courts of record:  | 25% |
| 3. other courts:            |     |
| 4. administrative agencies: | 10% |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 99% |
| 2. criminal proceedings: | 1%  |

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

I have tried to verdict, judgment, or final decision approximately 12 cases as chief counsel, 17 cases as sole counsel, and 10 cases as associate counsel.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 25% |
| 2. non-jury: | 75% |

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

I filed one petition for writ of certiorari with the Supreme Court of the United States, seeking review of a decision of the Georgia Supreme Court. The petition was not granted.

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

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

1. *Kennedy v. Crittenden*, C.A. 200-MAC-WDO (M.D. Ga.) (Liability Orders and subsequent consent decrees entered, November 24, 1982; March 24, 1982; May 30, 1991)

This lawsuit was a ground-breaking class action employment case in the state of Georgia. The case was filed in 1977 as a class action on behalf of 2,300 African American employees and applicants against Central State Hospital, the Department of Human Resources, and the State Merit System. In his 1982 liability order, U.S. District Judge Wilbur Owens found a pervasive pattern and practice of race discrimination in the hospital and State Merit System's job selection, training, and classification practices, affecting employees extending from the lowest ranks of attendants and laundry workers to medical personnel and other professionals. In 1983, the court approved a Consent Decree providing for \$3.3 million in back pay for the plaintiff class and comprehensive injunctive relief. After protracted contempt and enforcement proceedings in 1989 and 1990, the court expanded the Decree and required significant changes in the operation of the State Merit System to ensure fair and non-discriminatory personnel selection procedures on a statewide basis. I continued work on the case, including active participation in the State's revamping of its personnel selection procedures, until my 1994 appointment as general counsel to the Atlanta Board of Education. I represented the plaintiff class as joint lead counsel with Bensonetta Tipton Lane for most of the duration of the case.

The dates of representation were 1977 through 1994, and the case was litigated in the U.S. District Court for the Middle District of Georgia before the Honorable Wilbur D. Owens. My co-counsel included Fletcher Farrington (now deceased) and the Honorable Bensonetta Tipton Lane, prior to her appointment to the City of Atlanta Municipal Court. Her current contact information is: Superior Court of Fulton County, 185 Central Avenue SW, Suite T-1955, Atlanta, GA 30303-3643 (404-302-8535).

Opposing counsel were George P. Shingler and Wayne P. Yancey (co-lead counsel) as well as Susan Rutherford, all of whom worked for the Georgia Office of the Attorney General at that time. Current contact information is as follows: George P. Shingler, Six Concourse Parkway, Suite 2200, Atlanta, GA 30328 (770-512-0300); Wayne P. Yancey, 3697 Kelin Court, Lilburn, GA 30047 (770-979-6066); Susan Rutherford, State Law Department, 40 Capitol Square, S.W., Atlanta, GA 30334 (404-463-8850).



2. *Smith v. Ward, et al.*, C.A. No. 3:93cv8 GET (N.D. Ga. 1993)

The plaintiff, a Coweta County firefighter recently returned from the Gulf War, presented a video at a public meeting of the Coweta County Commission. The video raised critical concerns regarding deficient fire equipment and safety conditions within the county and received significant attention in the local media. After a series of retaliatory measures were taken against the plaintiff following the video presentation, he filed suit, asserting claims under the First Amendment and the Veterans Re-Employment Act. A jury verdict and final order was entered in his favor. Major reforms subsequently were made in the fire department. I served as the plaintiff's lead trial counsel.

The date of representation was 1993. The case was litigated in the U.S. District Court for the Northern District of Georgia before the Honorable G. Ernest Tidwell. Co-counsel was Michael E. Kramer, 175 Trinity Avenue, SW, Atlanta, GA 30303 (404-688-6700) and opposing counsel were Walter O. Lambeth, Jr. (lead counsel) and William D. Deveney, both of whom then worked at Elarbee, Thompson, Sapp & Wilson, LLP, 229 Peachtree Street NE, Suite 800, Atlanta, GA 30303 (404-659-6700). Current contact information for Walter Lambeth, Jr. is 9 Prescott Walk, NE, Atlanta, GA 30307 (404-371-1669).

3. *Georgia Association of Educators, et al. v. Harris*, 749 F. Supp. 1110 (N.D. Ga. 1990)

This action involved a successful constitutional challenge to a newly enacted Georgia statute requiring the drug testing of job applicants for all positions in the state government and public schools. The District Court's Order enjoined the statute in its entirety because it was not specifically limited to a requirement of drug testing for safety sensitive positions and was unconstitutionally overbroad. The legislature declined to re-enact the statute in a more narrow form thereafter. I served as lead counsel in the case.

The date of representation was 1990, and the case was litigated in the U.S. District Court for the Northern District of Georgia before the Honorable Robert Hall.

Co-counsel were Michael E. Kramer, 175 Trinity Avenue, SW, Atlanta, GA 30303 (404-688-6700) and Elizabeth J. Appley, 235 Peachtree Street NE, Suite 2212, Atlanta, GA 30303 (404-523-3800), and principal opposing counsel (who was then serving in the Georgia Office of the Attorney General) was Wayne P. Yancey (lead counsel), 3697 Kellin Court, Lilburn, GA 30047 (770-979-6066).

4. *Wilson v. Department of Public Safety, et al.*, C.A. No. 84-1467A (N.D. Ga. 1985)

This sex discrimination and free speech retaliation action was successfully brought on behalf of the top female administrative officer in the Georgia Department of Public Safety. Judge William O'Kelley described the case as one of the most flagrant cases of retaliation he had ever heard. Evidence presented during the trial provided an early omen

of serious mismanagement problems in the Department of Public Safety that culminated in a major investigation pursued by the Georgia Bureau of Investigation and the State Attorney General's Office. I served as lead counsel for the plaintiff.

The dates of representation were 1983 through 1985. The case was litigated in the U.S. District Court for the Northern District of Georgia before Judge William O'Kelley. My co-counsel was Bensonetta Lane (prior to her judicial appointment), Superior Court of Fulton County, 185 Central Avenue SW, Suite T-1955, Atlanta, GA 30303-3643 (404-302-8535). Opposing counsel, both of whom worked for the Georgia Office of the Attorney General at the time and served as co-lead counsel, were George P. Shingler, Six Concourse Parkway, Suite 2200, Atlanta, GA 30328 (770-512-0300), and Wayne P. Yancey, 3697 Kelin Court, Lilburn, GA 30047 (770-979-6066).

5. *Consortium for Adequate School Funding in Georgia v. State of Georgia, et al.*, C.A. No. 2004-cv-1004 (Fulton County Superior Court), (Complaint filed September 14, 2004; Summary Judgment Motion denied August 11, 2008)

This lawsuit challenged the constitutional adequacy of state funding of public education in Georgia on behalf of 51 rural school districts and parents and children in these districts. The plaintiffs claimed that students were unable to obtain an adequate education as guaranteed by the Georgia Constitution due to insufficient state funding. I assumed a key role in the litigation team handling the case for the plaintiff school districts for three years, through critical stages of the litigation, before we transferred leadership due to financial constraints to a larger law firm in 2007. The new team of plaintiffs' counsel voluntarily dismissed the case in the latter part of September 2008 for other reasons. While the case was not successfully resolved, the significant policy and legal issues raised in the case were publicly raised throughout the State of Georgia.

The dates of representation were 2003 to September 10, 2008. Judge Roland Barnes served as the original judge in this case for the Fulton County Superior Court of Georgia. After his death, Judge Elizabeth Long, who held senior status, was assigned the case. Judge Craig Schwall was assigned the case in September 2008, subsequent to the reduction in funding for senior status judges. Co-counsel were Thomas A. Cox, 285 Peachtree Center Avenue, 2600 Marquis Two Tower, Atlanta, GA 30303 (404-373-3131), David Long, 333 Lowell Avenue, Mill Valley, CA 94941 (415-383-1942), Elizabeth J. Appley, 235 Peachtree Street NE, Suite 2212, Atlanta, GA 30303 (404-523-3800) (beginning on December 20, 2006), and Robert B. Remar, Brett A. Rogers, Daniel A. Cohen, and Christopher Golden, all with Rogers & Hardin, LLP, 229 Peachtree Street NE, 2700 International Tower, Atlanta, GA 30303 (404-522-4700) (the firm began representing the plaintiffs commencing July 11, 2007). Opposing counsel were Dennis Dunn, Stefan Ritter (lead counsel for the State) and Alfred Evans (now deceased), all of the State Law Department, 40 Capitol Square, SW, Atlanta, GA 30334-1300 (404-656-3300) and Alfred A. Lindseth, Rocco E. Testani (lead private counsel for the State) of Sutherland Asbill & Brennan 999 Peachtree Street NE, Suite 2300, Atlanta, GA 30309-3996 (404-853-8000).

6. *Lane v. City of Atlanta, et al.*, 483 S.E. 2d 575, 267 Ga. 843 (1997)

In this declaratory judgment action, the plaintiff taxpayer contended that the Atlanta School System's setting of the tax millage rate in excess of 20 mills violated Article VIII of the 1983 Georgia Constitution. The Georgia Supreme Court ruled that the independent school system was authorized to set a tax millage rate above 20 mills under the grandfather provision contained in Article VIII. This case constituted a major challenge to the funding of public schools which potentially would have seriously undermined public education in the State of Georgia, the City of Atlanta, and other independent school districts. I served as co-counsel in the case, representing the Atlanta Public Schools.

The dates of representation were 1996 through 1997. The case was tried in the Superior Court of Fulton County, Georgia before the Honorable Isaac Jenrette. The Georgia Supreme Court affirmed the lower court's order. Co-Counsel were Emmet J. Bondurant and Paul H. Schwartz, at Bondurant, Mixson & Elmore, 1200 West Peachtree Street, Suite 3900, Atlanta, GA 30309 (404-881-4100). The City of Atlanta was also named as a defendant, and its counsel's appearances at hearings were handled by Joe M. Harris (lead counsel) and Joseph D. Young then of the City of Atlanta Law Department but currently located respectively at 205 Corporate Center Drive Suite B, Stockbridge, GA 30281 (678-610-8155) and One Atlantic Center, Suite 2800, 1201 West Peachtree Street, Atlanta, GA 30309 (404-736-7828); Holland & Knight, 1201 W. Peachtree Street, Atlanta, GA 30309; (404-817-8500), and Susan Forsling (current address T2955 Justice Center Tower, 185 Central Ave. SW. Atlanta, GA 30303). Opposing counsel was Robert J. Proctor, of Proctor Hutchins, 8010 Roswell Road, Suite 250, Atlanta, GA 30350 (770-394-3500).

7. *Lucas v. Polk County School District, et al.*, C.A. No. 4:90cv125-HLM (N.D. Ga. 1990)

A jury verdict was rendered for the plaintiff teacher on all promotion and retaliation claims raised in this free speech and age discrimination lawsuit against the Polk County School District. The verdict triggered rapid changes in the School Board and its management of the Polk County School System. I served as lead counsel for the plaintiff.

The dates of representation were 1990 through 1992. The case was litigated in the U.S. District Court of the Northern District of Georgia before Hon. Harold L. Murphy. Co-counsel was Matthew C. Billips, 567 Ladonna Drive, Decatur, GA 30032 (404-298-8995). Opposing counsel was Sam S. Harben, Jr., Harben & Hartley Jewell Parkway, Suite 750, Gainesville, GA 30501 (770-534-7341).

8. *Alford v. The Georgia Public Service Commission, et al.*, 418 S.E. 2d 13, 262 Ga. 386 (1992)

This case established new precedent regarding the interpretation of the State of Georgia's Employment Retirement Act, holding that the State could not circumvent specific statutory requirements in the Employment Retirement Act. I was the plaintiff's sole counsel in the case.

The dates of representation were 1990 through 1992. The case was tried in the Superior Court of Fulton County, Georgia before Judge William W. Daniel. My opposing counsel were Charles Richards and Susan Rutherford (co-lead counsel), both then with the State Law Department, 40 Capitol Square, SW, Atlanta, GA 30334 (404-656-3300). Ms. Rutherford continues to work at the State Law Department. Mr. Richard's current contact information is Building One, Suite 200, 2100 East Exchange Place, Tucker, GA 30084 (770-414-3655).

9. *Atlanta City School District v. Dowling*, 466 S.E. 2d 588, 266 Ga. 177 (1996)

This case against the Atlanta Public Schools resolved in the school district's favor significant and complex legal issues involving general damages remedies in cases brought under 42 U.S.C. §1983 where a public employee has previously obtained complete back pay relief and reinstatement through state administrative and judicial procedures. I took over representation of the case from private counsel upon becoming the district's general counsel and argued the case before the Georgia Supreme Court, which reversed the decision of the Court of Appeals.

The dates of representation were 1994 to 1996. The trial court judge was Hon. Elizabeth J. Long. I appeared solely before the Supreme Court. Co-counsel was Bruce H. Beerman, 171 17th Street NW, Suite 1100, Atlanta, GA 30363 (404-815-3000), and opposing counsel was R. Mason Barge, 379 Redland Road, GA 30309 (404-351-2977).

10. *Kim et al. v. Dekalb Farmers Market, et al.*, C.A. No. 1:88cv2767-HTW (N.D. Ga. 1988)

This lawsuit served as a direct catalyst to the Equal Employment Opportunity Commission's issuance of religious discrimination policy guidelines and regulations specifically dealing with coercive "New Age" training programs and "New Age" religious activity. The case challenged the employer's requirement that employees actively participate in "New Age" training programs as a condition of employment. The plaintiffs included former management employees with a wide range of religious and cultural backgrounds: Catholic, Baptist, Episcopalian, Jewish, Hindu and Muslim. The case was successfully settled. I served as lead counsel for the plaintiffs.

The dates of representation were 1988 through 1999. The case was litigated in the U.S. District Court for the Northern District of Georgia before Hon. Horace T. Ward. Co-counsel was James Zito, 150 E. Ponce de Leon Avenue, Suite 200, Decatur, GA 30030

(404-574-2441). Opposing counsel was Edward D. Buckley, Buckley & Klein, LLP, 1180 W. Peachtree Street, Suite 1100, Atlanta, GA 30309 (404-781-1100).

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

My most significant legal activities in the last decade have been as a special master and monitor for the federal courts as well as my work as an arbitrator and mediator. As a special master and mediator, I have engaged in detailed investigation and fact finding, report drafting, mediation, and the development of significant remedial solutions for the court and parties based on the credibility of my reviews and judgment. As an arbitrator and mediator, I have resolved a challenging variety of cases, some of which had been mired in litigation for many years.

Since 1994, I have represented school districts throughout Georgia, both as general counsel for the Atlanta Public Schools and as private litigation counsel for other districts. As the Atlanta school district's first in-house general counsel during a major period of reform, I devoted significant time to addressing the systemic vacuum of legal procedures relating to critical areas of potential liability as well as a major backlog of litigation and pending claims. I provided legal counsel to the board and district leadership staff. I developed organizational procedures for the school district to handle review of contracts, new initiatives, the investigation of discrimination and harassment charges brought by employees and students, and the handling and review of student disciplinary measures. I also lead and participated in training of staff on employment and student related legal issues. Finally, as general counsel, I played a vital role in representing the school system in a wide range of cases. As private counsel for rural school districts throughout Georgia, I litigated school funding issues that carry enormous educational and fiscal consequences in low wealth districts.

My private law practice has involved both litigation and legal counseling. In the period before 1994, I worked closely with individuals as well as community and employee groups, providing legal advice on employment and labor law issues as well as zoning and development disputes. I represented a broad range of individuals and groups in civil litigation and was particularly successful in resolving cases at the trial court level.

I have also devoted my energies to service with a variety of State Boards and Commissions as well as non-profit organizations. My legal experience has played an invaluable role in this service. Additionally, I mentored a number of students through my role as an adjunct faculty member at Emory University Law School.

I have never performed any lobbying activities.

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

I taught as an adjunct professor of law at Emory University Law School during the period 2004 – 2007. The courses taught were:

Education Law and Policy Seminar, 2004 and 2005

Education Law and Policy Class (Non-seminar), 2006

These classes covered the same overall subject matter, including the wide scope of federal and state education related legislation and civil rights and constitutional case law that govern the provision of education in the United States.

Complex Education Litigation Clinic, 2007

This class provided students with supervised clinical experience and training in handling complex public interest litigation involving public education, including state constitutional and taxation issues. It also included training on discovery management.

In addition to my formal teaching, I have had the following academic affiliations:

Visiting Scholar, Georgia State University, College of Education, Department of Policy Studies (1998 – 1999)

Fellow / Scholar, Open Society Institute, New York, New York (1998 – 1999)

Scholar, Annenberg Institute, Providence, Rhode Island (1998 – 1999)

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

None.

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

I have no plans, commitments, or agreements to pursue outside employment.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

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

I have no family members or other persons, parties, categories of litigation, or financial arrangements that are likely to present potential conflicts-of-interest when I assume the position of United States District Judge. I do not foresee any recurrent basis for disqualification, except possibly in connection with matters in which former co-counsel serve as counsel for a party or where I have previously represented a party. If confirmed, I will carefully review and address any real or potential conflicts in accordance with the Code of Conduct for United States Judges and recuse myself and/or disclose relationships as appropriate.

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

If confirmed, I will carefully review and address any real or potential conflicts in accordance with the Code of Conduct for United States Judges and recuse myself where necessary and/or disclose relationships as appropriate to the parties. I will endeavor at the outset of each case to identify any potential conflict or appearance of conflict. I will also seek the advice of colleagues and of the Judicial Conference as needed in handling any such conflict or appearance of conflict.

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

I have provided pro bono services for disadvantaged clients throughout my legal career as well as assisted other lawyers who sought the benefit of my guidance and experience in representing such clients. My efforts have taken various forms over the course of my legal practice. Over the last two decades, I devoted substantial time to ensuring that all children in our society are guaranteed the fundamental protections of law and have access to the strong educational foundation essential to their participation in a democratic

society. This commitment led me to serve on the Governor's Education Reform Commission in Georgia, Hands on Atlanta (the city's largest volunteer organization), and the National Faculty. My work with these organizations entailed more than 800 hours of pro bono service.

Since becoming a lawyer in 1977, I have provided pro bono legal consultations on a regular basis to impoverished or non-represented individuals seeking legal assistance. Until I became general counsel of the city school district in 1994, I provided approximately 200 hours annually of pro bono legal consulting assistance on consumer, landlord/tenant, employment, and education matters. Although my travel schedule in the last decade has restricted my availability, I continue to provide approximately 70 hours of pro bono legal consultation assistance annually. As an extension of this work, I have participated in a variety of citizen and community group forums so as to broaden public awareness regarding basic legal issues.

I have litigated a number of pro bono cases throughout my career. The most demanding of these involved my representation of community groups in a zoning case that resulted in significant additional industrial development in an inner city low/moderate income residential neighborhood in Atlanta. While a favorable Superior Court decision on behalf of the clients was ultimately reversed by the Georgia Supreme Court, we were able, as a result of the litigation and community advocacy, to negotiate a plan with the state, the city, and defendants to alleviate the most severe effects of the development. This case involved at least 1,500 hours of work.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

The Georgia Democratic Congressional Delegation appointed a selection committee chaired by former Congressman George W. "Buddy" Darden. The committee subsequently screened a large initial list of applicants and requested that a subset of applicants submit full written applications. I submitted a resume and letter of interest in February 2009 and a formal application in March 2009. I was interviewed by the committee on April 13, 2009. I was among the applicants whose names were thereafter submitted to the White House as a finalist for one of the open judicial positions in the Northern District of Georgia.



On October 14, 2009, I received a call from the Office of Legal Policy for the United States Department of Justice. Since that date, I have been in contact with pre-nomination officials at the Department of Justice. I was interviewed by Department of Justice officials and a member of the White House Counsel's office on December 18, 2009. The President submitted my nomination to the Senate on March 17, 2010.

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

No.

AFFIDAVIT

I, Amy Mil Totenberg, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

March 15, 2010  
(Date)

Amy Mil Totenberg  
Amy Mil Totenberg

John Sweet  
Notary Public  
Atlanta, Georgia

