

APPLICATION FOR NOMINATION TO THE COUNTY COURT

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

DATE: August 9, 2019 Florida Bar No.: 0984884

GENERAL: Social Security No.: [REDACTED]

1. Name G. KIPLING MILLER E-mail: kip@duidivorce.com

Date Admitted to Practice in Florida: 9/27/1993

Date Admitted to Practice in other States: None

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

KOLEILAT & MILLER - Partner

3. Business address: 500 North Oleander Ave

City Daytona Beach County Volusia State FL ZIP 32118

Telephone (386) 253-4720 FAX (386) 253-4722

4. Residential address: 242 Ocean Palm Drive

City Flagler Beach County Flagler State FL ZIP 32136

Since 2008 Telephone (386) 852-5678

5. Place of birth: Niles, MI

Date of birth: [REDACTED] Age: 54

6a. Length of residence in State of Florida: 44 YEARS

6b. Are you a registered voter? Yes No

If so, in what county are you registered? Flagler

7. Marital status: Single

If married: Spouse's name NONE

Date of marriage NONE

Spouse's occupation NONE

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.

George K. Miller v. Honey H. Miller, Case No. 2006-32300-FMCI/ Daytona Beach, Volusia County, Florida. Final Judgment entered 2/14/2007

n/k/a Honey H. Jones- 6122 Sabal Point Circle, Port Orange, FL 32128

8. Children

<i>Name(s)</i>	<i>Age(s)</i>	<i>Occupation(s)</i>	<i>Residential address(es)</i>
Caroline Miller	21	Student	242 Ocean Palm Drive, Flagler Beach, FL 32136
Maxwell Miller	19	Student	242 Ocean Palm Drive, Flagler Beach, FL 32136

9. Military Service (including Reserves)

<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>
NONE	NONE	NONE	NONE
Rank at time of discharge	NA	Type of discharge	NA
Awards or citations	NA		
<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>
NA	NA	NA	NA
Rank at time of discharge	NA	Type of discharge	NA
Awards or citations	NA		

HEALTH:

10. Are you currently addicted to or dependent upon the use of narcotics, drugs, or intoxicating beverages? If yes, state the details, including the date(s).

NO

11a. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism?

Yes No

If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.]

Please describe such treatment or diagnosis.

NONE

11b. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner?

- Experiencing periods of no sleep for 2 or 3 nights
- Experiencing periods of hyperactivity
- Spending money profusely with extremely poor judgment
- Suffered from extreme loss of appetite
- Issuing checks without sufficient funds
- Defaulting on a loan
- Experiencing frequent mood swings
- Uncontrollable tiredness
- Falling asleep without warning in the middle of an activity

Yes No

If yes, please explain.

NA

12a. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner?

Yes No

12b. If your answer to the question above is Yes, are the limitations or impairments caused by your physical or mental health impairment reduced or ameliorated because you receive ongoing treatment (with or without medication) or participate in a monitoring or counseling program?

Yes No

Describe such problem and any treatment or program of monitoring or counseling.

NA

13. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, give full details as to court, date and circumstances.

NO

14. During the last ten years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal law provisions.)

NO

15. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs or illegal use of drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

NO

16. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.

NO

17. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

NO

EDUCATION:

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

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
Saint Thomas University		8/1990-5/1993	JD
Stetson Univeristy		8/1983-5/1987	Bachelor's in Business Administration

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

NA

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>
1988	Stock	Publix Supermarkets	SR 44 New Smyrna Beach, FL
8/1988 - 4/1990	Admissions Counselor	Jacksonville University	2800 University Blvd North, Jacksonville, FL

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.

Florida Bar 9/1993

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>
Partner	KOLEILAT & MILLER	500 North Oleander Ave, Daytona Beach, FL 32118	3/2010 - present
Partner	WHITED FULLER & MILLER	630 North Wild Olive Ave, Daytona Beach, FL	2/2000-3/2010
Assistant State Attorney	Office of the State Attorney, Seventh Judicial Circuit	251 North Ridgewood Ave, Daytona Beach, FL 32114	8/1993-2/2000

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.

Criminal Defense, Criminal Law

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	_____ %	Civil	_____ %
Federal Trial	_____ %	Criminal	95 %
Federal Other	_____ %	Family	5 %
State Appellate	_____ %	Probate	_____ %
State Trial	100 %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
	_____ %		
TOTAL	100 %	TOTAL	100 %

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

Jury?	100 + _____	Non-jury?	100 + _____
Arbitration?	0 _____	Administrative Bodies?	1000 + _____

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).

1. State of Fla. v. Viktor Krivoshey, Case No.: 2016-000150-CF, Assistant State Attorney Mark Lewis, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720; Judge Dennis Craig.

2. State of Fla. v. Sandra Heilman, Case No.: 2013-301515-CFDB, Assistant State Attorney Michael Willard, 386-822-6400; G. Kipling Miller, Defense Counsel, 386-253-4720; Judge Frank Marriott.
3. State of Fla. v. Pierce, Case No.: 2016-303954-MMDB, Assistant State Attorney Blake Tillman, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720; Judge Belle Schumman.
4. State of Fla. v. Chadwick Vogt, Case No.: 2013-302925-CFDB, Assistant State Attorney Michael Willard, 386-822-6400; G. Kipling Miller, Defense Counsel, 386-253-4720; Judge Leah Case.
5. State of Fla. v. William S. Fahner, Case No.: 2013-301545-CFDB, Assistant State Attorney Laura Coln (deceased); G. Kipling Miller, Defense Counsel, 386-253-4720; Judge R. Michael Hutchenson.
6. State of Fla. v. Carl W. Lentz, IV, Case No.: 2014-310472-MMDB, Assistant State Attorney Jennifer Dunton, 386-239-7710; G. Kipling Miller and Lauren Y. Koleilat, Defense Counsel, 386-253-4720; Judge James Clayton.

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).

1. State of Fla. v. Rush Rowland, Case No: 2018- CT 000190; Hung Jury, Assistant State Attorney Robert Pickens, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720, Judge Mellisa Distler.
2. State of Fla. v. Aaron J. Becker, Case No.: 2019-305104-MMDB, Assistant State Attorney Diane Tyler, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720; Judge David Foxman.
3. State of Fla. v. Christy L. Hopkins, Case No.: 2018-306103-MMDB, Assistant State Attorney Spencer Hathaway, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720. Judge Judith Campbell.
4. State of Fla. v. Dominique McPhee, Case No: 2018-CT-938; Assistant State Attorney John Stokes, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720. Judge Mellisa Distler.
5. State or Fla. v. Heather Mitchell, Case No.: 2019-300744-MMDB, Assistant State Attorney Spencer Hathaway, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720. Judge Judith Campbell.
6. State of Fla. v. Amy Harrigan, Case No.: 2017-304051-CFDB, Assistant State Attorney Shey McCurdy, 386-239-7710; G. Kipling Miller, Defense Counsel, 386-253-4720; Judge Sandra Upchurch.

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

27d. During the last five years, how frequently have you appeared in Court?
15 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? 0% Defendants? 0%
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.

1993-2000; As an Assistant State Attorney, I was in court daily as I was a lead trial attorney.

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.

NONE

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.

1. State of Fla. v. Carl W. Lentz, Case No.: 2014-310472-MMDB. Client, Carl W. Lentz, was a Commissioner for the City of Daytona Beach initially accused in the media of using his position as a commissioner to obstruct the case. Mr. Lentz was formally charged with simply battery. Mr. Lentz was was villified by the media, yet acquitted at trial. Circuit Judge James Clayton presided. The [homicide unit] prosecutor, under special assignment, Jennifer Dunton.

2. State of Fla. v. Walter E. Milane, Jr., 1996-031299-CFAES. Mr. Milane was found guilty after a jury trial of Second Degree Murder, resulting in a 26 year prison term. The victim was brutally stabbed to death during Spring Beak at a gas station for whistling at Mr. Milane's girlfriend. I served as the Assistant State Attorney assigned to prosecute Mr. Milane. Circuit Court Judge Shawn Briese presided. Public Defender was Michael O'Neal 386-239-7730. The victim's loved ones were extermely grateful for my getting justice for them.

3. State of Fla. v. James Pinkstaff, 1997-03150-CFAES. As an Assistant State Attorney, I was assigned to prosecute Mr. Pinnkstaff for the charge of animal cruelty. Mr. Pinkstaff owned a dog grooming business and was accused of mortally wounding a small dog. This case is significant because I was contacted by PETA and Court TV did a live broadcast featuring Nancy Grace. Horace Smith with the Defense Counsel.

4. State of Fla. v. Mary Bayer, 1998-032297-CFAES. As an Assistant State Attorney, I prosecuted Ms. Bayer, who was convicted of Aggravated Manslaughter of an Elderly Person. Ms. Bayer was accused of extremely neglecting her elderly mother, resulting in her death. At the time, there were no standard jury instructions for this crime, requiring me to draft same. On appeal, the 5th DCA affirmed the conviction stating there was no error for the jury instructions given. Judge Briese presided and Michael O'Neal was the Public Defender.

5. State of Fla. v. Jason Looney, 1997-3400-CFAES. Mr. Looney was charged with a series of local crimes after fleeing a double homicide in Walkulla County, Florida. I worked closley with State Attorney Willie Meggs to secure felony convictions to be used during his murder trial for aggravating factors. Judge Shawn Briese presided. Public Defender was Matt Phillips.

6. State of Fla. v. John Kalimnios, 2011-035339-CFAES. Mr. Kalimnios is an elderly man who was accused of sexual battery on a person under 12 years. This case is significant as it started with a divorce action against his wife, who then fabricated charges to get the upper hand financially. I handled the criminal matter, injunction for protection, DCF action, along with civil litigation.

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.

See attached Petition for Writ of Habeas Corpus filed in the case styled: Robert Flores, Petitioner v. State of Florida, Respondent. Prepared and filed the pleading.

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.

NO

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

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
--------------	-----------------------	----------------------

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.
- (ii) Describe the approximate number and nature of the cases you have handled during your judicial or quasi-judicial tenure.
- (iii) List citations of any opinions which have been published.
- (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.
- (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.

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

- (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.

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.

G. Kipling Miller, Inc. - S corporation, law firm. Will close the corporation and delegate cases if appointed.

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.

NO

POSSIBLE BIAS OR PREJUDICE:

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

NO

MISCELLANEOUS:

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

Yes _____ No 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 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 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.

NONE

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

Top Gun Trial Attorney 1995 and 1999 for outstanding trial record as an Assistant State Attorney.

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

During my time at the State Attorney's Office, I would lecture law enforcement agencies on DUI and domestic violence issues.

As a defense attorney, I lectured at Daytona State College on the issue of DUI and general criminal law.

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

PROFESSIONAL AND OTHER ACTIVITIES:

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

Volusia County Bar Association

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

Florida Association of Criminal Defense Lawyers

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

Off shore fishing, boating, running/cycling

- 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.

In house pro bono representation through our firm annually.

SUPPLEMENTAL INFORMATION:

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

Criminal Law

- 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.

NONE

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

I will bring to the position twenty-six (26) years of courtroom experience handling jury

trials and hearings before the court. I have had the opportunity to see the administration of law from both the prosecution and defense perspectives. I believe this will enable me to be fair and impartial. I have also had the opportunity to practice as both a state employee and in private practice. I understand the unique problems facing advocates in both sectors which I believe will benefit me in maintaining an efficient, yet fair, docket.

I have been involved in both trial practice and appellate practice. My extensive trial experience has allowed me to see both sound and questionable judicial decisions and more importantly, taught me the ability to firmly grasp the difference. I am keenly aware of the roll that the trial court plays in the overall administration of justice. The law must be followed, both substantively and procedurally. I have always demonstrated a tireless work ethic, both as a state employee and in private practice. Lastly, my extensive courtroom experience has taught me the importance of courtesy and respect for the process, litigants and members of the bar.

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.

NA

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

A substantial amount of my practice has been devoted to Flagler County for the past 15 years. My trial experience has allowed me the privilege of having a professional relationship with the Flagler County judiciary.

I have lived in Flagler County for the last 13 years. I am a member of the community of which I am requesting to serve. My two children are college age. My daughter, Caroline, is a senior at the University of Florida and my son, Max, is a freshman at Sante Fe College. I was raised in Volusia County and have extensive ties to the local community.

REFERENCES:

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

1. Honorable David Foxman, County Court Judge - 125 East Orange Ave, Suite 203, Daytona Beach, FL 32114, 386-257-6033

2. Honorable Raul Zambrano, Circuit Court Judge - 251 North Ridgewood Avenue, Daytona Beach, FL 32114, 386-239-7791

3. Honorable Steven Henderson, Circuit Court Judge - 125 East Orange Avenue, Suite 310, Daytona Beach, FL 32114, 386-257-6051

4. Spencer Hathaway, Esquire, ASA, 251 N. Ridgewood Avenue, Daytona Beach, FL 32114, 386-239-7710

5. Bryan Shorstein, Esquire, ASA, 251 N. Ridgewood Avenue, Daytona Beach, FL 32114, 386-239-7710

6. Philip J. Bonamo, Esquire, 222 Seabreeze Blvd. Daytona Beach, FL 32118, 386-257-1222

7. Larry Kelly, 2808 Paradiso Court, New Smyrna Beach, FL 32168, 386-547-4464
8. Ben Fox, Esquire, ASA, 2725 Judge Fran Jamieson Way, Viera, FL 32940, 321-617-7510
9. Todd Jones, CEO Publix Supermarkets Inc., 3300 Publix Corporate Parkway, Lakeland, FL 33811, 863-661-9927
10. Carl W. Lentz, III, M.D., 570 John Anderson Drive, Ormond Beach, FL 32176, 386-299-9299

CERTIFICATE

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

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

Dated this 9 day of August, 2019.

G. Kipling Miller

Printed Name

G. Kipling Miller

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.

FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current year to date	\$73,846.00		
List Last 3 years	83,333.00	106,153.76	119,839.88

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current year to date	\$73,846.00		
List Last 3 years	83,333.00	106,153.76	119,839.88

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current year to date	73,846.00		
List Last 3 years	139,221.00	126,716.00	108,031.00

4. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

Current year to date	0.00		
List Last 3 years	22,817.00	18,438.00	19,269.00

**FORM 6
FULL AND PUBLIC
DISCLOSURE OF
FINANCIAL INTEREST**

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of 8/8, 2019 was \$1,000,000.

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ 100,000.00

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required – see Instructions p. 3)

VALUE OF ASSET

DESCRIPTION OF ASSET (specific description is required – see Instructions p. 3)	VALUE OF ASSET
242 Ocean Palm Drive, Flagler Beach, FL 32136	550,000
2016 Boston Whaler Outrage	200,000
Publix Stock	200,000
Ameriprise Brokerage Account	518,000

PART C - LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
Mortgage - Specialized Loan	237,000
BBT - boat loan	75,000

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

PART D - INCOME

You may ***EITHER*** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSIENSS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITTY	G. Kipling Miller, Inc		
ADDRESS OF BUSINESS ENTITY	████████████████████ Flagler Beach, FL 32136		
PRINCIPAL BUSINESS ACTIVITY	Law Firm		
POSITION HELD WITH ENTITY	President		
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS	Yes		
NATURE OF MY OWNERSHIP INTEREST	100%		

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

G K Miller
 SIGNATURE

STATE OF FLORIDA

COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me this 9 day of **AUGUST, 2019** by George Kipling Miller

Lauren Y. Koleilat
 (Signature of Notary Public—State of Florida)



(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known Y OR Produced Identification _____

Type of Identification Produced _____

INSTRUCTIONS FOR COMPLETING FORM 6:

PUBLIC RECORD: The disclosure form and everything attached to it is a public record. **Your Social Security Number is not required and you should redact it from any documents you file.** If you are an active or former officer or employee listed in Section 119.071(4)(d), F.S., whose home address is exempt from disclosure, the Commission is required to maintain the confidentiality of your home address **if you submit a written request for confidentiality.**

PART A – NET WORTH

Report your net worth as of December 31 or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

- form;
- (1) The aggregate value of household goods and personal effects, as reported in Part B of this form;
 - (2) The value of all assets worth over \$1,000, as reported in Part B; and
 - (3) The total value of any assets worth less than \$1,000 that were not reported or included in the category of “household goods and personal effects.”

To total the amount of your liabilities, add:

- (1) The total amount of each liability you reported in Part C of this form, except for any amounts listed in the “joint and several liabilities not reported above” portion; and,
- (2) The total amount of unreported liabilities (including those under \$1,000, credit card and retail installment accounts, and taxes owed).

PART B – ASSETS WORTH MORE THAN \$1,000

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds \$1,000. The types of assets that can be reported in this manner are described on the form.

ASSETS INDIVIDUALLY VALUED AT MORE THAN \$1,000:

Provide a description of each asset you had on the reporting date chosen for your net worth (Part A), that was worth more than \$1,000 and that is not included as household goods and personal effects, and list its value. Assets include: interests in real property; tangible and intangible personal property, such as cash, stocks, bonds, certificates of deposit, interests in partnerships, beneficial interest in a trust, promissory notes owed to you, accounts received by you, bank accounts, assets held in IRAs, Deferred Retirement Option Accounts, and Florida Prepaid College Plan accounts. You are not required to disclose assets owned solely by your spouse.

How to Identify or Describe the Asset:

— Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property's location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.

— Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. **Do not list simply “stocks and bonds” or “bank accounts.”** For example, list “Stock (Williams Construction Co.),” “Bonds (Southern Water and Gas),” “Bank accounts (First

National Bank), "Smith family trust," Promissory note and mortgage (owed by John and Jane Doe)."

How to Value Assets:

- Value each asset by its fair market value on the date used in Part A for your net worth.
- Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as tenants by the entirety or jointly with right of survivorship must be reported at 100% of their value.
- Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.
- Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.
- Real property may be valued at its market value for tax purposes, unless a more accurate appraisal of its fair market value is available.
- Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.
- Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.
- Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by "buy-out" agreements. It is suggested that the method of valuation chosen be indicated in a footnote on the form.
- Life insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.

PART C—LIABILITIES

LIABILITIES IN EXCESS OF \$1,000:

List the name and address of each creditor to whom you were indebted on the reporting date chosen for your net worth (Part A) in an amount that exceeded \$1,000 and list the amount of the liability. Liabilities include: accounts payable; notes payable; interest payable; debts or obligations to governmental entities other than taxes (except when the taxes have been reduced to a judgment); and judgments against you. You are not required to disclose liabilities owned *solely* by your spouse.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owned to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" on a note and have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

How to Determine the Amount of a Liability:

- Generally, the amount of the liability is the face amount of the debt.
- If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.

— If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. *However*, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship, report 100% of the total amount owed.

— If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

Examples:

— You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 with your spouse to a saving and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank (\$10,000 being the amount of that liability) and the name and address of the savings and loan (\$60,000 being the amount of this liability). The credit cards debts need not be reported.

— You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

List in this part of the form the amount of each debt, for which you were jointly and severally liable, that is not reported in the "Liabilities in Excess of \$1,000" part of the form. Example: You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

PART D – INCOME

As noted on the form, you have the option of either filing a copy of your latest federal income tax return, including all schedules, W2's and attachments, with Form 6, or completing Part D of the form. If you do not attach your tax return, you must complete Part D.

PRIMARY SOURCES OF INCOME:

List the name of each source of income that provided you with more than \$1,000 of income during the year, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is a joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

"Income" means the same as "gross income" for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony, but not child support. Where income is derived from a business activity you should report that income to you, as calculated for income tax purposes, rather than the income to the business.

Examples:

— If you owned stock in and were employed by a corporation and received more than \$1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total amount of income received from it.

— If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$1,000, you should list the name of the firm, its address, and the amount of your distributive share.

— If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than \$1,000. Do not aggregate income from all of these investments.

— If more than \$1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as "sale of (name of company) stock," for example.

— If more than \$1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

SECONDARY SOURCE OF INCOME:

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. It is not for reporting income from second jobs. That kind of income should be reported as a "Primary Source of Income." You will *not* have anything to report *unless*:

(1) You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and

(2) You received more than \$1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's more recently completed fiscal year), the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

— You are the sole proprietor of a dry cleaning business, from which you received more than \$1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).

— You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded \$1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership's gross income, the tenant's address and principal business activity.

PART E – INTERESTS IN SPECIFIED BUSINESS

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies, credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; and entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of business for which you are, or were at any time during the year an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: August 9, 2019

JNC Submitting To: 7th Judicial Circuit

Name (please print): G. Kipling Miller

Current Occupation: Attorney at Law

Telephone Number: 386-852-5678 Attorney No.: 0984884

Gender (check one): Male Female

Ethnic Origin (check one): White, non Hispanic

Hispanic

Black

American Indian/Alaskan Native

Asian/Pacific Islander

County of Residence: Flagler County

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

**DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)**

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

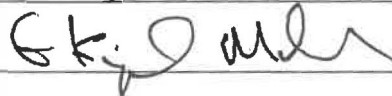
**CONSUMER'S AUTHORIZATION FOR FDLE
TO OBTAIN CONSUMER REPORT(S)**

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Printed Name of
Applicant:

G. Kipling Miller

Signature of Applicant:



Date: 08/09/19



**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT**

ROBERT FLORES,)	
)	
Petitioner,)	
)	
v.)	Case No. 5D11 _____
)	Lower Court Case No. 2011-CF-000741
STATE OF FLORIDA,)	
)	
Respondent.)	
_____)	

PETITION FOR WRIT OF HABEAS CORPUS

The petitioner, pursuant to Florida Rule of Appellate Procedure 9.100, petitions this Court for a writ of habeas corpus.

JURISDICTIONAL BASIS

This Court has jurisdiction to entertain this petition under Article V, section 4(b)(3), of the Florida Constitution; *see also* Florida Rule of Appellate Procedure 9.030(b)(3). A petition for writ of habeas corpus in the appellate court is the appropriate way to challenge a trial court's ruling on the conditions of pretrial release. See *State ex rel. Scaldeferri v. Sandstrom*, 285 So.2d 409, 412-13 (Fla.1973); *Hollander v. Crowder*, 952 So.2d 1289, 1289 (Fla. 4th DCA 2007).

MATERIAL FACTS

On July 20, 2011, the Flagler County Sheriff's Office arrested Petitioner for the offenses of domestic violence misdemeanor battery and assault. (Appendix A). The victim is Pauline Flores, Petitioner's estranged wife and mother of his eleven-year-old daughter. Petitioner posted a \$2500 bond and was released. Mistakenly thinking that he was still on probation for a prior offense, Petitioner notified his probation office about the new charges and accompanying arrest. Petitioner was then arrested for the alleged violation of probation and held without bond. The State then filed a "no information" for the battery and assault misdemeanors and transferred the case to circuit court. The State then re-filed the previously charged misdemeanor allegations as felony battery [Sec. 784.03(2)], a third-degree felony, and burglary of a conveyance with the assault or battery therein [Sec. 810.02(2)(a)], a first-degree felony punishable by life. (Appendix B).

On July 25, 2011, Petitioner filed a motion for bond. (Appendix C). The motion set forth undisputed facts that (1) Petitioner is 32 years of age; (2) resides in Palm Coast, Florida; (3) has lived in Flagler County since 1992; (4) graduated from Flagler Palm Coast high school; (5) Petitioner's mother and brother reside in Flagler County; (6) Petitioner's father lives in Florida; (7) Petitioner owns his own business, specifically a property management company with five employees; and

(8) that the business requires Petitioner to guide the business on a daily basis.

On July 26, 2011, Petitioner's motion for bond was heard before the Honorable Raul Zambrano. (Appendix D, p. 1-87). As a preliminary matter, the trial court confirmed that its previous order terminating Petitioner's probation applied to all cases, not just one count. In light of that fact, all parties agreed that Petitioner was not in violation of any probation order when the newly alleged substantive offense occurred. (Appendix D, p. 4-25).

The State eschewed their chance to file a motion for pretrial detention under Florida Rule of Criminal Procedure 3.132, choosing instead to proceed under Florida Rule of Criminal Procedure 3.131. (Appendix D, p. 26-28). Procedurally, this allowed the State to attempt to prove that, as to the charge of burglary of a conveyance with an assault or battery therein, the proof of guilt was evident and presumption great. This also allowed the State to present hearsay evidence in addition to live testimony. *Castro v. State*, 914 So. 2d 467 (Fla. 5th DCA 2005).

Petitioner presented the testimony of Sid Weeks, an employee of the two companies owned by Petitioner and his wife, Pauline. (Appendix D, p. 29-39). Petitioner ran the property management part of the business while his wife, Pauline, ran the brokerage portion. Pauline was not capable of running the property management division and needed help from Weeks. On many occasions since

Petitioner's arrest, Pauline had expressed a desire for Petitioner to be released.

Additionally, she did not appear to be in fear of him. Furthermore, the couple had hired lawyers and were initiating divorce proceedings.

Petitioner's mother testified that he would be able to live with her if he were released. Additionally, she would act as a go between so that the couple's daughter could spend appropriate time with each. (Appendix D, p. 40-41).

Petitioner took the stand and explained the separate natures of the family business. He promised to have no contact whatsoever if released on bond. He had hired his own divorce lawyer and was resigned to going on with his life. He wants only to save the business and provide for his family. He admitted to having non-violent contact with Pauline at Walmart that day, but denied any other inappropriate contact. (Appendix D, p. 42-50).

Pauline's mother testified at a bond hearing about the prior battery that Petitioner had committed on her daughter in 2009. The state introduced numerous photographs that depicted the injuries Pauline sustained in 2009. The trial court concluded that it was relevant that Petitioner had battered Pauline previously, was placed on probation (which he successfully completed), and then shortly thereafter, once again battered the same person. (Appendix D, p. 50-7). The remainder of the victim's mother's testimony dealt with the "very toxic" nature of their relationship.

The only testimony from the mother about the incident that resulted in the burglary charge was that Pauline went to Walmart that day and ran into Petitioner. Pauline later told her mother that she went running into the store crying for help and that no one would help her. She came home before the police responded to the scene. The mother described Pauline as shaking uncontrollably, such that she had to sit down. (Appendix D, P. 59-60).

The only other witness called by the State was Evelyn Robostini, a victim advocate from the Office of the State Attorney. Robostini reportedly had permission to speak for Pauline at the bond hearing. (Appendix D, p. 70-2). After Petitioner was released from jail, he called Pauline asking her go to the state attorney's office and drop the charges. (Appendix D, p. 72-4). The only other substantive testimony from the victim advocate dealt with Pauline's inability to testify due to her state of mind. (Appendix D, p. 75-6).

After hearing argument, the trial court stated:

Well, I have some serious concern for Mrs. Flores safety. Primarily I know what you're saying, that Count II [burglary with an assault/battery] seems excessive to you, but the biggest concern the Court has is Count I [felony battery]. If Mr. Flores cannot stop himself from assaulting her and causing her harm and stalking her, then that poses a serious threat to her safety, and that's, I think, what the biggest concern is for the court right now.

(Appendix D p. 84-5). The trial court then denied bond.

NATURE OF RELIEF SOUGHT

An order granting Petitioner's immediate release from custody. Alternatively, Petitioner asks this Court to remand this cause to the trial court with directions to set a reasonable monetary bond.

ARGUMENT

THE PETITIONER IS ENTITLED TO A REASONABLE BOND WITH APPROPRIATE CONDITIONS OF RELEASE.

Article I, Section 14 of the Florida Constitution guarantees the right to pretrial release of all defendants charged with criminal offenses except those charged with capital felonies and certain life felonies. Florida Rule of Criminal Procedure 3.131(b)(1) states that unless the State has filed a motion for pretrial detention pursuant to rule 3.132, the court, at first appearance, "shall conduct a hearing to determine pretrial release." Rule 3.131(b)(2) states that "[t]he judge shall at the defendant's first appearance consider all available relevant factors to determine what form of release is necessary to assure the defendant's appearance."

Rule 3.131(b)(3) states:

In determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court may consider the nature and circumstances of the offense charged and

the penalty provided by law; the weight of the evidence against the defendant; the defendant's family ties, length of residence in the community, employment history, financial resources, need for substance abuse evaluation and/or treatment, and mental condition; the defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings; the nature and probability of danger that the defendant's release poses to the community; the source of funds used to post bail; whether the defendant is already on release pending resolution of another criminal proceeding or is on probation, parole, or other release pending completion of sentence; and any other facts the court considers relevant.

A. Petitioner is being erroneously held with no bond for a third-degree felony.

Initially, petitioner notes that the trial court appears to somewhat agree with (or at least recognize) defense counsel's argument that Count II (burglary of a conveyance with a battery/assault), "seems excessive." (Appendix D, p. 84-5). The trial court then clearly states that his "biggest concern... is Count I (felony battery). (Appendix D, p. 85). Shortly thereafter, the trial court denies bond apparently, based on his "biggest concern," Pauline's safety. (Appendix D, p. 85-6). Thus, the record clearly reflects that Petitioner's constitutional rights are being violated based on the fact that he is being held without bond for a third-degree felony, not for the charge of burglary with an assault. As such, this Court should immediately order Petitioner's release. *State v. Arthur*, 390 So.2d 717 (Fla.1980); see also Art. I, § 14, Fla. Const. See also generally *Best v. State*, 28 So.3d 134 (Fla.

5th DCA 2010).

B. The State failed to meet the requisite heavy burden of proving that Petitioner committed a burglary of a conveyance with an assault/battery therein.

In the alternative, Petitioner contends that the State failed to prove the proof is evident and the presumption great. In the present case, Petitioner is charged with felony battery, a third degree felony, and burglary of a conveyance with an assault or battery therein, a first degree felony punishable by life. Under the latter, more problematic charge, Petitioner may be held without bond where the proof is evident and presumption great for that particular charge. *State v. Arthur*, 390 So.2d 717, 719 (Fla.1980) (holding that, before pretrial detention may be ordered in a life felony case, State must show that "proof is evident or the presumption great"). See also Art. I, § 14, Fla. Const. Petitioner submits that the proof that he committed a first-degree felony punishable by life is far from evident nor is the presumption great.

The charging affidavit correctly and appropriately charges Petitioner with domestic violence battery and domestic violence assault, not a first-degree felony punishable by life. (Appendix A). The responding deputy sheriff prepared this charging affidavit after meeting with and interviewing the victim, Pauline Flores. Her voluntary statement is attached to the affidavit.(Appendix A, p. 3). Pauline's

statement makes no reference to a burglary. The **only** evidence that a burglary may have occurred is one brief reference in the charging affidavit. After Petitioner confronted his wife in the Walmart parking lot, she attempted to leave. Petitioner continued yelling at her and attempted to prevent her from leaving. Petitioner "reached inside Pauline's vehicle and began grabbing at her throat and arm. While he was doing this he stated, I'm going to kill you." (Appendix A, p. 2). Pauline was able to leave the Walmart parking lot, drive to a different store, go inside that store, before eventually getting back into her car and driving home. (Appendix A, p. 2).

The charging affidavit sets forth a classic case of domestic violence battery. Certainly, the state has failed to prove a first-degree felony punishable by life. Even if they have met that bare minimum of alleging a "burglary of a conveyance" with "an assault/battery therein," clearly the evidence does not meet the weighty standard that "the proof is evident and the presumption is great."

This provision has been construed to mean that one charged with a capital offense or an offense punishable by life imprisonment is "entitled to release on reasonable bail as a matter of right" unless "the proof is evident or the presumption great that [the accused] is guilty of the offense charged." *State v. Arthur*, 390 So.2d 717, 718 (Fla.1980). Moreover, because the provision "embodies the

principle that the presumption of innocence abides in the accused for all purposes while awaiting trial," the burden rests on the State to establish that "the proof of guilt is evident or the presumption is great." *Id.* at 719-20 (footnote omitted).

The degree of proof which the State must present to carry its burden in such a case has long been held to be a higher one than that of guilt to the exclusion of all reasonable doubt required for a criminal conviction. *E.g., State ex rel. Van Eeghen v. Williams*, 87 So.2d 45 (Fla.1956); *Russell v. State*, 71 Fla. 236, 71 So. 27 (1916). Thus, in *Russell*, the court said:

The question is not whether the evidence adduced on an application for bail is sufficient to establish guilt beyond a reasonable doubt, but whether the evidence is sufficient to establish that degree of proof where the judge to whom the application is made may say that guilt is evident or the presumption is great, which is a greater degree of proof than that establishing guilt merely to the exclusion of a reasonable doubt.

71 Fla. at 240-41, 71 So. at 28.

As stated in *Kirkland v. Fortune*, 661 So.2d 395, 397 (Fla.1st DCA 1995):

The word "evident" is defined by Webster as "clear to the understanding and satisfactory to the judgment." Synonyms: "Manifest, plain, clear, obvious, conclusive." The word "manifest" is defined as follows: "To put beyond question of doubt." In a trial this degree of proof is not required, for it not infrequently happens that upon a conviction the court will refuse to grant a new trial because there is evidence to support the verdict, although to his mind guilt may not have been established to the point of being manifest, obvious, beyond a question of doubt, yet it is to the court to whom application for bail is

made, and his judgment is invoked as to the degree of proof established by the evidence, and not what a petit jury not yet impaneled may possibly decide as to the probative force of the evidence.

Clearly the State has failed in meeting this extremely heavy burden that Petitioner committed a first degree felony punishable by life. The requisite evidence is simply not there.

C. The trial court improperly, and over objection, based its ruling on matters that were irrelevant and outside the record.

Janet Ivans, Pauline Flores's mother, identified photographs depicting injuries that her daughter suffered from a 2009 domestic violence incident committed by Petitioner. Defense counsel acknowledged that Petitioner had been previously convicted of battery, but pointed out that Petitioner had successfully completed his probation for that conviction. When the trial court ascertained that the prior case involved the same victim, Pauline, the court overruled the objection and considered the injuries inflicted in the previous, now closed case. (Appendix D, p. 50-7). The trial court stated explicitly on the record that he believed that it was relevant if a person was accused once before of battering a person and, within a short time, batters the same person again. (Appendix D, p. 55-6).

Additionally, the trial court clearly considered matters beyond the record of

the instant case. The trial court stated that he was familiar with the prior case of battery, because he heard the injunction hearing. The trial court stated that he did not remember being involved in the criminal case, but was involved in the issuance of the injunction. (Appendix D, p. 52). Petitioner submits that the trial court's consideration of a prior unrelated judicial proceeding involving these two individuals was improper and violated Petitioner's right to due process of law.

Furthermore, the record clearly reflects that the trial court's involvement in the prior proceeding substantially impacted the court's decision to detain Petitioner with no bond. Such a consideration of extrajudicial matters is unfair and inappropriate. See, e.g., *C. G. H. v. State*, 404 So.2d 400 (Fla. 5th DCA 1981). (Improper for trial court to proceed on his own independent and extrajudicial knowledge of appellant and her family.) The trial court based his denial of bond on the prior proceeding and the evidence (the photographs) adduced therein. All of this was done over Petitioner's objection. (Appendix D, p. 50-7).

As previously pointed out (see subheading A, *supra*), the trial court seemed to be focused mainly on the safety of Pauline Flores. (Appendix D, p. 84-5). In ruling, the trial court expressed understanding that count two (the first-degree felony punishable by life) seemed excessive to defense counsel. The trial court then stated that his biggest concern was count one (felony battery, a third-degree felony).

Specifically, the trial court stated that:

If [Petitioner] cannot stop himself from assaulting her and causing her harm and stalking her, then that poses a serious threat to her safety, and that's, I think, what the biggest concern is for the court right now.

(Appendix D, p. 84-5). It appears from the record that the trial court is holding Petitioner without bond based on a third-degree felony, rather than the first-degree felony punishable by life. Petitioner submits that this is completely inappropriate under the Florida Constitution and the applicable case law.

D. Petitioner met his burden of showing that pretrial release was appropriate under the circumstances of this case.

Law enforcement originally arrested and charged Petitioner with two counts of domestic violence, both misdemeanors. (Appendix A). Petitioner bonded out after posting a monetary security of \$2500. Petitioner remained at liberty without further incident until his re-arrest based on the mistaken impression that Petitioner was still on probation. Petitioner was then held without bond only because of the mistaken impression that Petitioner had violated his probation by committing a new, substantive offense. (Appendix C).

As the Supreme Court of Florida stated in the seminal case on this issue:

The constitutional provision does not require that bail release be denied to all persons charged with capital offenses or offenses punishable by life imprisonment where the proof of guilt is evident or the presumption great.

State v. Arthur, 390 So. 2d 717, 718 (Fla. 1980). The court went on to hold:

The state's interest in securing the defendant's presence at trial is extremely important. But it does not so outweigh the defendant's interest in retaining his liberty as to justify denying completely the opportunity to convince the court that release on bail is appropriate. When the proof is evident or the presumption great that the accused committed a capital or life imprisonment offense, the accused may still come forward with a showing addressed to the court's discretion to grant or deny bail.

State v. Arthur, 390 So. 2d 717, 719 (Fla. 1980). The **Arthur** court's primary focus is the likelihood that the accused will flee:

If, after considering the defendant's responsive showing, the court finds that the proof is evident or the presumption great, the court then has the discretion to grant or deny bail. On this issue, the burden is on the accused to demonstrate that release on bail is appropriate. **It is with regard to this question that consideration of the likelihood that the accused will flee, regardless of the sureties required, becomes appropriate.**

State v. Arthur, 390 So. 2d 717, 720 (Fla. 1980). (Emphasis added.)

Petitioner submits that the record clearly reflects that he will appear to face the pending charges. Petitioner has deep roots in the community, a thriving business, and many local family ties. As pointed out at the trial court level, the State chose to significantly escalate the original charge from a misdemeanor to a first-degree felony punishable by life. Petitioner submits that it is highly unlikely that these charges will be resolved at that same level. Additionally, as pointed out

below, Petitioner would not be in a "no bond" posture absent the initial confusion over his probationary status. (Appendix D, p. 78-9, 85-6).

E. The trial court failed to make an express finding that the proof of the burglary was evident and the presumption great.

After hearing testimony and argument, the trial court announced its intention to rule. In doing so, the trial court stated simply, "I'm going to deny the motion for bond. Thank you." (Appendix D, p. 86). The trial court failed to assess the nature and weight of the evidence presented. Petitioner submits that the trial court should have explicitly made a finding, one way or the other, that the proof of the first-degree felony punishable by life was evident and that the presumption was great. Petitioner cannot cite to any authority where a trial court has been reversed for failing to make a specific finding. However, the majority of the cases make reference to a finding by the trial court. See, e.g., *Bleiweiss v. State*, 24 So.3d 1215 (Fla. 4th DCA 2009).

As argued elsewhere in this petition, Petitioner contends that the trial court based its ruling on inappropriate, irrelevant, and extrajudicial matters. This lends further support to the conclusion that the trial court did not specifically rule on the ultimate issue.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Honorable Court issue an order granting his immediate release from custody. Alternatively, Petitioner asks this Court to remand this cause to the trial court with directions to set a reasonable monetary bond with appropriate conditions of release.

Respectfully submitted,



G. KIPLING MILLER, ESQUIRE

Florida Bar No.: 0984884

404 North Halifax Avenue

Daytona Beach, Florida 32118

Phone: (386) 253-4720

Facsimile: (386) 253-4722

Attorney for Defendant

COUNSEL FOR THE PETITIONER

CERTIFICATE OF FONT

I certify that the font used in this petition is 14 point proportionally spaced Times New Roman.



G. KIPLING MILLER, ESQUIRE

Florida Bar No.: 0984884

CERTIFICATE OF SERVICE

I certify that true and correct copies of this petition and accompanying appendix have been hand delivered to the Assistant State Attorney, Doug Stanford, Esquire, 1769 E. Moody Blvd., Building 1, 3rd Floor, Bunnell, Florida 32110, by hand delivery to Mr. Robert Flores, 17 Forest Lane, Palm Coast, Florida 32137 and to by U.S. Mail to the Flagler County Sheriff's Office, 1001 Justice Lane, Bunnell, Florida on this 1st day of August, 2011.



G. KIPLING MILLER, ESQUIRE
Florida Bar No.: 0984884
404 North Halifax Avenue
Daytona Beach, Florida 32118
Phone: (386) 253-4720
Facsimile: (386) 253-4722
Attorney for Defendant

AMERIPRISE BROKERAGE

Total value: \$518,065.63 Day change: [REDACTED] -1.48%

Retrieved at 08/09/2019 10:41 AM ET Retrieved at 08/09/2019 10:41 AM ET

Max available for withdrawal: \$1,021.22 Owner: GEORGE KIPLING MILLER
Tax status: Non-Qualified

Positions

[Security Type](#) | [Security Type Chart](#)

[Collapse All](#)

[Refresh Export](#)

Cash Equivalents (0.20%)

Retrieved at 08/09/2019 10:42 AM ET

Description	Mkt. Value (\$)
Cash	\$914.22
Margin	\$107.92
Total Cash Equivalents	\$1,022.14

Equities (89.81%)

Retrieved at 08/09/2019 10:42 AM ET (All Prices Delayed) | [Save](#) | [Reset view](#) | [Columns](#)

Symbol	Description	Quantity	Mkt. Price	Mkt. Value	Day Range	52 WK Range	Today's Change
AAPL	APPLE INC	49.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
AEP	AMERICAN ELECTRIC POWER COMPANY INC	300.000	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
BHP	BHP GROUP LTD SPON ADR	26.000	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] %]
CB	CHUBB LTD	30.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CE	CELANESE CORP DEL SER A	39.000	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CVX	CHEVRON CORP	18.000	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
DIS	WALT DISNEY CO	75.000	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] %]
ETN	EATON CORP PLC	16.000	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] %]

Symbol	Description	Quantity	Mkt. Price	Mkt. Value	Day Range	52 WK Range	Today's Change
GE	GENERAL ELECTRIC CO	175.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.53%]
GPRO	GOPRO INC CL A	1250.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
GS	GOLDMAN SACHS GROUP INC	5.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
HD	HOME DEPOT INC	88.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
IBM	INTL BUSINESS MACHINES CORP	37.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
JNJ	JOHNSON & JOHNSON	54.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [1%]
JPM	JPMORGAN CHASE & CO	91.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
KHC	KRAFT HEINZ CO	256.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
LIN	LINDE PLC	12.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
LTHM	LIVENT CORP	32.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.00%]
MCD	MCDONALDS CORP	525.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.54%]
MO	ALTRIA GROUP INC	802.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
MSFT	MICROSOFT CORP	75.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.01%]
NEE	NEXTERA ENERGY INC	50.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0%]
NKTR	NEKTAR THERAPEUTICS	500.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
PG	PROCTER & GAMBLE CO	125.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0%]
PM	PHILIP MORRIS INTL INC	481.000	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0%]
SOUHY	SOUTH32 LTD SPONS ADR	10.000	\$9.75 [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0%]
T	AT&T INC	65.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0%]
UIS	UNISYS CORP NEW	10.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.33%]
UNH	UNITEDHEALTH GROUP INC	30.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.40%]
UNP	UNION PACIFIC CORP	18.000	\$1 [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [0.99%]

Symbol	Description	Quantity	Mkt. Price	Mkt. Value	Day Range	52 WK Range	Today's Change
USB	U S BANCORP DE NEW	44.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
UTX	UNITED TECHNOLOGIES CORP	19.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
VZ	VERIZON COMMUNICATIONS INC	100.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	\$45.00 [-0.27%]
XOM	EXXON MOBIL CORP	1211.000	\$7 [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] %
Total Equities				\$465,297.18			-\$7,676.89 [-1.62%]

Traded Funds (6.08%)

Retrieved at 08/09/2019 10:42 AM ET (All Prices Delayed) | Save | Reset view | Columns

Symbol	Description	Quantity	Mkt. Price	Mkt. Value	Day Range	52 WK Range	Today's Change
RWX	SPDR DOW JONES INTL REAL ESTATE ETF	280.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
VNQ	VANGUARD REAL ESTATE INDEX ETF	230.000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total Traded Funds				\$31,512.30			-\$132.50 [-0.42%]

Mutual Funds & UITs (3.91%)

Save | Reset view | Columns

Symbol	Description	Quantity	Mkt. Price	Mkt. Value	As Of	Today's Change
OHYFX	JPMORGAN HIGH YIELD CL I	2813.897	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total Mutual Funds & UITs				\$20,231.91		unc [REDACTED]

By registering for this service, you have agreed to the terms of the User Agreement. This service is intended for informational purposes only and is not an official report of any of your accounts. Please refer to your Ameriprise Financial account statements (monthly/quarterly) and any tax statements as your official report of any of your Ameriprise Financial accounts. Account values may not reflect account fees or charges that may be assessed on surrender or withdrawal, or interest charges on loan balances. Accuracy, completeness and timeliness cannot be guaranteed. **The information and data made available on this site is obtained from third parties.** Although the information and data is believed to be accurate, neither Ameriprise Financial Services, Inc. nor its financial advisors independently verify the accuracy or timeliness of the information or the accuracy of any performance calculations, nor do they imply any warranty of any kind regarding the information provided.

SPS *Advantage* offers an optional automatic rebalancing feature. If you have enrolled in the rebalancing feature, information about whether your security target is active or inactive will display underneath the title of your SPS *Advantage* account on your client statement. Contact your financial advisor for more information.

The displayed value of your account and current market value of your securities may be updated during market hours using at least 15-minute delayed quotes for exchange-traded securities. Market data should be used for informational purposes only and is subject to change.

Brokerage sweep detail: AIMMA bank balances may not be real time and may not reflect intraday activity. Dreyfus money market balances are real time and reflect intraday activity.

Your total market value may not always equal the sum of the individual security market values due to rounding of the underlying asset values.

Use of available margin will create a margin loan which will result in interest charges. Margin lending terms are outlined in your Ameriprise Brokerage Client Agreement and the risks of margin are outlined in the Margin Risk Disclosure provided to you at account opening and as disclosed on your statement.

Valuation of Alternative Investments: Any limited partnerships (LPs), hedge fund offerings (HFOs), non-traded real estate investment trusts (REITs), non-traded business development companies (BDCs), non-traded closed-end funds, real estate private placement (REPPs), tenant-in-common real estate securities (1031s), managed futures funds (MFFs), private equity offerings or other alternative investments (collectively, "Alternative Investments"), that are not listed on a national exchange are generally illiquid because no formal trading market exists for these securities. The values for such Alternative Investments may be different from the purchase price and may not necessarily be realized if the issuer liquidates the security or if you sell some or all of your positions. The valuation listed for such Alternative Investments is either the initial offering price or an estimated value, both of which have been provided by the issuer. Other than the initial offering price, the value of the positions you hold represent estimates of your interest in the net assets of the program, and are reflected in the total value of your account shown herein. In limited circumstances, generally where the position has been purchased through another financial institution, the valuation may be provided by an independent third party pricing agent. Each issuer of an Alternative Investment or third party pricing agent may have a different method of valuation, and may apply various methods of valuation throughout the life of the investment. Generally, the factors considered include, but are not limited to: actual or estimated property or securities values, capitalization rates, acquisition costs, current and or future cash flows, activity in an informal secondary market or overall performance. If the value of the positions are reflected as N/A, pricing information is not available. For publicly registered companies, the valuation methodology is described in the issuer's annual report and other current periodic reports, which are available to you. For unregistered products/private placements, contact the managing general partner or company for further information about valuation. The number of units owned has been provided by the management of each program and may not necessarily reflect activity after the initial purchase.

For a period of time up to 150 days following the second anniversary of the breaking of escrow for an offering, a non-traded REIT and/or direct participation program sponsor may use a net investment methodology to calculate a per share estimated value. **IMPORTANT** - If the net investment methodology is used, part of your distribution will likely include a return of capital. Any distribution that represents a return of capital reduces the estimated per share value shown on your account statement. Please review the non-traded REIT's or direct participation program's most recent annual report and other current periodic report for an explanation of the method by which the value was developed and the date of valuation. Non-traded REITs and other direct participation programs are not listed on a securities exchange, are generally illiquid, and even if a client is able to sell the securities, the price received may be less than the per share estimated value provided in the account statement.

The price for securities traded on an exchange will fluctuate during market hours. As a result, account balances may change throughout the day.

The mutual fund price and net asset value are based on the most recent information provided by the fund company.

Realized Gain/Loss information for positions opened (bought) or closed (sold) will not be reflected until the following day. When a covered investment is sold, we are required to report the proceeds and cost basis to the IRS. When a noncovered investment is sold, we are generally required to report the proceeds but not the cost basis to the IRS.

The cost basis information shown here may not include changes due to corporate actions (such as mergers, spin-offs, stock dividends or cash dividends in lieu of fractional shares), wash sales, certain mutual fund adjustments, returns of capital or adjustments to fixed income securities (including early prepayment of principal, premium amortization, accrual of market discount or original issue discount) or transfers into Ameriprise Financial by new or existing clients, particularly for noncovered securities.

Traditional/Rollover/Roth/SEP/SIMPLE IRAs, as well as employer sponsored qualified retirement plans do not have cost basis. Cost basis shown here may be incomplete or inaccurate and should not be used to make trading decisions or relied upon in preparing your tax return.

The calculation of realized or unrealized gain/loss shown here does not include commissions or transaction fees. Consult your tax advisor or attorney.



Print Close Window

Copy B--To Be Filed With Employee's FEDERAL Tax Return.
OMB No. 1545-0008

b Employer identification number 27-1911725		1 Wages, tips, other comp. 83333.30		2 Federal income tax withheld 15150.00	
c Employer's name, address, and ZIP code G. KIPLING MILLER, INC. KOLEILAT & MILLER 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		3 Social security wages 83333.30		4 Social security tax withheld 5166.66	
		5 Medicare wages and tips 83333.30		6 Medicare tax withheld 1208.33	
		7 Social security tips		8 Allocated tips	
d Control number 001		9		10 Dependent care benefits	
e Employee's name, address, and ZIP code G. KIPLING MILLER 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b	
		14 Other		12c	
				12d	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

Wage and Tax Statement **2016** 38-2099803 Department of the Treasury -- Internal Revenue Service

This information is being furnished to the Internal Revenue Service.

6 BW2BC NTF 2580333 BW2EEBC Copyright 2018 Greatland/Neico - Forms Software Only

Copy C--For EMPLOYEE'S RECORDS (See Notice to Employee.)
OMB No. 1545-0008

b Employer identification number (EIN) 27-1911725		1 Wages, tips, other comp. 83333.30		2 Federal income tax withheld 15150.00	
c Employer's name, address, and ZIP code G. KIPLING MILLER, INC. KOLEILAT & MILLER 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		3 Social security wages 83333.30		4 Social security tax withheld 5166.66	
		5 Medicare wages and tips 83333.30		6 Medicare tax withheld 1208.33	
		7 Social security tips		8 Allocated tips	
d Control number 001		9		10 Dependent care benefits	
e Employee's name, address, and ZIP code G. KIPLING MILLER 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b	
		14 Other		12c	
				12d	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

Wage and Tax Statement **2016** 38-2099803 Department of the Treasury -- Internal Revenue Service

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

b Employer identification number 56-2380370		1 Wages, tips, other comp. 106153.76		2 Federal income tax withheld 20604.00	
c Employer's name, address, and ZIP code LAUREN Y. KOLEILAT, INC. 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		3 Social security wages 106153.76		4 Social security tax withheld 6581.53	
		5 Medicare wages and tips 106153.76		6 Medicare tax withheld 1539.23	
		7 Social security tips		8 Allocated tips	
d Control number		9 Verification code		10 Dependent care benefits	
e Employee's name, address, and ZIP code GEORGE K. MILLER 242 OCEAN PALM DRIVE FLAGLER BEACH, FL 32136		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b	
		14 Other		12c	
				12d	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
-----	-----	-----	-----	-----	-----

Form W-2 Wage and Tax Statement **2017** Department of the Treasury -- Internal Revenue Service
This information is being furnished to the Internal Revenue Service.
7 BW2BC NTF 2581324 BW2EEBC Copyright 2017 Greatland/Nelco - Forms Software Only

b Employer identification number (EIN) 56-2380370		1 Wages, tips, other comp. 106153.76		2 Federal income tax withheld 20604.00	
c Employer's name, address, and ZIP code LAUREN Y. KOLEILAT, INC. 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		3 Social security wages 106153.76		4 Social security tax withheld 6581.53	
		5 Medicare wages and tips 106153.76		6 Medicare tax withheld 1539.23	
		7 Social security tips		8 Allocated tips	
d Control number		9 Verification code		10 Dependent care benefits	
e Employee's name, address, and ZIP code GEORGE K. MILLER 242 OCEAN PALM DRIVE FLAGLER BEACH, FL 32136		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b	
		14 Other		12c	
				12d	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
-----	-----	-----	-----	-----	-----

Form W-2 Wage and Tax Statement **2017** Department of the Treasury -- Internal Revenue Service
This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

Copy B - To Be Filed With Employee's FEDERAL Tax Return.
OMB No. 1545-0008

b Employer identification number (EIN) 56-2380370		1 Wages, tips, other compensation 119999.88		2 Federal income tax withheld 20335.00		
c Employer's name, address, and ZIP code LAUREN Y. KOLEILAT, INC. 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		3 Social security wages 119999.88		4 Social security tax withheld 7439.99		
		5 Medicare wages and tips 119999.88		6 Medicare tax withheld 1740.00		
		7 Social security tips		8 Allocated tips		
d Control number		9 Verification code		10 Dependent care benefits		
e Employee's name, address, and ZIP code GEORGE K. MILLER 242 OCEAN PALM DRIVE FLAGLER BEACH, FL 32136		11 Nonqualified plans		12a See instructions for box 12		
		13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b		
		14 Other		12c		
				12d		
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

Form **W-2** Wage and Tax Statement

2018

Department of the Treasury - Internal Revenue Service

This information is being furnished to the Internal Revenue Service.

Copy C - For EMPLOYEE'S RECORDS (See Notice to Employee.)
OMB No. 1545-0008

b Employer identification number (EIN) 56-2380370		1 Wages, tips, other compensation 119999.88		2 Federal income tax withheld 20335.00		
c Employer's name, address, and ZIP code LAUREN Y. KOLEILAT, INC. 500 NORTH OLEANDER AVENUE DAYTONA BEACH, FL 32118		3 Social security wages 119999.88		4 Social security tax withheld 7439.99		
		5 Medicare wages and tips 119999.88		6 Medicare tax withheld 1740.00		
		7 Social security tips		8 Allocated tips		
d Control number		9 Verification code		10 Dependent care benefits		
e Employee's name, address, and ZIP code GEORGE K. MILLER 242 OCEAN PALM DRIVE FLAGLER BEACH, FL 32136		11 Nonqualified plans		12a See instructions for box 12		
		13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b		
		14 Other		12c		
				12d		
15 State	Employer's state ID number	18 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

Form **W-2** Wage and Tax Statement

2018

Department of the Treasury - Internal Revenue Service

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

8 BW2BC NTF 2582180 BW2EBC

Department of the Treasury
Internal Revenue Service

► **Don't send to the IRS. This isn't a tax return.**
► **Keep this form for your records.**
► **Information about Form 8879 and its instructions is at www.irs.gov/form8879.**

Submission Identification Number (SID) ► 5958322017086000kftc

Taxpayer's name
GEORGE K MILLER
Spouse's name

Part I Tax Return Information — Tax Year Ending December 31, 2016 (Whole dollars only)

1	Adjusted gross income (Form 1040, line 38; Form 1040A, line 22; Form 1040EZ, line 4; Form 1040NR, line 37)	1	108,031.
2	Total tax (Form 1040, line 63; Form 1040A, line 39; Form 1040EZ, line 12; Form 1040NR, line 61)	2	13,540.
3	Federal income tax withheld from Forms W-2 and 1099 (Form 1040, line 64; Form 1040A, line 40; Form 1040EZ, line 7; Form 1040NR, line 62a)	3	15,150.
4	Refund (Form 1040, line 76a; Form 1040A, line 48a; Form 1040EZ, line 13a; Form 1040-SS, Part I, line 13a; Form 1040NR, line 73a)	4	1,610.
5	Amount you owe (Form 1040, line 78; Form 1040A, line 50; Form 1040EZ, line 14; Form 1040NR, line 75)	5	

Part II Taxpayer Declaration and Signature Authorization (Be sure you get and keep a copy of your return)

Under penalties of perjury, I declare that I have examined a copy of my electronic individual income tax return and accompanying schedules and statements for the tax year ending December 31, 2016, and to the best of my knowledge and belief, it is true, correct, and accurately lists all amounts and sources of income I received during the tax year. I further declare that the amounts in Part I above are the amounts from my electronic income tax return. I consent to allow my intermediate service provider, transmitter, or electronic return originator (ERO) to send my return to the IRS and to receive from the IRS (a) an acknowledgement of receipt or reason for rejection of the transmission, (b) the reason for any delay in processing the return or refund, and (c) the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an ACH electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of my federal taxes owed on this return and/or a payment of estimated tax, and the financial institution to debit the entry to this account. This authorization is to remain in full force and effect until I notify the U.S. Treasury Financial Agent to terminate the authorization. To revoke (cancel) a payment, I must contact the U.S. Treasury Financial Agent at 1-888-353-4537. Payment cancellation requests must be received no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I further acknowledge that the personal identification number (PIN) below is my signature for my electronic income tax return and, if applicable, my Electronic Funds Withdrawal Consent.

Taxpayer's PIN: check one box only

I authorize David Dougherty, CPA to enter or generate my PIN
ERO firm name
as my signature on my tax year 2016 electronically filed income tax return.

2	1	3	1	2
---	---	---	---	---

Enter five digits, but don't enter all zeros

I will enter my PIN as my signature on my tax year 2016 electronically filed income tax return. Check this box **only** if you are entering your own PIN and your return is filed using the Practitioner PIN method. The ERO must complete Part III below.

Your signature ► _____ Date ► _____

Spouse's PIN: check one box only

I authorize _____ to enter or generate my PIN
ERO firm name
as my signature on my tax year 2016 electronically filed income tax return.

--	--	--	--	--

Enter five digits, but don't enter all zeros

I will enter my PIN as my signature on my tax year 2016 electronically filed income tax return. Check this box **only** if you are entering your own PIN and your return is filed using the Practitioner PIN method. The ERO must complete Part III below.

Spouse's signature ► _____ Date ► _____

Practitioner PIN Method Returns Only—continue below

Part III Certification and Authentication — Practitioner PIN Method Only

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN.

5	9	5	8	3	2	3	7	6	8	5
---	---	---	---	---	---	---	---	---	---	---

Don't enter all zeros

I certify that the above numeric entry is my PIN, which is my signature for the tax year 2016 electronically filed income tax return for the taxpayer(s) indicated above. I confirm that I am submitting this return in accordance with the requirements of the Practitioner PIN method and **Pub. 1345**, Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns.

ERO's signature ► _____ Date ► 08/07/2019

ERO Must Retain This Form — See Instructions
Don't Submit This Form to the IRS Unless Requested To Do So

Acknowledgement and General Information for Taxpayers Who File Returns Electronically

Thank you for participating in IRS e-file.

FLAGLER BEACH FL 32136

- Your federal income tax return for 2016 was filed electronically with the Philadelphia Submission Processing Center. The electronic filing services were provided by David Dougherty, CPA.
- Your return was accepted on 03/27/2017 using a Personal Identification Number (PIN) as your electronic signature. You entered a PIN or authorized the Electronic Return Originator (ERO) to enter or generate a PIN for you. The Submission ID assigned to your return is [REDACTED] 6 weeks for the processing of your return. The Earned Income Credit or a dependent's exemption on your return may be reduced or disallowed due to a child's name and social security number mismatch.
- Your return was accepted on _____ .
- Your electronic funds withdrawal payment request was accepted for processing.
- Your electronic funds withdrawal payment request was not accepted for processing. Refer to the "If You Owe Tax" section.
- Your Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, was accepted on _____ . The Submission ID assigned to your extension is _____ .

**DO NOT SEND A PAPER COPY OF YOUR RETURN TO THE IRS.
IF YOU DO, IT WILL DELAY THE PROCESSING OF THE RETURN.**

If You Need to Make a Change to Your Return

If you need to make a change or correct the return you filed electronically, you should send a Form 1040X, Amended U.S. Individual Income Tax Return, to the IRS Submission Processing Center that processes paper returns for your area. The address is available at www.irs.gov, or you can call the IRS toll-free at 1-800-829-1040.

If You Need to Ask About Your Refund

The IRS notifies your Electronic Return Originator (ERO) when your return is accepted, usually within 48 hours. If your return was not accepted, the IRS notifies your ERO of the reasons for rejection. If it has been more than three weeks since the IRS accepted your return and you have not received your refund, go to www.irs.gov and click on "Where's My Refund?" to view your refund status. Exception: If box 3 above is checked, allow 4 to 6 weeks for processing of your return. A notice will be sent to you advising of changes to your return.

Also, you can call the TeleTax line at 1-800-829-4477, for automated refund information. You should have available the first social security number shown on your return, your filing status, and the exact amount of the refund you expect. TeleTax gives you the date for mailing or depositing your refund. You should receive your refund check within 30 days of the date given by TeleTax, or within one week of that date, if you chose direct deposit. If you do not receive it by then, or if TeleTax does not give your refund information, call the Refund Hotline at 1-800-829-1954.

The IRS uses refunds to cover overdue taxes and notifies you when this occurs. The Fiscal Service offsets refunds through the Treasury Offset Program to cover past due child support, federal agency non-tax debts such as student loans and state income tax obligations. Fiscal Service sends you an offset notice if it applies your refund or part of your refund to non-tax debts. If you have questions about the offset, contact the agency identified in the notice. You may also call the Treasury Offset Program Call Center at 1-800-304-3107, if you have additional questions.

If You Owe Tax

If your return has a balance due, you must pay the amount you owe by the prescribed due date. If you paid by electronic funds withdrawal (direct debit) or by credit card, no voucher is needed. The credit card service providers will charge a convenience fee based on the amount of taxes you are paying. The fees and the type of credit or debit cards accepted may vary between providers. You will be told the amount of the fee during the transaction and you will be given the option to either continue or end the transaction. For information on paying your taxes electronically, including by credit or debit card, go to www.irs.gov/e-pay.

If you are not paying electronically you may use Form 1040-V, Payment Voucher, which you can obtain from your Electronic Return Originator. If the IRS does not receive your payment by the prescribed due date, you will receive a notice that requests full payment of the tax due, plus penalties and interest. If you can not pay the amount in full, complete Form 9465, Installment Agreement Request, which you may file electronically. To apply for an installment agreement online, go to www.irs.gov. You may also order Form 9465 by calling 1-800-TAX-FORM (1-800-829-3676). If approved, the IRS charges a user fee to set up an installment agreement.

If You Need to Inquire About Your Electronic Funds Withdrawal Payment

You may call 1-888-353-4537 to inquire about the status of your electronic funds withdrawal payment. If there is a change to the bank account information included on your return, you should call this number to cancel a scheduled payment. You should have available the social security number of the first person listed on the tax return, the payment amount, and the bank account number. Cancellation requests must be received no later than 11:59 p.m. E.T. two business days prior to the scheduled payment date.

Tax Refund Related Financial Products

Financial institutions offer a variety of financial products to taxpayers based on their refunds. Contracts for financial products are between you and the financial institution. The IRS is not associated with the contract. **If you have questions about tax refund related products, contact your Electronic Return Originator or the lender.**

You have requested direct deposit of your refund into your account. You can generally expect your refund within 21 days. For the latest information on the status of your refund go to www.irs.gov and select the 'Where's My Refund?' link under Refunds.