

**ALLEGHENY COUNTY BAR ASSOCIATION JUDICIARY COMMITTEE
PERSONAL DATA QUESTIONNAIRE
FOR LAWYER APPLICANTS**

I am seeking a rating for the following court:

- ☒ Allegheny County Court of Common Pleas
- ☐ Pennsylvania Commonwealth Court
- ☐ Pennsylvania Superior Court
- ☐ Pennsylvania Supreme Court
- ☐ United States District Court for Western District of Pennsylvania
- ☐ United States Court of Appeals for the Third Circuit

1. State your full name:

Brian Samuel Malkin

Have you ever been known by any other name? If so, please list.

No.

2. Office address (include zip code):

409 Broad Street, Ste 260, Sewickley, Pennsylvania 15143

Office telephone (include area code):

(412) – 741 - 8400

Name of law firm, if associated:

Ference & Associates LLC

3. Date and place of birth:

I was born in Bethesda, Maryland on January 22, 1966.

4. Are you a naturalized citizen? If so, give date and place of naturalization:

No.

5. Family status:

- a) Are you married? If so, state the date of marriage and your spouse's full name, including maiden name, if applicable:

Married April 16, 2004 to Christina Ellen (McKaveney) Malkin.

- b) Have you been divorced? If so, state the date, the number of the case and the court:

Yes, March 24, 2004, FD-03-9071, Allegheny County.

6. Have you had any military service? If so,
- a) Give dates, branch of service, rank of rate, and present status:
None.
 - b) Have you ever been rejected or released from any of the armed services for reasons other than honorable? If so, give details:
No.
7. List each college and law school you attended, including dates of attendance, and the degrees awarded and, if you left any institution without receiving a degree, the reason for leaving.
List scholastic honors:

UNIVERSITY OF PITTSBURGH SCHOOL OF LAW, Pittsburgh, PA
Attendance from September 1990 through May 1993
J.D. May, 1993

WASHINGTON AND JEFFERSON COLLEGE, Washington, PA
Attendance January 1986 through December 1989
B.A., cum laude, May 1990
Majors: Computer Science/Mathematics & Philosophy
Honors: Phi Beta Kappa; Academic Dean's List (4 years); Philosophy Prize

UNIVERSITY OF CONNECTICUT, Storrs, Connecticut
Attended Summer of 1986, completed 1 course

UNIVERSITY OF CONNECTICUT, Storrs, Connecticut
Attended Fall 1985, completed 2 courses

8. List all jurisdictions in which you have applied to take a bar examination, have applied for admission or have been admitted to practice. Include dates of admissions and if not admitted, give application dates and explain the outcome.
- Pennsylvania Supreme Court – Admitted 1994-Present**
Admitted to the United States Patent and Trademark Office – 2000-Present
(Patent Attorney No. 48,329)
9. Describe chronologically your law practice and experience after your graduation from law school, including:
- a) Whether you served as clerk to a judge and, if so, the name of the judge, the court, and the dates of the period you were a clerk:

I served as an Attorney Decision Writer for Workers' Compensation Judge Rosalia G. Parker from 3/1994 to 9/1994. Please see 9 (c) (4), below for further details.

b) Whether you practiced alone and, if so, the addresses and the dates:
I never practiced alone.

c) The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected and the nature of your connection with each:

(1) Ference & Associates LLC, 409 Broad Street, Pittsburgh, Pennsylvania 15143 (from 11/2009 to 12/31/2015 Senior Attorney, then from 1/1/2016 to the Present Principal Attorney);

(2) Malone Middleman, PC (formerly Malone Larchuk & Middleman, PC) 117 VIP Drive Ste 310, Wexford Pennsylvania 15090, Attorney from 5/1997 to 12/31/2003, then Shareholder from 1/2004 to 11/2009;

(3) Ogg Jones Cordes & Ignelzi, LLP, 245 Fort Pitt Boulevard, Pittsburgh Pennsylvania 15222, Attorney from 9/1994 to 5/1997;

(4) Department of Labor and Industry, Bureau of Workers' Compensation, Commonwealth of Pennsylvania, Pittsburgh District Office, State Building, 9th Floor, Attorney/Decision Writer primarily assigned to Judge Rosalia G. Parker from 4/1994 to 9/1994;

(5) Morton Debroff, Esquire, 4306 Butler Street, Pittsburgh, Pennsylvania 15201, Part-Time Attorney for 10/1993;

(6) Brzustowicz Law Offices, Part-Time Attorney from 9/1993 to 4/1994;

d) Any other relevant particulars:
None.

10. With respect to your practice:

a) What has been the general character of your practice, dividing it into periods with dates if its character has changed over the years?

(I) From 3/1994 to 9/1994, I was an Attorney Decision Writer assigned to Workers' Compensation Judge Rosalia Parker. During that time, I reviewed the closed records of cases, attorney's legal arguments, and the relevant legal precedents, then based upon my independent analysis, I drafted Findings of Fact, Conclusions of Law, and Orders for Judge Parker to review, revise, sign and file.

- (II) From 9/1994 to 5/1997, I worked for Ogg Jones Cordes & Ignelzi, LLP which concentrated in plaintiff's workers' compensation, plaintiff's personal injury litigation, and plaintiff's employment claims. During that time, I was primarily focused on workers' compensation litigation involving administrative proceedings and some appellate work representing injured workers against their employers. I also handled compulsory court arbitration hearings involving various disputes, including car accidents. I was also lead counsel on a vaccine injury case before the Federal Court of Claims, the injured party was a minor who was profoundly disabled following seizures that were medical connected to DPT vaccine. After a 12-hour hearing before an Administrative Law Judge, I established liability against the Vaccine Injury Fund.
- (III) Upon beginning my new employment with Malone Larchuk & Middleman, PC, I was assigned various insurance defense matters. These matters included (1) defending employers and insurance carriers from work injury claims; (2) defending insured companies, including municipal corporations and agencies, from liability claims based upon negligence; (3) defending a self-insured cab company from various claims made against their drivers; and (4) a few plaintiff's personal injury lawsuits filed for the plaintiffs. During this time in my career, I regularly filed pleadings, conducted discovery, and motions practice, and attended administrative law proceedings, arbitrations hearings, jury and non-jury trials. Over my 13 years with this law firm, I handled hundreds of court cases and I estimate that I tried about 10 jury cases to verdict in various Pennsylvania counties, with the rest settling. I also handled a 5-day commercial arbitration case involving a "bet the company" franchise dispute under AAA commercial arbitration rules. Towards the end of my tenure with the Malone law firm, I handled a complex plaintiff's medical malpractice case as lead counsel, which tried for 5 days and eventually settled favorably after closing arguments. I also handled a federal intellectual property, trademark and misappropriation of trade secrets trial which settled favorably for my defendant client after pre-trial motions.
- (IV) In November of 2009, I accepted an offer at Ference & Associates LLC. There, my practice transformed from litigation in State and Federal courts to more administrative proceedings. Indeed, during the Fall, I handled two Automobile Dealership Termination cases under the Federal Law enacted to permit Chrysler and GM dealerships seeking reinstatement of their franchises following rejection under the Bankruptcy proceedings for each manufacturer. Thereafter, my practice has focused on Intellectual Property, including Copyrights, Trademarks, and Patents. I have managed international trademark portfolios, filed and prosecuted about 100 trademark applications before the United States Patent and Trademark Office, as well as filed and defended Oppositions and Cancellation proceedings before the Trademark Trial and Appeal Board. I have also handled various Trademark Infringement lawsuits in the Western District of Pennsylvania, with each (with the exception of one) ending with a final default

judgment. I also have handled the occasional unemployment, social security disability, business litigation, and workers' compensation case since joining Ference.

- (V) In May of 2018, my practice began to focus on online anti-counterfeiting work for clients. This involves obtaining evidence, filing cases under seal, presenting applications for *ex parte* temporary restraining orders, then preliminary injunctions, then final judgments for equitable relief and damages. To date, I have been second seat for 17 federal lawsuits, with one in the Southern District of New York and 16 in the Western District of Pennsylvania. 12 have resulted in default judgments against counterfeiters with a combined total of over 350 Million Dollars. Five cases remain pending final judgment.**

- b) Describe your typical clients and mention the areas, if any, in which you have concentrated your practice:

Please see description in (10) above.

11. With respect to the last five years:

- a) Did you appear in court regularly, occasionally, or not at all? If the frequency of your appearances in court has varied during this period, describe each such variance, giving the dates thereof:

I continue to appear in court occasionally. Typically, I will present in the Court of Common Pleas before one of the motions judges. Arguments have varied from discovery to preliminary objections. I have handled a few Arbitration Hearings in Allegheny County and have sat on the Board for Landlord Tenant Matters and General Matters. I have been a volunteer attorney for the Allegheny County Court of Common Pleas Housing Court. I have also handled a few traffic court appearances before local magistrates. Most recently, I have handled cases before the Court of Common Pleas brought by the Pittsburgh Human Relations Commission against my client for alleged housing discrimination.

- b) What percentage of these appearances was in:

1. Federal courts: **95%**
2. State courts of record: **5%**
3. Other courts: **0%**

- c) What percentage of your litigation was:

1. Civil: **100%**

2. Criminal: **0%**

- d) State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel or associate counsel:

As lead counsel (primarily sole counsel), I have handled approximately 100 cases combined total. I would estimate that of those approximately 25 resulted in verdicts (or awards).

- e) What percentage of these trials were:

1. Jury: **10%**

2. Non-jury: **90%**

12. Summarize your experience in court prior to the last five years, indicating as to that period:

- a) Whether your appearances in court were more or less frequent:

As described above, my appearance in last five years, have been less frequent than during the first 15 years of my practice. The first 20 years of my practice involved ritual trial practice, as follows:

In Phase I of my career (from 3/1994 to 9/1994)

- i. Indicate the percentage of your practice in:

1. federal courts: **0%**
2. state courts of record: **0%**
3. other courts: **0%**
4. administrative agencies: **100% (with Workers' Compensation Bureau)**

- ii. Indicate the percentage of your practice in:

1. civil proceedings: **100%**
2. criminal proceedings: **0%**

In Phase II of my career (from 9/1994 to 5/1997)

- iii. Indicate the percentage of your practice in:

1. federal courts: **1%**
2. state courts of record: **19%**
3. other courts: **0%**
4. administrative agencies: **80%**

- iv. Indicate the percentage of your practice in:
1. civil proceedings: 100%
 2. criminal proceedings: 0%

In Phase III of my career (from 5/1997 to 11/2009)

- v. Indicate the percentage of your practice in:
1. federal courts: 5%
 2. state courts of record: 45%
 3. other courts: 0%
 4. administrative agencies: 50%
- vi. Indicate the percentage of your practice in:
1. civil proceedings: 100%
 2. criminal proceedings: 0%

In Phase IV of my career (from 11/2009 to 2013)

- vii. Indicate the percentage of your practice in:
1. federal courts: 5%
 2. state courts of record: 5%
 3. other courts: 0%
 4. administrative agencies: 90% (USPTO)
- viii. Indicate the percentage of your practice in:
1. civil proceedings: 100%
 2. criminal proceedings: 0%

In Phase V of my career (from 5/2018 to Present)

- ix. Indicate the percentage of your practice in:
5. federal courts: 95%
 6. state courts of record: 2.5%
 7. other courts: 0%
 8. administrative agencies: 2.5% (USPTO)
- x. Indicate the percentage of your practice in:
3. civil proceedings: 100%
 4. criminal proceedings: 0%

- b) Any significant changes in the percentages stated in your answers to question 11(b), (c) and (e):

Please see response to 12(a) above.

- c) Any significant changes in the number of cases per year in courts of record you tried to verdict or judgment (rather than settled), as sole counsel, chief counsel or associate counsel.

Please see response to 12(a) above.

13. Describe five of the most significant litigated matters which you personally handled and give the citations thereto, if the cases were reported. Give a capsule summary of the substance of each case and a succinct statement of what you believe to be the particular significance of the case. Identify the party or parties whom you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case a) the dates of the trial periods; b) the name of the court and the judge before whom the case was tried; and c) the individual name, address and telephone numbers of co-counsel for each of the other parties;

- I. In *Montanari v Vaccine Injury Fund*, an unpublished vaccine injury claim, I represented the injured minor and her parents before the Federal Claims Court. The claim was that after receiving a DPT injection, the minor suffered severe afebrile seizures causing permanent and profound brain injury. I was lead counsel on the case during 1996 to 1997. The case was assigned and tried before Special Master French, a Federal Administrative Law Judge who traveled from Washington D.C. and conducted in the Western District of Pennsylvania. After conducting a 12-hour trial on liability, including considering expert medical testimony for my clients and the fund, the Special Master found liability against the fund. I do not recall the name of opposing counsel for the government.**
- II. In *Zavodchikov v Applegate*, GD-01-011528, Allegheny County Court of Common Pleas, I represented plaintiffs from 6/8/2001 to 12/17/2002 in their claim for failure to diagnose ectopic pregnancy. The case was particularly sad because plaintiff-wife had only one fallopian tube and the ectopic pregnancy burst that tube making her sterile. With an assist from my law partner, Steven B. Larchuk, Esquire, I handled all aspects of the case from discovery, expert depositions, pre-trial and trial. After a 6-day trial before Judge Ronald Folino, the case settled for the Plaintiff. The opposing counsel was Anne Wilson, Esquire of Dickie, McCamey & Chilcote Two PPG Place Suite 400 Pittsburgh PA 15222-5402, (412)281-7272.**
- III. In *Promote It, Inc. v 4Imprint, Inc.*, litigated in 2002-2003, I represented Mr. McCarty, a franchisee who believed that the company that acquired the franchisor breached multiple portions of the Uniform Franchise Offering Circular and Franchise Agreement. The main theory was that the acquiring franchisor illegally copied Mr. McCarty's database of direct sell customers for promotional items and then directly mailed those customers in order to get**

their business. I drafted and filed the complaint, performed all the discovery and motions practice and tried the case before a specially appointed Arbitrator under the Franchise Agreement. The franchisor vigorously defended and during a 5-day arbitration in Chicago Sears Tower presented its own computer technician to establish its defense. I crossed the technician discussing the technical aspect of data base management and manipulation and established that it was possible to read my client's database and copy it into the defendant's database. The arbitrator awarded my client breach of contract damages and attorney's fees and costs. The opposing counsel was Catherine M. Burkhardt, Esquire, Piper Rudnick, 203 North LaSalle Street, Ste 1800, Chicago, IL 60601-1293, (312)368-4086.

- IV. In *Krebs Chrysler Jeep, Inc. v. Chrysler Group LLC*, Case No. 55 532 00019 10, from 11/2009 through April 2010, I represented a terminated Chrysler dealership that was seeking reinstatement under the federal law enacted that permitted dealerships that were terminated under the Chrysler or General Motors Bankruptcy proceedings to seek reinstatement before an agreed upon Arbitrator. I filed the claim, handled all the discovery, motions practice, pre-trial and trial with an assist from my wife, also a lawyer, as second seat. After a 5-day trial before retired Judge DelSole, we received a decision that that dealership would not be reinstated despite meeting all the criteria because once terminated the dealer still owned a second Chrysler dealership. The opposing counsel was Dyane L. O'Leary, Wilmer Hale 60 State Street, Boston, MA 02109, (617)526-6442.
- V. In *Mitsubishi Electric Power Products v Integ et al.*, GD No. 15-18659, I was sole counsel and defended Integ from multiple counts for Breach of Contract. After motions practice spanning many years, including judgment on the pleadings and discovery, the case was resolved amicably. The opposing counsel was Robert E. Dauer, of Meyer Unkovic and Scott, 1300 Oliver Bldg, Pittsburgh, PA 15222, (412) 456-2800.

14. If a substantial period of your practice has been before administrative boards, commissions or agencies during the past five years, identify the boards, commissions or agencies before which you have practiced and estimate percentages of practice time devoted thereto:

The answer to this question is best broken into brackets of time as set forth below.

From November of 2015 to May of 2018, I practiced about 75% before the United States Patent and Trademark Office Trademark Trial and Appeal Board, handling trademark opposition and cancellation proceedings. I have also prosecuted patents and trademarks before the United States Patent and Trademark Office about 25%.

Though I continue up to the present prosecuting applications for copyrights, patent, and trademarks, since May of 2018, I have concurrently prepared and filed 17 federal

lawsuits (1 in the Southern District of New York and 16 in the Western District of Pennsylvania, which required investigation and prosecution of claims for on-line counterfeiting, both international and domestic. During the investigation, it was learned that the counterfeiters were manufacturing, offering for sale and selling cheap knock-offs of the client's authentic products. Under Trademark and Patent law, in each instance, we filed sealed complaints and applications for temporary restraining orders and preliminary injunctions. We obtained the orders *ex parte*, then served the defendants using alternative electronic means on a litigation web site. We sought and obtained restraining orders from the third-party service providers that were providing the web sites and financial services to the counterfeiters and had their assets frozen during the pendency of the litigation. Combined, 12 concluded cases resulted in 100s of takedowns of counterfeit products and default judgments in excess of 350 Million Dollars. Five cases remain pending final judgment.

15. If a substantial portion of your practice has been before Appellate courts during the past five years, identify the Appellate Courts before which you have practiced and estimate percentages of practice time devoted thereto:

This question is not applicable.

16. a) Have you ever held judicial office? If so, give dates and details, including the courts involved, whether elected or appointed, periods of services, and a description of the jurisdiction of each of such courts with any limitations upon the jurisdiction of each court:

No.

b) Have you ever held public office other than judicial office? If so, give details, including the office involved, whether elected or appointed, and the length of your service, giving details:

1/2020-Present – Elected Franklin Park Borough Councilman for 4-year term.

1/2018 – 12/2019 – Appointed by the Franklin Park Borough Council and Serving as Chair of the Franklin Park Borough Zoning and Appeals Board

3/2017 – 1/2018 – Appointed by the Franklin Park Borough Council and Serving as Vice Chair of the Franklin Park Zoning and Appeals Board

2014-3/2017 Appointed by the Franklin Park Borough Council and Served as Secretary of the Franklin Park Borough Zoning and Appeals Board

2011-2014 Served as Chair of the Franklin Park Borough Environmental Advisory Council

2011 Appointed by Chief Judge Donetta Ambrose to serve as E-Discovery Special Master for the United States District Court for the Western District of Pennsylvania

2009 Appointed to Franklin Park Borough Environmental Advisory Council

2009 Appointed Judge of Elections for Franklin Park Ward by the Allegheny County Election Board

2008-2009 Appointed Minority Inspector of Elections for Franklin Park Ward by Allegheny County Election Board

17. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? If so, give details, including dates:

Yes, I ran for Allegheny County Court of Common Pleas for the May 2019 Primary. (The campaign covered November 2018 through May 2019).

18. Have you ever been engaged in any occupation, business or profession other than the practice of law or the holding of judicial or other public office? If so, give details, including dates:

I was Treasurer for Elaine DiMasi for Congress for the 1st Congressional District of New York from December 2017 to the summer of 2018. I served behind the scenes entering finance data and preparing and electronically transmitting the reports required by the Federal Election Commission. The candidate did not secure the primary nomination and the campaign was terminated during the Summer of 2018.

I was the Treasurer for Larchuk for Congress for the 12th Congressional District in Pennsylvania from the Fall of 2015 to about March of 2016. Mr. Larchuk withdrew from the race before the Primary in 2016. I served behind the scenes, entered the finance data, prepared and electronically filed the reports required by the Federal Election Commission.

19. Are you now an officer or director or otherwise engaged in the management of any business enterprise? **No.**

- a) If so, give details, including the name of your enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

N/A

- b) Is it your intention to resign such positions and withdraw from any participation in the management of any such enterprises if you are elected and confirmed? If not, give reasons:

N/A

20. Have you ever been convicted of violating any federal law or regulation, state law or regulation, or county or municipal law, regulation or ordinance? If so, give details. Do not include summary traffic offenses:

No.

21. Are you under any ongoing federal, state or local investigation or indictment for possible violation of a criminal statute? If so, give particulars:

No.

22. Has a tax lien or other collection procedure been instituted against you by federal, state or local authorities? If so, give particulars:

No.

23. Have you ever been sued by a client? If so, give particulars:

About 22 years ago, I was served with a civil complaint for alleged legal malpractice while working as an associate at Ogg Jones Cordes & Ignelizi, LLP. The case is *Duncan et ux. v. Malkin and Ogg Jones Cordes & Ignelzi LLP et al.*, GD No. 98-003608. There was an allegation that a limitations period was missed for filing a reinstatement or claim petition for a workers' compensation case. The evidence revealed that there was no medical evidence to support a disability arising from the alleged work injury. After the plaintiff deposed the partner in charge of the case, Jonathan E. Jones, Esquire, the case stalled, the plaintiff's lawyer withdrew their appearance and the case remains pending on the docket up to today.

24. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give the particulars. Do not list proceedings in which you were merely a guardian ad litem or stakeholder. Include all legal proceedings in which you were a party in interest, a material witness, were named as co-conspirator or a co-respondent and any grand jury investigation in which you figured as a subject or in which you appeared as a witness:

Nothing other than the above case in 23 above and the divorce in 2004.

25. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give the particulars:

No.

26. Currently or within the past five (5) years have you suffered from any medical or other condition which could affect or impair your judgment, reliability, or ability to perform the essential functions of the judicial position you are seeking? If so, describe.

No.

27. Do any circumstances exist that would affect your ability to perform the function of the position you seek or fulfill the term of office? If so, please explain.

No.

28. Furnish one (1) example of a legal article, law review article, brief, or other legal writing which reflects your personal work. If a brief is submitted, indicate the degree to which it represents your personal work:

Please see attached sample.

29. List all bar associations and professional societies of which you are a member and give the titles and dates of any offices which you have held in such groups. List chairmanships of any committees in bar associations and professional societies and memberships on any committees which you believe to be of particular significance (e.g., judicial selection committee, disciplinary committee, grievance committee).

American Bar Association

Pennsylvania Bar Association

Allegheny County Bar Association

2012-2014 Elected Chair of the Allegheny County Bar Association Workers'

Compensation Council

2011-2012 Elected Vice Chair of the Allegheny County Bar Association

Workers' Compensation Council.

2009-2010 Elected Treasurer of the Allegheny County Bar Association

Workers' Compensation Council

Pittsburgh Intellectual Property Lawyers Association

30. List your experiences in teaching and lecturing, including law school, continuing legal education and to non-legal audiences.

I have presented to fellow bar members on various workers' compensation topics. I have also presented on Copyrights, Trademarks, and Patents. With respect to preparing materials for presentations for other lawyers in my law firm, please see the list of publications and seminars cited directly below:

Past Writer of Allegheny County Bar Association Workers' Compensation Section Newsletter Case Notes (copies no longer available);

"Collecting Workers' Compensation Benefits from Uninsured Employers: Civil Court Remedies", Pittsburgh Legal Journal, January 5, 1995);

"Hearsay Statements of Prospective Employers in Workers' Compensation Case are Barred by the Commonwealth Court", Pittsburgh Legal Journal, February 9, 1995;

"The Pennsylvania Supreme Court Allows a Suspension of Workers' Compensation Benefits when Claimant is Laid Off Due to Economic Reasons", Pittsburgh Legal Journal, July 17, 1995;

“Trademarks and ICAAN”, Legal Intelligencer, In House CLE Program, in Pittsburgh, September 29, 2015;

“Software Patents”, Internet Law Update, Pennsylvania Bar Institute, Fall 2015

“IP 101”, In-House Counsel Program, Philadelphia Legal Intelligencer, Fall 2016

“Global Intellectual Property: Where Are We Now”, ACCA, Winter 2017 Meeting in Pittsburgh; and

“Introduction to IP Licensing, ACCA, Winter 2018 Meeting in Pittsburgh.

31. List all organizations other than bar associations, professional associations or societies of which you are or have been a member, including civic, charitable, religious, educational, social and fraternal organizations:

1/2020 – Present - Elected to Four-Year Term as Franklin Park Borough Councilman.

1/2018 – 12/2019 – Appointed by the Franklin Park Borough Council and Serving as Chair of the Franklin Park Zoning and Hearing Board

3/2017 – 1/2018 – Appointed by the Franklin Park Borough Council and Serving as Vice Chair of the Franklin Park Zoning and Hearing Board

2014-3/2017 Appointed by the Franklin Park Borough Council and Served as Secretary of the Franklin Park Borough Zoning and Hearing Board

2011-2014 Served as Chair of the Franklin Park Borough Environmental Advisory Council

2011 Appointed by Chief Judge Donetta Ambrose to serve as E-Discovery Special Master for the United States District Court for the Western District of Pennsylvania

2009 Appointed to Franklin Park Borough Environmental Advisory Council

2009 Appointed Judge of Elections for Franklin Park Ward by the Allegheny County Election Board

2008-2009 Appointed Minority Inspector of Elections for Franklin Park Ward by Allegheny County Election Board

32. List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than

those mentioned in answers to the foregoing questions.

**2019, 2020 Pennsylvania “Super Lawyer” in Intellectual Property Litigation by
Thompson Reuters**

**11/2018 – Received “Recommended” Rating for Court of
Common Pleas Judge from the Allegheny County Bar Association Judiciary
Committee.**

2013 - 2020 AVVO Superb Rating (10 out of 10)

2012 - 2020 Martindale Hubbell AV Preeminent Peer Review Rating

Listed in *Marquis Who's Who in America*

10/1985 United States Figure Skating Association Testing Double Gold Medalist

33. State any other information which may reflect positively or adversely on you or which you believe should be disclosed in connection with consideration of you for an election to a Court of Pennsylvania.

For many years, I have been available to the North Hills Community Outreach in the North Hills of Pittsburgh for phone consultations with clients who do not have sufficient income to retain legal counsel. As I have not worked on criminal matters, such cases have been employment matters, including unemployment. I would estimate that over the years I have devoted countless hours to such clients – averaging an hour or more for each consultation, including reviewing any documents and relevant legal research. As my service has spanned many years, I cannot provide specific accounts or times. Additionally, I continue to be committed to performing Pro Bono work when the opportunity presents itself in my private practice. Last year, I served a number of times as a pro bono volunteer attorney for the Allegheny County Court of Common Pleas Housing Court after completing the offered training.

34. Why do you wish to become a Justice or Judge? What special strengths do you feel you possess that would particularly well qualify you for the position of Justice or Judge?

My wife and I have three daughters, ages 15, 14, and 13. I want to be sure that I do everything I can to make their community the best it can be. Also, I feel a calling to serve my community and I strive to contribute in the best way I can. I am currently a Franklin Park Councilman serving my community and their needs. In the combined ten years before that, I chaired the Franklin Park Borough Zoning and Appeals Board and the Franklin Park Borough Environmental Advisory Council. Each time I help to make a difference in my community I feel a sense of accomplishment and reward.

I have had the privilege of working in diverse areas of the law – unemployment, workers’ compensation litigation, insurance defense, plaintiff’s personal injury, employment cases, and most recently copyright, trademark and patent law litigation in Federal Court. Throughout my career, I was trained by kind and patient lawyers who taught me the importance of carefully listening to my clients so that I can understand what they need. I have used all those skills to successfully represent my clients. I have broad experience handling all types of cases for individuals, companies, and

governmental entities before administrative boards, state courts, and federal courts. I have worked on various governmental boards. The combination of all these experiences combined with the strengths of patience, empathy, an internal drive to do the hard work, and accomplished legal scholarship make me a well-qualified candidate for Judge.

35. Did you sign the ACBA Judicial Campaign Advertising Guidelines Pledge? (Please return signed pledge with completed questionnaire.)

Yes.

CERTIFICATION STATEMENT

The undersigned certifies that all of the statements made in this questionnaire are true, complete and correct to the best of his/her knowledge and belief and are made in good faith.

BRIAN SAMUEL MALKIN

Type or print name

Brian Samuel Malkin

Signature

11/22/2020

Date

ALLEGHENY COUNTY BAR ASSOCIATION

JUDICIAL CANDIDATE PLEDGE

I, BRIAN SAMUEL MALKIN, a candidate for judicial office, have familiarized myself with the Code of Judicial Conduct and the Code of Civility, as promulgated by the Supreme Court of Pennsylvania. I have directed special attention to Canon 4 of the Code of Judicial Conduct, including Rules 4.1, 4.2 and 4.4. I agree to conduct my judicial campaign consistent therewith and further consistent with *Republican Party of Minnesota v. White*, 536 U.S. (2002). I further pledge that all campaign advertising will be done fairly, accurately, truthfully, and will maintain the dignity appropriate to the judicial office which I am seeking.

Amended 11/18/2014

Brian Samuel Malkin

Signature of Candidate

11/22/2020

Date