

**AFFIDAVIT OF PROFESSORS BRUCE J. WINICK, ESQ.**  
**AND BERNARD P. PERLMUTTER, ESQ.**

We are Bruce J. Winick and Bernard P. Perlmutter who declare under penalty of perjury that the following statements are true to the best of our knowledge.

1. Bruce J. Winick is a Professor of Law and Professor of Psychiatry and Behavioral Sciences at the University of Miami. He has been teaching for over 32 years. He teaches Constitutional Law, Advanced Criminal Procedure, New Directions in Lawyering: Interviewing, Counseling, and Attorney/Client Relational Skills, and a seminar in Psychology and Law. He is co-founder of the school of social inquiry known as “therapeutic jurisprudence.” He has written and co-authored numerous books and articles on therapeutic jurisprudence and on mental health law and criminal justice issues generally. Please see his attached Curriculum Vitae.

2. Bernard P. Perlmutter is Assistant Professor of Clinical Legal Education and Director of the Children & Youth Law Clinic, an in-house legal clinic at the University of Miami School of Law. In addition to his teaching duties at the Clinic, he teaches Children and the Law, New Directions in Lawyering: Interviewing, Counseling, and Attorney/Client Relational Skills, and Family Law. He has been the director of the Children

& Youth Law Clinic since 1996. He has published law review articles on the use of therapeutic jurisprudence in juvenile court proceedings. Please see his attached Curriculum Vitae.

3. We have been asked to analyze the Florida 11<sup>th</sup> Judicial Circuit's policy requiring *all* children who are in secure detention to be wrist and ankle shackled for every court appearance except for adjudicatory hearings, regardless of age, size, gender, pending charges, history of violence, or risk of escape. This indiscriminate, blanket policy of shackling all juvenile offenders immediately before and during their respective appearances in juvenile court is anti-therapeutic for the juveniles, prejudicial to their obtaining a fair trial, and inconsistent with the rehabilitative aims of the juvenile justice system.

4. Therapeutic jurisprudence is a study of the ways in which legal rules, procedures, and the roles of legal actors produce therapeutic or anti-therapeutic consequences for those affected by the legal process. *See generally* CIVIL COMMITMENT: A THERAPEUTIC JURISPRUDENCE MODEL (Bruce J. Winick, 2005); JUDGING IN A THERAPEUTIC KEY: THERAPEUTIC JURISPRUDENCE AND THE COURTS (Bruce J. Winick and David B. Wexler, eds. 2003); and LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE (David B. Wexler and Bruce J. Winick, eds.

1996). Therapeutic jurisprudence seeks to promote policies, systems, and relationships, consistent with normative principles of justice and constitutional law, which will secure positive therapeutic outcomes and minimize negative psychological and behavioral effects of anti-therapeutic legal rules and practices.

5. The principles of therapeutic jurisprudence are especially germane to the juvenile court setting, which was designed to meet a rehabilitative agenda by which judges dispense an assortment of therapeutic services to children who are victims of abuse or neglect or charged with delinquent offenses. *See* Hon. Barbara J. Pariente, *Introduction, Symposium Issue: Therapeutic Jurisprudence in Clinical Legal Education*, 17 ST. THOMAS L. REV. 403 (2005) (“By approaching legal problems in a problem-solving, holistic and conflict resolution mode this [therapeutic jurisprudence] approach works to resolve conflicts more humanely, to minimize harm to the litigants and to prevent recidivism.”). Therapeutic jurisprudence has been embraced by the Florida courts, particularly in proceedings implicating the due process and dignitary interests of juveniles. *See, e.g., M.W. v. Davis*, 756 So.2d 90, 107 (Fla. 2001) (“Indeed, the issue presented by this case extends beyond the legal question of what process is due; rather, this case also presents the question of whether the child believes that he or she is

being listened to and that his or her opinion is respected and counts.”); *Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8.350*, 894 So.2d 1206, 1210-11 (Fla. 2001) (expressly applying the principles of therapeutic jurisprudence in the Florida Supreme Court’s adoption of a rule of juvenile procedure requiring the court to consider the child’s views before ordering him or her into residential treatment).

6. Research in social psychology demonstrates that when children believe that the legal system has treated them with fairness, respect and dignity, they are more amenable to treatment and rehabilitation. *See, e.g.,* WHY PEOPLE OBEY THE LAW (Tom R. Tyler, 1990); E. Allen Lind, *et al., Voice, Control, and Procedural Justice: Instrumental and Noninstrumental Concerns in Fairness Judgements*, 59 J. PERSONALITY & SOC. PSYCHOL. 952 (1990); THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE (E. Allen Lind & Tom R. Tyler, 1988); John Thibaut & Laurens Walker, *A Theory of Procedure*, 66 CALIF. L. REV. 541 (1978); *Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8.350*, 894 So.2d at 1210-11 (Fla. 2001); Bruce J. Winick and Ginger Lerner Wren, *Do Juveniles Facing Civil Commitment Have a Right to Counsel?: A Therapeutic Jurisprudence Brief*, 71 U. CIN. L. REV. 115 (2002); Amy Ronner, *Songs of Validation, Voice, and Voluntary Participation: Therapeutic Jurisprudence, Miranda and*

*Juveniles*, 71 U. CIN. L. REV. 89 (2002). In contrast, when the judicial process treats people, juveniles in particular, without dignity and respect, the likely result is lack of compliance with judicial orders, and attitudes and behavior that are inconsistent with rehabilitation. Shackling is an egregious example of denying dignity and respect, and predictably will have strong anti-rehabilitative effects.

7. Indiscriminate shackling brands and stigmatizes juvenile defendants in ways that adversely affect how others regard them, and the manner in which they regard themselves. This “self-fulfilling prophecy” effect has strong support in the social psychology and sociological literature. *See generally* BEING MENTALLY ILL: A SOCIOLOGICAL THEORY (Thomas J. Scheff, 1966) (deviancy labeling serves to marginalize those labeled, causing them to internalize a deviant self-image, and sometimes as a result, to engage in acts of secondary deviance); Bruce J. Winick, *The Side Effects of Incompetency Labeling and the Implications for Mental Health Law*, 1 PSYCHOL. PUB. POL’Y & L. 6 (1995) (same). Labeling persons or otherwise treating them in ways that convey to them a negative or discrediting message, sets in motion forces that lead them to behave in ways that confirm their ascribed roles. *See* Jill Leslie Rosenbaum & Lorraine Prinsky, *The Presumption of Influence: Recent Responses to Popular Music Subcultures*,

37 CRIME & DELINQ. 528, 534 (1991). It does so in two ways. First, it produces behavior in individuals observing the labeled person that cause them to act toward the branded person that confirm the label's negative attributes. Second, it causes the labeled individual to regard himself differently, accepting the discrediting impact of the label and transforming his identity in ways that subsequently cause him to act in accordance with the stigmatizing label.

8. Shackling is a particularly pernicious form of labeling. It conveys the unmistakable message that the shackled individual is dangerous, violent, and must have committed a serious crime. It conveys this message to the judge, who will adjudicate his guilt, the prosecutor and other court personnel. It also sends this message to the juvenile himself. Adolescence is a period in which children strive to form a self-identity to help explain to themselves who they are and the image they project to the world. Shackling gives them a spoiled identity: they are a "bad" and "dangerous" people who must be restrained in the most primitive way. They must thereby lack self-control. This is exactly the opposite message from the one we want to convey to juveniles struggling with their identity who get into trouble with the law.

9. If juveniles link the label they receive via shackling in court to a central aspect of their identity, they will then also internalize the outer stigmas they receive, thus further perpetuating the self-fulfilling prophecy of “bad kid.” The judges presiding over the shackled juvenile defendants perpetuate this labeling process by unconsciously ascribing negative behavior to shackled juvenile defendants in their courtroom. Not only may shackled juveniles be discredited in the eyes of others, including the judges who decide their fate, but such shackling also may significantly diminish their own self-esteem. The inevitable stigmas that shackling presents could only be justified if a juvenile were a true threat or flight risk, necessitating his incapacitation when in court.

10. We conclude that a blanket, indiscriminate policy of shackling all juveniles in the courtroom prejudices their right to a fair trial. Judges observing this inevitably form negative opinions of the juveniles during pretrial shackling. The United States Supreme Court recognized that practices such as this not only are inherently prejudicial, but also are anti-therapeutic and stigmatizing. *Estelle v. Williams*, 425 U.S. 501, 96 S.Ct. 1691 (1976). *Williams* struck down a practice of parading defendants before the criminal court in prison garb, on both fairness and dignitary grounds:

When an accused is tried in identifiable prison garb, the dangers of denial of a fair trial and the possibility of a verdict not based

on the evidence are obvious. Identifiable prison garb robs an accused of the respect and dignity accorded other participants in a trial and constitutionally due the accused as an element of the presumption of innocence, and surely tends to brand him ...with an unmistakable mark of guilt.

*Estelle v. Williams*, 425 U.S. at 517.

Indiscriminate shackling is even worse than the forced wearing of prison garb during trial. It communicates not only that the individual has committed a crime, but that he or she is violent and dangerous. Even though shackling may not be continued at trial itself, the judge functioning as trier of fact and sentencer will be unable to avoid the taint conveyed by the indelible image of a shackled and dangerous prisoner. This practice is inherently prejudicial and antithetical to the rehabilitative aims of the juvenile justice system.

11. Further support for our opinion may be found in *Pena v. New York State Division for Youth*, 419 F. Supp. 203 (S.D.N.Y. 1976), in which the district court found the shackling of juveniles to be “punitive and anti-therapeutic and therefore unconstitutional.” The court admonished against indiscriminate shackling and stated that the use of physical restraints “should be tolerated only in cases where a child is a serious and evident danger to himself or others and incapable of being controlled by any less restrictive means.” *Id.* at 211. The court identified rare instances when shackling might be necessary, such as short-term transportation from one institution to

another, and limited the use of physical restraints to no more than 30 minutes except in the instance of “vehicular transportation” where their utilization is “necessary for public safety.” *Id.* at 210. In contrast, the challenged policy in the 11<sup>th</sup> Judicial Circuit permits the prolonged and unnecessary use of restraints and shackles, anywhere from two to four hours, in a guarded holding area while juveniles await hearings, without any individualized findings of dangerousness, and none of the public safety considerations attendant to vehicular transportation or risk of flight. Such a sweeping policy is inherently flawed because it has no process for individualized determinations of the need to restrain and shackle children affected by the policy, and it is also gratuitously punitive and anti-therapeutic.

12. In sum, it is our opinion that the Court’s practice of requiring juvenile respondents to be held in restraints, shackles and chains for most phases of their appearances in juvenile court, without individualized risk or dangerousness assessments, or consideration of less restrictive or drastic safety precautions, is counter-therapeutic in that it victimizes the juveniles, stigmatizes them, and is psychologically harmful to them. For due process, therapeutic jurisprudence and rehabilitative reasons, we believe that this practice must cease.

FURTHER AFFIANTS SAYETH NOT

*Bruce J. Winick*

Bruce J. Winick

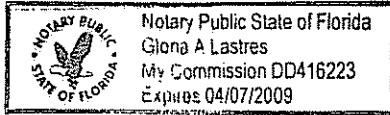
*Bernard P. Perlmutter*

Bernard P. Perlmutter

*State of FL  
County of Miami Dade*

*9/7/06*

*Gloria A. Lastres*



*My Commission expires: 4/7/09*

*Both individuals personally known to me.*

## BRUCE J. WINICK

Professor of Law, University of Miami School of Law, and Professor of Psychiatry and Behavioral Sciences, University of Miami School of Medicine, 1311 Miller Dr., Coral Gables, Florida 33146, (305) 284-3031 FAX (305) 284-6619 (since 1974)  
Web site: <http://www.brucewinick.com>, Email: [bwinick@law.miami.edu](mailto:bwinick@law.miami.edu)

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### Courses Taught:

Present Teaching: Advanced Criminal Procedure, Constitutional Law II, Mental Health Seminar, Psychology and Law Seminar, New Directions in Lawyering Workshop: Improving Interviewing and Counseling Skills

### Courses Previously Taught:

Therapeutic Jurisprudence Seminar, Criminal Justice - Mental Health Issues Seminar, Civil Procedure, Criminal Procedure, Administrative Law, Federal Jurisdiction

### Committees:

Chair, Clinical Committee (2006-present), Chair, Promotions and Tenure Committee (2005-2006); Chair, Promotions and Tenure Committee (2005); Chair, Clinical Committee (2001-2005); Chair, Promotions and Tenure Committee (1999-2000); Chair, Ad Hoc Health Law Graduate Program Planning Committee (1997); Dean's Search Committee (1993-1994); Chair, Academic Standards Committee (1989-1991); Chair, Ad Hoc Skills Training Committee (1986-1988); Chair, Ad Hoc Self Study Committee (1985); Chair, Appointments Committee (1983-1984); Chair, Promotions and Tenure Committee (1982-1983); Chair, Ad Hoc Committee to Restructure the Baron de Hirsch Meyer Lecture Series (1983); member of various law school and university committees

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- Informed Consent in Theory and Practice: Legal and Medical Perspectives on the Informed Consent Doctrine and a Proposed Reconceptualization*, 17 CRITICAL CARE MEDICINE 346-54 (1989) (with Charles Sprung)
- Forfeiture of Attorneys' Fees Under RICO and CCE and the Right to Counsel of Choice: The Constitutional Dilemma and How to Avoid It*, 43 U. MIAMI L. REV. 765-869 (1989)
- Informed Consent, in *Legal Aspects of Medicine* 61-66 (J. Vevaina, R. Bone & E. Kasoff eds. 1989) (with Charles Sprung)
- Foreword: Mental Disability Law Comes of Age*, 39 RUTGERS L. REV. 235-42 (1987) (with Alexander D. Brooks)
- Incompetency to Stand Trial: An Assessment of Costs and Benefits, and a Proposal for Reform*, 39 RUTGERS L. REV. 243-87 (1987)
- The Right to Refuse Psychotropic Medication: Current State of the Law and Beyond, in *The Right to Refuse Antipsychotic Medication* 7-31 (David Rapoport & John Parry eds. 1986) (American Bar Association Commission on the Mentally Disabled)
- Restructuring Competency to Stand Trial*, 32 UCLA L. REV. 921-85 (1985), reprinted in CRIMINAL LAW REVIEW - 1986 211-75 (J. Carr ed. 1986)

Incompetency and Insanity, in *Florida Criminal Rules and Practice* 197-230qq (2d ed. 1984)  
(The Florida Bar)

*Witherspoon* in Florida: Reflections on the Challenge for Cause of Jurors in Capital Cases in a State in which the Judge Makes the Sentencing Decision, 37 U. MIAMI L. REV. 825-67 (1983)

*Incompetency to Stand Trial: Developments in the Law, in MENTALLY DISORDERED OFFENDERS: PERSPECTIVES FROM LAW AND SOCIAL SCIENCE* 3-38 (John Monahan & Henry J. Steadman eds. 1983)

*Prosecutorial Peremptory Challenge Practices in Capital Cases: An Empirical Study and a Constitutional Analysis*, 81 MICH. L. REV. 1-98 (1982)

*Legal Limitations on Correctional Therapy and Research*, 65 MINN. L. REV. 331-422 (1981),  
reprinted in 2 *Nat'l L. Rev. Rep.* 191-282 (1981)

A Preliminary Analysis of Legal Limitations on Rehabilitative Alternative to Corrections and on Correctional Research, in *New Directions in the Rehabilitation of Criminal Offenders* 328-75 (Susan E. Martin, Lee B. Sechrest & Robin Redner eds. 1981) (National Academy of Sciences)

Competency to Stand Trial in Florida, 35 *U. Miami L. Rev.* 31-76 (1980)

Psychotropic Medication and Competence to Stand Trial, 1977 *Am. B. Found. Research J.* 769-816

Use of the Not-for-Profit Corporation as a Device to Provide High Quality Mental Health Services to the Family Court, in *Conference on New York City Juvenile Justice Resources* 138-47 (Barbara Flicker ed. 1974) (Institute of Judicial Administration)

Direct Judicial Review of the Actions of the Selective Service System, 69 *Mich. L. Rev.* 55-110 (1970)

Joinder of Defendants in Criminal Prosecutions, 42 *N.Y.U.L. Rev.* 513-36 (1967), reprinted in 5 *Mod. Prac. Com.* 365-96 (1967)

Comment, 41 *N.Y.U.L. Rev.* 1007-11 (1966)

#### PROFESSIONAL ASSOCIATIONS AND HONORS

Legal Director, Forensic Fellow Program, University of Miami School of Medicine Department of Psychiatry and Behavioral Sciences, (since 2005)

University of Miami Provost's Award for Scholarly Activity, (2005)

Member, Disability Independence Group (since 2005)

Member, Executive Board, Humanizing Legal Education Association (since 2004)

Research Affiliate, Rutgers University Center for Mental Health Services & Criminal Justice Research (since 2004)

Good Will Ambassador Award, Foundation Fighting Blindness (2004)

University of Miami Vice President's Award for Service, 2002-2003, "for improving the quality of life in the Greater Miami Community"

Alpha Epsilon Lambda, Beta Chapter (inducted 2002)

Omicron Delta Kappa National Honor Society (inducted 2002)

Miami-Dade County Award presented by Mayor Alex Pinellas for drafting and spearheading the successful effort to pass the Dade County Human Rights Ordinance prohibiting discrimination based on sexual preference. (awarded January, 2002 at a ceremony commemorating the 25<sup>th</sup> Anniversary of the Ordinance)

Recipient, *Thurgood Marshall Award* of the Association of the Bar of the City of New York (1998)

Director, University of Miami School of Law Institute on Law, Psychiatry and Psychology (since 1998)

Advisory Board, International Association of Collaborative Professionals (since 1999)

Editorial Board, FORENSIC ECHO (since 1998)

Co-editor, *Law and Public Policy: Psychology and the Social Sciences*, American Psychological Association Press book series (since 1996)

Legal Advisor and member of Editorial Board, *Psychology, Public Policy and Law* (since 1995)

Editorial Board, LAW AND HUMAN BEHAVIOR (since 1986)

Reviewer, AMERICAN PSYCHIATRIC ASSOCIATION JOURNAL (since 1994)

Advisory Board, American Bar Association, COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW NATIONAL BENCHBOOK OF PSYCHIATRIC AND PSYCHOLOGICAL EVIDENCE AND TESTIMONY: CIVIL AND CRIMINAL COMPETENCY, DANGEROUSNESS, AND CRIMINAL RESPONSIBILITY (1994-1996)

Recipient, *Scholar in Residence Award*, University of Miami School of Law (1995-1996)

Board of Directors, Environmental Guardians Defense Committee (1994-1996)

Board of Governors, N.Y.U. LAW REVIEW Alumni Association (1987-1996)

Recipient, American Immigration Lawyers Association *Human Rights Award* (1992)

Consultant, American Psychiatric Association Task Force on Consent to Voluntary Hospitalization (1990-1992)

Lawyers Mediation Service (since 1990)

Board of Directors, International Academy of Law and Mental Health (1987-1989)

American Civil Liberties Union National Immigration and Alien Rights Project Task Force (1984-1988)

Litigation Advisory Committee, Haitian Refugee Center, Inc. (1983-1995)

Mental Disability Law Section, Association of American Law Schools (since 1974)

Advisory Committee, Florida Forensic Examiner Project (1986)

Florida Bar Mental Disability Law Committee (1980-1986)

Director, University of Miami School of Law Conference on Mental Health Law: Developments in the 1980's (1984)

Dade County Bar Community Task Force on Jury Selection (1984)

Board of Contributors, *Miami Herald* (1980-1982)

Chairperson, Law and Medicine Section, Association of American Law Schools (1979-1980)

Consultant, Office of the Dade County State Attorney (1978-1983)

Mental Health Board of Dade and Monroe Counties (1979)

General Counsel, American Civil Liberties Union of Florida (1977-1979)

Affiliated Scholar, American Bar Foundation (1976-1977)

Committee on Alcoholism and Drug Law Reform, American Bar Association (1972-1977)

Committee on Medicine and Law, Association of the Bar of the City of New York (1973-1974)

Task Force on Court Mental Health Services, Appellate Division of the Supreme Court of the State of New York (1973-1974)

Coordinator, New York City Inter-Agency Task Force on Children and the Law (1973-1974)

New York Civil Liberties Union Selective Service Law Panel (1969-1972)

Cooperating Attorney, Central Committee for Conscientious Objectors (1969-1972)

Bar Admissions: New York State (1968), U.S. Supreme Court (1973), U.S. Court of Appeals for Second (1970), Fifth (1977), Sixth (1981), and Eleventh (1982) Circuits, and numerous U.S. District Courts

Lectures and presentations to numerous academic, professional, and community associations and organizations at the global, national, and local level.

### PREVIOUS EMPLOYMENT

General Counsel, New York City Department of Mental Health and Mental Retardation Services (1973-1974)

Director of Court Mental Health Services, New York City Health Services Administration (1972-1974)

Deputy Counsel, New York City Health Services Administration (1972-1974)

Associate, Marshall, Bratter, Greene, Allison & Tucker, New York, New York (1969-1972)

Instructor, Indiana University School of Law, Bloomington, Indiana (1968-1969)

### EDUCATION

J.D., New York University School of Law (1968)  
Editor, *N.Y.U. Law Review*  
Edmond Cahn Law Review Award

A.B., Brooklyn College (1965)

**BERNARD P. PERLMUTTER**  
**University of Miami School of Law, Children & Youth Law Clinic**  
**1311 Miller Drive, Suite F305, Coral Gables, Florida 33146**  
**Phone 305-284-3123; Fax 305-284-4384**

**Legal and Related Professional Experience**

**Assistant Professor of Clinical Legal Education and Director, Children & Youth Law Clinic, University of Miami School of Law, Center for Ethics and Public Service, November 1995-Present.** Established Law School's first in-house, live-client clinic, serving the legal needs of adolescent foster youth in dependency, health care, mental health, disability, education, immigration, and general civil legal matters. Supervise law students in direct representation of clients, impact litigation, law reform advocacy, and community lawyering. Teach practice skills such as interviewing, case planning, investigating facts, counseling, legal writing, witness examination, negotiation, and oral argument. Co-teach classes in children and the law, family law, lawyering skills, legal ethics, and public interest law. Responsible for law office management, grant writing, fund raising, community outreach, and program development.

**Director and Faculty Advisor, University of Miami School of Law Summer Public Interest Seminar Program, 1996-2005.** Administered Law School's public interest fellowship program, funded by Florida Bar Foundation. Oversaw externship placements of up to 15 law student fellows at various South Florida public interest law agencies serving indigent children. Co-taught class on the legal needs of poor children and public interest law advocacy.

**Clinical Fellow, University of Miami School of Law, Center for Ethics and Public Service, September 2001-2005.** Supervised and taught law students in Community Health Rights Education Clinic.

**Staff Attorney, Juvenile Advocacy Project and Children First Project, Legal Services of Greater Miami, Inc., Miami, Fla., June 1988-November 1995.** Represented poor, disabled and at-risk children and families in state, administrative and federal court proceedings involving child welfare, juvenile justice, special education, mental health, developmental disabilities, housing and public benefits issues. Co-authored *Multi-Forum Advocacy for Children-at-Risk* (1990), training manual for attorneys representing children. Recipient of Alfred Feinberg Memorial Award for outstanding service to Legal Services clients (1992).

**Director, Children's Law Project, Civil Law Clinic, Nova Southeastern University, Shepard Broad Law Center, Ft. Lauderdale, Fla., August 1993-September 1994.** Taught third-year certified legal interns litigation and other practice skills through representation of children in dependency, guardianship, custody, and disability cases, while on leave of absence from Legal Services of Greater Miami.

**Senior Attorney, Immigration Project, Legal Services of Greater Miami, Inc., June 1987-May 1988.** Supervised the legal work of project that provided immigration representation to individuals of all nationalities, coordinated AILA *Pro Bono* referral panel, participated in community legal education, public advocacy and outreach efforts.

**Attorney in private practice, Margoles & Tobocman, P.A., Coral Gables, Fla., August 1986-June 1987.** Associate in private practice, representing international clients in immigration, transactional, family law, wills and estates, commercial and civil litigation matters.

**Staff Attorney, Lutheran Immigration and Refugee Service, Cuban/Haitian Refugee Project, Miami, Fla., November 1984-August 1986.** Represented political asylum applicants from Haiti and other countries in exclusion and deportation proceedings in immigration and federal courts. Participated in community outreach and law reform litigation regarding alien eligibility for public benefits and parole of juveniles from INS detention.

**Law Clerk, Wildes & Weinberg, P.A., New York, N.Y., Summer 1982.** Performed legal research and prepared legal documents for foreign clients in immigration and corporate matters.

**Litigation Paralegal, Wilmer, Cutler & Pickering, Washington, D.C., July 1978-August 1980.** Provided litigation support to attorneys in complex commercial litigation matters.

### Other Professional Experience

**Reference Librarian, University of Miami School of Law, 1985-87.** Provided part-time research assistance to law library users, students and faculty. Taught library and computer assisted legal research skills to first-year law students.

**Research Intern, U.S. Library of Congress, Latin American, Portuguese and Spanish Division, Washington, D.C. 1974-75.** Conducted research and analysis of Luso-Hispanic issues for members of Congress. Provided reference assistance to academic scholars and other researchers.

**Research Intern, United Nations Association of the U.S.A., New York, N.Y. 1972-73.** Member of student research team investigating U.S. Congressional abrogation of U.N. Security Council sanctions on importation of Rhodesian mineral products. Co-authored published report.

**United Nations International School, New York, N.Y., 1971-72.** Student intern for teaching English and other subjects to children of U.N. diplomatic personnel.

### Education

**University of Miami School of Law, Coral Gables, Fla.** J.D. degree awarded 1983, *cum laude*. Full tuition scholarship and Dean's List. Book Awards for Administrative Law and Immigration Law.

**Brandeis University, Joint Program of Literary Studies, Waltham, Mass.** Ph.D. studies in English and Comparative Literature, 1976-78. Hirschfield and University Fellowships, teaching assistantship and full tuition scholarship.

**Bennington College, Bennington, Vt.** B.A., English and Comparative Literature 1975. Highest honors for Senior Thesis. Junior semester studies, Universidad de Granada (Spain), 1974.

## Bar Status

Florida Bar (1984); U.S. District Court, S.D. Fla. (1985); U.S. Court of Appeals, Eleventh Circuit (2002).

## Significant Litigation

*Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8350*, 804 So.2d 1206 (Fla. 2001) and 842 So.2d 763 (Fla. 2003). Co-counseled landmark proceeding before the Florida Supreme Court establishing a rule of juvenile procedure mandating pre-placement juvenile court hearings and appointed counsel for foster children facing involuntary commitment by the state Department of Children & Families to residential facilities for mental health treatment.

*Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8.355*, Case No. SC05-1303: Submitted comments on behalf of three child advocacy organizations, a law professor and a forensic psychiatrist in Florida Supreme Court on proposed juvenile court rule governing hearings on administration of psychotropic medication for children in state foster care.

*M.W. v. Davis & DCF*, 756 So.2d 90 (Fla. 2000): Represented foster child in habeas corpus petition challenging the State's commitment of the child to a long-term, locked psychiatric institution without providing the child with due process protections. Case was certified as one of great public importance to the Florida Supreme Court. Case resulted in the Florida Supreme Court ordering the promulgation of a new rule of court that provides "a meaningful opportunity to be heard" to foster children facing commitment to psychiatric institutions.

*Foster Children Bonnie L., et al. v. Bush, et al.*, 180 F.Supp.2d 1321 (S.D. Fla. 2001), *aff'd* 329 F.3d 1255 (11<sup>th</sup> Cir. 2003), *cert. denied sub nom. Reggie B. v. Bush*, 124 S.Ct. 483, 153 L.Ed.2d 376 (U.S. Nov. 3, 2003) : Co-counsel in class action lawsuit on behalf of approximately 18,000 foster children seeking reform of unconstitutional and unlawful conditions in Florida's foster care system. District court dismissed plaintiffs' constitutional and statutory claims and Eleventh Circuit Court of Appeals affirmed.

*Leslie F. v. Bush, et al.*, (U.S. Court of Appeals, 11<sup>th</sup> Cir.): Co-counseled successful litigation challenging constitutionality of state agreement for providing extended foster care services to youth over age 18.

*S.C. v. GAL, et al.*, 845 So.2d 953 (Fla. 4<sup>th</sup> DCA 2003): Authored *amicus curiae* brief on behalf of University of Miami School of Law Children & Youth Law Clinic and Florida's Children First in appeal of order denying foster child the right to invoke psychotherapist-patient privilege against court-appointed GAL. Appeals court relied extensively on *amicus* brief in upholding child's right to privileged communications with therapist.

*Fla. Dept. of Children & Families v. In re C.K.*, 851 So.2d 206 (Fla. 3d DCA 2003): Submitted *amicus curiae* brief on behalf of Children & Youth Law Clinic and Florida's Children First in appeal challenging juvenile court's retention of jurisdiction over 18 year old receiving post-

foster care benefits from DCF.

*DCF v. Statewide Advocacy Council*, 884 So.2d 1162 (Fla. 2d DCA 2004): Authored *amicus curiae* brief on behalf of University of Miami School of Law Children & Youth Law Clinic, Center for Ethics and Public Service, and Florida's Children First in support of state advocacy council's access to confidential medical records held by DCF.

*Joubert v. Barnhart*, 396 F.Supp.2d 1320 (S.D. Fla. 2005): Successful appeal of decision of Commissioner of Social Security Administration challenging denial of SSI disability benefits to disabled immigrant child on alien status grounds.

*Ocean v. Kearney, et al.*, 123 F.Supp.2d 618 (S.D. Fla. 2000): Co-counseled successful §1983 action against Secretary of Florida DCF by foster care youth challenging the unconstitutional termination of foster care benefits post age-18 without affording notice and opportunity to be heard.

*Brown v. Feaver*, 726 So.2d 322 (Fla. 3d DCA 1999), *rev. denied*, 744 So.2d 452 (Fla. 1999): Lead counsel in class action lawsuit brought pursuant to federal and state law challenging state's failure to prevent removal of children from their families or to reunite families after separation has occurred when homelessness is a primary factor contributing to child's placement or retention in state foster care.

### **Professional and Community Involvement**

**American Bar Association**, Member Section of Litigation, Task Force on Children.

**American Civil Liberties Union**, Member Board of Directors Greater Miami Chapter (1985-87) and Legal Panel (1985-Present).

**Association of American Law Schools, Clinical Law Section**, Member 1998-Present.

**Center for Florida's Children (Voices for Florida's Children)**, Member 1992-Present.

**Center for Law & Education, National Education Law Task Force**, Member 1993-95.

**Clinical Legal Education Association**, Member 1998-Present.

**Dade County Bar Association**, Juvenile Court Committee, Chair Juvenile Court Mediation Subcommittee 1990-93.

**Dade County Task Force on Children's Mental Health**, Member 1995-96.

**Juvenile Court Dependency Committee**, 11th Judicial Circuit, Member 1995-98.

**Florida Bar Commission on the Legal Needs of Children**, Appointed in 1999 by Florida Bar President to serve on Blue Ribbon Commission addressing legal needs of children. Co-author of Commission's *Final Report* (June 2002), available at [www.flabar.org](http://www.flabar.org). Chair of Confidentiality

and Information Sharing Committee.

**Florida Bar Juvenile Court Rules Committee**, Appointed by Florida Bar President to two-year term in 2004.

**Florida Bar Legal Needs of Children Standing Committee**, Appointed in 2003 by Florida Bar President to serve on 30-member Standing Bar Committee to review and implement recommendations of Florida Bar Commission on the Legal Needs of Children. Co-chair of Confidentiality and Competency Subcommittee.

**Florida Bar Public Interest Law Section**, Member Legal Needs of Children Committee; Legal Needs of Children Committee liaison to PILS Legislative Committee.

**Florida Immigrant Advocacy Center**, Member Board of Directors. Serve on strategic planning and nominating committees, 1997-Present.

**Florida Legal Services**, Member Project Directors Association.

**Florida's Children First, Inc**, Founding member of Board of Directors of statewide children's advocacy organization established in 2002. Serve on litigation, legislation, public relations, and development committees.

**Human Services Coalition of Dade County**, Member 1996-Present.

**Lawyers and Advocates for Special Education Advocacy**, 2000-Present.

**Miami Bridge Youth & Family Services, Inc.**, Member Board of Directors, 1991-94.

**National Association of Counsel for Children**, Member 1991-93 and 1996-Present; member of National Children's Law Office Project Advisory Committee, consisting of 23 national experts in child welfare law. The project will unite the nation's children's law offices into a single national law office network, develop substantive and procedural law office operation protocols, and deliver training and technical assistance.

**South Florida Association for Retarded Citizens**, Advocacy Committee, 1995-Present.

**University of Miami School of Law, Public Interest Law Task Force**, 2002-Present.

#### **Presentations to Professional and Community Groups**

**American Bar Association Criminal Justice Section**. Participant in panel discussion on child witnesses in criminal cases (Miami, 2002).

**American Bar Association Section of Litigation Task Force on Children**: Participant in panel discussion on proposed ABA Standards for Legal Representation of Children in Abuse and Neglect Cases (Miami, 1995).

**American Bar Association Section of Litigation Children's Law Committee:** Invitation-only participant in "Training the Child Advocate" conference, co-sponsored by ABA, National Institute for Trial Advocacy, Loyola University Chicago School of Law, and Northwestern University School of Law (Chicago, 2001).

**American Bar Association Section of Litigation/National Institute for Trial Advocacy, Legal Services Advocacy Training Program:** Faculty member for three-day trial advocacy program for Florida Legal Services attorneys (Miami, 1998).

**American Civil Liberties Union of Florida, Lawyers' Conference:** Panelist on children's and public interest litigation (Key West, 1992, 1997 and 2000).

**American Immigration Lawyers Association/Florida Immigrant Advocacy Center:** Trainer on techniques for interviewing children and ethical issues in representing children at *pro bono* trainings on Representing Unaccompanied Minors in Removal Proceedings (2001) and on State Court Procedures for Obtaining Special Immigrant Juvenile status (multiple dates 2003-05).

**Association of American Law Schools, Conference on Clinical Legal Education:** Small group facilitator (Miami, 1996; Portland OR, 1998) and panelist on teaching and practicing therapeutic jurisprudence/preventing lawyering in clinical legal education (San Diego, 2004 and New York, N.Y., May 2006).

**Association of American Law School, Equal Justice Project:** Participant in Children's Rights Working Group at Equal Justice Colloquium held at Nova Southeastern University Shepard Broad Law Center (2001).

**Barry University School of Law, Children First Project:** Trained public defenders, guardians ad litem, and *pro bono* lawyers on children's mental health advocacy (2002).

**Children First Project, Nova Southeastern University, Shepard Broad Law Center:** Panelist on immigration and children (1995, 1996 & 1997).

**The Children's Trust, Florida Children's Legislative Summit,** Panelist on Early Intervention (2006).

**Dade County Bar Association Put Something Back Program:** Trainer of private, *pro bono* attorneys on AIDS law, child advocacy and obtaining special immigrant juvenile status for alien children in dependency proceedings (Miami, 1993, 1994 & 1997).

**Eleventh Judicial Circuit, Family Violence Court Technical Assistance Project:** Participant in panel discussion on Breaking the Cycle: Legal and Advocacy Issues for Children Exposed to Family Violence (1997).

**Florida Bar Presidential Showcase Continuing Legal Education Seminar, "Whose Business Is It Anyway?" The Law of Confidentiality and Information Sharing of a Child's**

**Records:** Faculty trainer for Bar CLE on recent developments in federal and Florida children's records law (2003).

**Florida Bar Foundation, Children's Legal Services Grant Program:** Member of design team member for Florida children's advocacy training, moderator and trainer (2002).

**Florida Bar Foundation, Legal Assistance for the Poor Grant Program:** Participant in statewide panel discussion on establishing funding priorities to address children's legal needs in Florida (Tampa, 1998).

**Florida Bar Foundation, Legal Services Summer Fellowship Program:** Trainer of law school fellows on family/juvenile law and legal ethics for legal services attorneys (Coral Gables, 1994 and Ft. Lauderdale, 1998-2001).

**Florida Bar Foundation, Public Service Fellows Symposiums:** Small group panel discussion leader on public interest law (Orlando, 1996-1998).

**Florida Foster Care Review Project, Inc.:** Trained foster care panel volunteers on legal rights of older foster children and role of children's attorneys in foster care judicial review proceedings (multiple dates, 1996-1999).

**Florida International University, College of Law:** Guest lecturer to Carlos A. Costa Immigration and Human Rights Clinic on Special Immigrant Juvenile Status for immigrant children (2004).

**Florida International University, School of Social Work:** Guest lecturer to MSW students on legal aspects of social work in foster care and children's mental health proceedings (2001 & 2002).

**Florida's Children First, Inc.,** Trainer of *pro bono* lawyers on ethical standards for legal representation of children and legal standards for representing foster children in mental health civil commitment and independent living proceedings (multiple dates, 2003-05).

**Grandparents Raising Grandchildren Relative Caregiver Conference:** Participant in statewide panel discussion on recently enacted kinship caregiver statute (Miami, 1999).

**Juvenile Defender Leadership Summit:** Invitation-only participant in annual summit sponsored by National Juvenile Defender Center and ABA (Miami Beach, 2001).

**Juveniles in Adult Court: Our Children, Our Future:** Moderated panels on The Role of Legally-Mandated Educational Services in the Effective Representation of Juveniles in Adult Court, at national conference sponsored by Public Defender for Miami-Dade County Juvenile Sentencing Advocacy Project, ABA Juvenile Justice Center, The Sentencing Project, and the Florida Public Defender Association (Miami, 2000).

**Lawyers for Children America:** Trained *pro bono* lawyers on legal rights of dependent

and foster children in special education proceedings (Miami, 1998 & 1999).

**Linking Forces VIII, X and XI (Children's Mental Health Conference):** Panelist in children's mental health law training (Miami, 1999, 2001 & 2002).

**Lorman Education Services, Children's Records Law Seminar:** Trainer of legal and non-legal professionals on children's educational, medical, social services, and judicial records laws (1999-2001).

**Lutheran Immigration and Refugee Service/Women's Commission for Refugee Women and Children:** Panelist at national conference on "Building a New Model for Serving Children: A Roundtable on Children in Immigration Proceedings" (Daytona Beach FL, 1998).

**Miami-Dade County Children's Services Council:** Presented panel reports issued by Children's Mental Health Task Force Committee (1995 & 1996).

**Miami-Dade County Office of Youth & Family Development, Family Preservation/Family Support Services Division:** Presentation to staff social workers on legal rights of poor children and families (1998).

**National Association of Counsel for Children, National Children's Law Conference:** Faculty trainer on due process rights of foster children in mental health commitment proceedings (Orlando, 2002).

**Temple Law School/Juvenile Law Center:** Invited presenter at Symposium on Law and Adolescence (March 2006).

**University of Miami School of Education, Center for Research:** Colloquium presentation on educational rights of children in foster care (October 2002 and October 2003).

**University of Miami School of Law, Center for Ethics and Public Service:** Panelist on juvenile death penalty symposium (October 2004).

**University of Miami School of Medicine, Department of Family Medicine, Dr. John T. McDonald Foundation, School Health Initiative:** Grand round presentations on legal issues of children and adolescents in health care matters (December 2003 & February 2004).

**WLRN Cable/ACLU Miami Chapter:** Panelist on cable program on parental abortion notification (October 2004).

### News Media Appearances

Numerous appearances as a legal commentator and expert on NBC (Today Show, Nightly News and Dateline NBC), CBS (Early Show and Evening News), ABC (World News Tonight), CNN, Fox News Channel, National Public Radio, Telemundo, BBC World News, CBC T.V., as well as radio and T.V. programs in Australia, Belgium, Colombia, Italy and throughout the U.S.

Also quoted widely in the national and international print media, including *The New York Times*, *Washington Post*, *Boston Globe*, *Los Angeles Times*, *Baltimore Sun*, *Christian Science Monitor*, *USA Today*, *Miami Herald*, *El Nuevo Herald*, *South Florida Sun-Sentinel*, *Orlando Sentinel*, *Palm Beach Post*, *St. Petersburg Times*, *U.S. News and World Report*, *the American Bar Association Journal*, *The Economist*, in addition to Agence France-Presse, Reuters, Cox Newspapers and A.P. Additionally, interviewed by writers on the Editorial Boards of the *New York Times*, *Miami Herald*, and *USA Today*.

### **Publications and Research**

Florida Bar Commission on the Legal Needs of Children: Co-author *Interim Report* (March 2001) and *Final Report* (June 2002).

*Florida Minors' Access to Confidential Reproductive Health Care*: Co-author legal rights pamphlet for adolescents, published by Physicians for Reproductive Choice and Health and Florida ACLU (2005).

*George's Story: Voice and Transformation Through the Teaching and Practice of Therapeutic Jurisprudence in a Child Advocacy Clinic*, 17 ST. THOMAS L. REV. 561 (2005)

*Juvenile Transfer: Therapeutic Jurisprudence Implications of Law and Policy*: Co-investigator in multi-disciplinary research study by faculty and students from the University of Miami Schools of Law and Medicine, and Department of Psychology, examining therapeutic jurisprudence implications of Florida's policies that permit the transfer of juveniles to adult court without according pre-transfer waiver hearings.

*Mental Health Commitment of Dependent Children: Due Process Rights*: Chapter in National Association of Counsel for Children CHILD WELFARE LAW AND PRACTICE: REPRESENTING CHILDREN, PARENTS, AND STATE AGENCIES IN ABUSE, NEGLECT AND DEPENDENCY CASES (with C. Salisbury)(2005).

*"Please Let Me Be Heard": The Right of a Florida Foster Child to Due Process Prior to Being Committed to a Long-Term, Locked Psychiatric Institution*, 25 NOVA L. REV. 725 (2001)(with C. Salisbury).

*Preparing for Life After Foster Care: Florida's Independent Living Program For Foster Care Teens*, 9 FLA. BAR PUB. INT. L. SEC. REP. 4 (Dec. 2000)(with C. Salisbury and M. Stanger).

*Multi-Forum Advocacy for Children-at-Risk*: Legal Services training manual for attorneys representing children (1990)(with C. Zawisza and J. Ratliff).

*Voices from Within: Encouraging Youth Participation in Foster Care Policy Development*, Temple Law Review/Juvenile Law Center, National Symposium on Law and Adolescence (March 2006) (in progress).

UCLA School of Law/University of London Institute for Advanced Legal Studies, Sixth International Conference on Clinical Legal Education and Scholarship, "Enriching Clinical Education" (October 2005): Therapeutic jurisprudence and clinical legal education (in progress).

### **Honors and Awards**

**Alfred Feinberg Memorial Award:** Annual award to staff attorney for outstanding service to Legal Services of Greater Miami clients (1992).

**American Bar Association Livingston Hall Juvenile Justice Award:** Finalist for annual award from the American Bar Association, nominated by Florida Circuit Judge Sandy Karlan (1997).

**American Civil Liberties Union, Greater Miami Chapter:** C. Clyde Atkins Civil Liberties Award (2005).

**The Children's Trust:** First Annual Champion for Children Award for lifetime achievement and dedication to children from Miami-Dade County Children's Trust (2005).

**Clinical Legal Education Association:** Award for Excellence in a Public Interest Law Case or Project for Children & Youth Law Clinic Foster Children's Mental Health Rights Project (2003).

**Dade County Bar Association Put Something Back *Pro Bono* Service Awards** (1994, 1995, February and October 1997).

**Florida Bar Foundation Steven M. Goldstein Award for Excellence:** First runner-up award for Children & Youth Law Clinic's Foster Children's Mental Health Rights Project (2001).

**Florida Bar Foundation Steven M. Goldstein Award for Excellence:** Co-recipient, with Legal Aid Society of Palm Beach County, of first runner-up award for Older Foster Youth Advocacy Project (2003).

**Florida Bar Public Interest Law Section Honorable Hugh S. Glickstein Child Advocacy Award:** Co-recipient of Florida Bar Public Interest Law Section annual child advocacy award, presented to members of the Florida Bar Commission on the Legal Needs of Children (2002).

**Florida Statewide Advocacy Council:** Mental Health Advocate of the Year, awarded for outstanding, continuous efforts to improve the system for Floridians with unique needs (2005).

**National Association of Counsel for Children:** Outstanding Legal Advocacy Award for Children & Youth Law Clinic (2003).

**University of Miami Law School Public Interest Law Group Law Recognition Award** (1998).

### **Languages**

Fluent Spanish. Proficient French, Haitian Creole, Italian and Portuguese.

### **Personal**

Married to Pamela A. Chamberlin; one child, David Lucas Perlmutter (age 12).