

# Supreme Court of Tennessee

## *Application for Tennessee Attorney General and Reporter*

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### CONTACT INFORMATION

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Name: James Douglas Overbey

Home Address:

Office Address: 900 S. Gay Street, Suite 703, Knoxville, TN 37902

Home Phone:

Office Phone:

Cell Phone:

Email Address:

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### PERSONAL INFORMATION

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1. Please provide the following:

Age:	59	Date of birth:	12/11/54	City and state (or country) of birth:	Kingsport, TN
Social Security No.			TN Driver's License No.		
Tennessee Board of Professional Responsibility No.		006711	Year licensed to practice:		1979

2. How long have you lived continuously in the State of Tennessee?

59 years

3. Are you registered to vote in Tennessee? If so, please give the county.

Yes; Blount County

4. In what states have you lived since age 21? Indicate length of stay and approximate dates.

State	Length	From	To
Tennessee	All my life	1954	Present

5. Family Status:

a) If you are presently married, give the full name and present address of your spouse, the date and place of your marriage, and your spouse's occupation and place of employment.

Spouse's Name	Address	Date of Marriage	Place of Marriage
Kay S. Overbey		12/30/95	Edisto Island, SC
Occupation		Place of Employment	
Currently Retired; previously TN Department of Children's Services		Retired; previously Nashville, TN	

b) If you have been married previously, state the name of your former spouse, the date and place of the marriage, and the date the marriage terminated. If the marriage was terminated by divorce, give the date and place of the divorce, the name and location of the court, and the present or last known address of your former spouse.

Former Spouse's Name	Date of Marriage	Place of Marriage	Date Marriage Terminated	
Jane G. Andrews	5/22/76	Black Mountain, NC	8/16/93	
Divorced Spouse	Divorce Date	Place of Divorce	Court Name & Location	Spouse Address
Jane G. Andrews	8/16/93	Knox County, TN	Fourth Circuit Court for Knox County, TN	

c) If you have children, state the name, age, address, present occupation, and name and address of the employer of each, if applicable.

Name	Age	Address
Kathleen O. Thomas	30	
Occupation	Employer Name	Employer Address
Senior Financial Analyst	HealthTrust	155 Franklin Road, Suite 400, Brentwood, TN 37027

Name	Age	Address
Hannah M. Millard	29	
Occupation	Employer Name	Employer Address
Admissions Coordinator	Pasadena Villa Residential Psychiatric Services	3889 Wonderland Lane, Sevierville, TN 37862

Name	Age	Address
Elizabeth O. Thomason	28	
Occupation	Employer Name	Employer Address
Assistant Director of Admissions	The Art Institute of Houston	4140 Southwest Freeway, Houston, TX 77027

6. If you have served in the military, please state the branch of service, your service number, the dates of active duty, and your rank/rate at separation. If your discharge was other than honorable, please explain. Please list any decorations, honors or achievements in connection with your military service.

Branch	Service Number	Dates	Rank/Rate
Not Applicable			
Additional Information:			

7. If you are not physically and mentally able to perform the essential duties of Attorney General and Reporter without accommodations, please identify any accommodations you may need to perform the job.

Not Applicable
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8. If you have ever pleaded guilty to or been convicted of a violation of any law (other than a minor traffic offense), regulation, or ordinance; give the date, court, charge, and disposition. This question includes any convictions that have been expunged and any convictions for which you are on diversion.

Date	Court	Charge	Disposition
Not Applicable			

9. If, to your knowledge, you have ever been under federal, state, or local investigation for possible violation of a criminal statute, give details.

Not Applicable
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10. If a tax lien or other collection procedure has ever been instituted against you by any federal, state, or local authority, or any private party, give details.

Not Applicable
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11. If you have not complied with all federal and state tax laws, including social security tax laws, please explain.

Not Applicable

12. If you have ever been a party in any legal proceedings, give details, including the date, court, docket number, nature of proceedings, and resolution.

In Re: The Marriage of James Douglas Overbey and Jane Elizabeth (Gilbert) Overbey, In the Circuit Court for Knox County, Tennessee; Civil Action No. 62537; Divorce Proceedings; Final Judgment of Divorce Entered August 16, 1993

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## EDUCATION

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13. List each college, law school, and other graduate school you have attended, including dates of attendance, degree awarded, and major. If you left before obtaining a degree, please give your reason for leaving.

School	Dates	Degree	Major
Carson-Newman College	1972-1975	B.A., <i>magna cum laude</i>	Individual Directions
Universite d' Aix-en-Provence	Summer 1975	Certificate of Attendance	French
University of Tennessee College of Law	1976-1979	J.D., Order of the Coif	

14. For your law school education only, please give your academic standing (class rank), whether you served on the staff of a legal publication such as the law review, including your position and responsibilities, and whether you were a member of a moot court or mock trial team. List any honors, awards, or other forms of recognition you received in law school.

Class Rank

Graduated 1<sup>st</sup> out of 81 in the Spring 1979 graduating class and 2<sup>nd</sup> out of 192 for all graduates for the four quarters prior to and including the Spring 1979 quarter.

Honors, Awards, and Recognitions

Inducted into the Order of the Coif at Hooding Ceremony (June 1979)

Graduate of the Year, Roosevelt Inn, Phi Delta Phi (1979)

Outstanding Student Award for Trial Moot Court (Winter 1978)

Dean's List (eight out of nine quarters)

American Jurisprudence Award for Contracts (Winter 1977)

American Jurisprudence Award for Criminal Law (Spring 1977)

American Jurisprudence Award for Conflict of Laws (Fall 1978)

## LEGAL BACKGROUND AND EXPERIENCE

15. If you are licensed to practice law in any state other than Tennessee, please give the year and whether your license is currently active. Please also list all courts to which you have been admitted, including administrative bodies that require special admission to practice.

State and Bar No.	Year	License Status
Not Applicable		
Court Admissions: Tennessee Supreme Court (Admitted 1979); United States Supreme Court (Admitted 1995); United States Court of Appeals for the Sixth Circuit (Admitted 1981); United States District Court for the Eastern District of Tennessee (Admitted 1980); United States District Court for the Eastern District of Virginia (Admitted, <i>pro hac vice</i> , 1998)		

16. If you have ever been denied admission to, suspended by, or placed on inactive status by the Bar of any state, please give dates, even if the action was temporary, and explain.

Not Applicable

17. If you have been disciplined or cited for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

Not Applicable

18. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices which you have held in such groups, and participation in any committees you consider significant.

Group	Dates	Office	Dates
American Bar Association	1979 to Date		
Tennessee Bar Association	1979 to Date		
Knoxville Bar Association	1979 to Date		
Blount County Bar Association	1980 (approx.) to Date		
The Hamilton Burnett American Inns of Court	August 2014		

19. List honors, prizes, awards, or other forms of recognition that you have received since your graduation from law school that are directly related to legal accomplishments.

President's Award, Tennessee Bar Association (2013)  
Law & Liberty Award, Knoxville Bar Association (2009)  
"Top Attorney Award for Antitrust," *Cityview Magazine* (2010 – 2014)  
"Top Lawyers of Tennessee," *The National Law Journal* (2012)

20. If you have served as a judicial law clerk for a judge or as a staff attorney to a court, give the name of the judge or court and dates of service, and describe your experience.

Not Applicable

21. Indicate your present employment, and list any professional partners or other members if applicable.

Current Employment	Date Employed
Sr. Partner, Robertson Overbey, Knoxville, TN	1982 to Date
Partners: Shelly L. Wilson, John E. Owings	
Members: David E. Waite, Stephanie D. Coleman, Richard A. McCall, Frederick B. Fields	

22. Other than service as a judicial law clerk for a judge or as a staff attorney to a court, list and briefly describe your prior employment in the legal field since the completion of your legal education and give the dates of such employment. If you have had any periods of unemployment in excess of six months since completion of your legal education, please describe what you did during those periods.

Associate, Fowler, Rowntree, Fowler & Robertson, Knoxville, TN (1979 to 1982)

23. Describe the nature of your present law practice; list the major areas of law in which you practice and the approximate percentage each constitutes of your total practice.

Although I handle a variety of matters, my current practice focuses on commercial litigation, municipal law, health care law, and general corporate law. A fair approximation of the major areas of my practice and their relative percentages are: Municipal Law 35%; Health Care Law 35%; Corporate Law 20%; Commercial Litigation 10%.

24. List other areas of law in which you have practiced and describe any other legal experience that you would like to bring to the attention of the Court.

Over the years, I have had a focus in antitrust and trade regulation law and have been recognized the past five years as a "Top Attorney" in Antitrust Law by *Cityview* magazine.

25. If you have practiced in proceedings before administrative boards or commissions, state the agencies and the approximate number of proceedings in which you appeared before each agency. Of that total, indicate in how many you appeared as sole counsel, how many as chief counsel, and how many as associate counsel.

Agency	Total	Sole Counsel	Chief Counsel	Assoc. Counsel
Health Services & Development Agency	2	1	2	
Department of Labor, Unemployment Compensation	6 (approx.)	6	6	

26. If you have handled matters that have been arbitrated or mediated, state the approximate number. Of that total, indicate in how many you were involved as sole counsel, how many as chief counsel, and how many as associate counsel.

Approx. Number	Sole Counsel	Chief Counsel	Assoc. Counsel
3	2	1	

27. Please describe your trial court experience during the past ten years. Approximate the number of trial court matters in which you appeared. Of this total, state the number that was before a federal court, the number that was before a Tennessee court of record, and the number that was before a Tennessee court that was not of record (general sessions, municipal). State the approximate percentage of these matters that were criminal, and the approximate percentage that were civil. Indicate in how many matters you were sole counsel, how many you were chief counsel, and how many you were associate counsel. Please indicate the approximate percentage of your cases that were tried to resolution, how many were dismissed upon pre-trial motion, and how many were settled prior to trial.

Due to my service in the General Assembly over the past fourteen year, I have limited my trial work. Prior to being elected to the General Assembly, I appeared in court on a more regular basis. During my time in the General Assembly, I have had one major antitrust case in federal court that was resolved by mediation and a major minority shareholders action in Chancery Court that was resolved after two days of trial. I am counsel of record in several state court matters at the present time. Prior to my service in the General Assembly, I appeared in approximately twenty civil proceedings in federal courts, including the U.S. District Courts for the Eastern and Middle Districts of Tennessee and the Eastern District of Virginia. In addition, I represented corporate and individual clients in approximately half-dozen federal grand jury investigations in the U.S. District Courts for the Eastern District of Tennessee and the Eastern District of Kentucky. I reasonably estimate that I have appeared in 500 different matters in Tennessee courts of record.



28. Please describe your appellate court experience. Approximate the number of matters in which you appeared as counsel of record in Tennessee appellate courts, the number in federal courts, and the number in other states. Give the approximate percentage that were criminal and the approximate percentage that were civil.

I have appeared as counsel of record in approximately a dozen appeals in Tennessee appellate courts and one in federal court. All cases were civil.

29. List any noteworthy cases you handled as an attorney before mediators, arbitrators, administrative agencies, trial courts, or appellate courts. As to each case, please : (1) give the date or period of the proceedings; (2) identify the court or agency; (3) summarize the substance of the case; and (4) explain why the case is significant.

From the standpoint of the court's publishing its opinion, I would cite the following as being noteworthy:

A.G. Rogers v. Merck & Co., Inc., 498 F. Supp. 5 (E.D. Tenn. 1980), *aff'd per curiam*. This is a case in which our firm represented the defendant in an antitrust action. The trial court directed a verdict in our client's favor and the plaintiff appealed. I was the principal author of the brief and argued the case before the Sixth Circuit. The District Court held and the Sixth Circuit agreed that proof of complaints by a dealer's competitors to the manufacturer is not sufficient to establish a conspiracy under Section 1 of the Sherman Act.

Oceanics Schools, Inc. v. Barbour, 112 S.W.3d 135 (Tenn. Ct. App. 2003), *perm. app. den.* This is a case in which I was the principal attorney for a client who sought to pierce the corporate veil in an effort to enforce a judgment in the amount of \$929,815.55, originally obtained by the client in the District Court of Ponta Delgada, Azores, Portugal, and later domesticated in Knox County, Tennessee, against the corporate judgment debtor's sole shareholder. The trial court found in favor of our client and pierced the corporate veil. In an opinion written by Judge Charles D. Susano, the Court of Appeals affirmed. It is believed that his opinion remains the leading authority in this state in regard to actions to pierce the corporate veil.

Threadgill v. Threadgill, 740 S.W. 2d 419 (Tenn. Ct. App. 1987), *perm. app. den.* This is a case in which I was the sole attorney at trial for a plaintiff seeking to recover an arrearage of alimony against her ex-husband. The ex-husband counterclaimed seeking modification in alimony, child support, and custody of the parties' minor children. I also wrote the appellate brief and argued the case before the Eastern Section. The Court of Appeals agreed with our position that the trial court erred in granting the defendant a retroactive reduction of alimony. The Court held that the statutory factors applicable in the initial granting of support must be taken into consideration in determining whether has been a change of circumstances requiring a modification in the level of support.

McGann v. United Safari, Inc., 694 S.W. 2d 332 (Tenn. Ct. App. 1985), *perm. app. den.* This is a case in which I was sole attorney at trial and on appeal for a defendant-franchisor in a case involving breach of a franchise agreement. The Court of Appeals affirmed the trial court's decision in favor of my client. The Court's opinion deals with waiver of a contractual limitation.

In addition to the cases cited above, I would list the following matters as being noteworthy:

In 1995, I represented a foreign-born physician before a hospital's peer review panel. The physician was threatened with the loss of privileges. There were various issues in this proceeding, including whether the hospital's adverse action against the physician was motivated, in whole or in part, because of his minority status. This issue was significant because approximately a year or two previously I had been consulted by another foreign-born physician who was denied privileges at the same hospital. Other issues involved whether the peer review process was insulated from court review for violation of the antitrust laws and whether the hospital had complied with due process in the peer review proceeding.

Between 1984 and 1988, I represented an automobile manufacturer in a series of cases in which the plaintiffs sought revocation of acceptance for breach of warranty under the Uniform Commercial Code. In each case, we raised the defense of lack of privity, arguing that, absent a buyer-seller relationship, a purchaser is not entitled to revoke acceptance against a manufacturer. This issue had been litigated in various other jurisdictions, but there was not a reported decision on point in Tennessee. In Parks v. Ford Motor Company, Civil Action No. 80324, decided June 20, 1984, Reed v. Ford Motor Company, Civil Action No. 76621, decided April 30, 1985, and Yadon v. East Tennessee Motor Company, Civil Action No. 89537, decided April 6, 1987, different Chancellors of the Chancery Court for Knox County concluded that revocation of acceptance was not among the remedies freed of the privity requirement by *Tennessee Code Annotated*, §29-34-104. The Courts found that revocation of acceptance under *Tennessee Code Annotated*, §47-2-608 was a proper remedy as against the seller of goods but that the manufacturer could not be reached on this theory of liability. The Yadon case was appealed to the Court of Appeals, Eastern Section, and the Court affirmed the trial court's ruling that revocation of acceptance is applicable only against a seller of goods and not a manufacturer who was not the purchaser's immediate seller. *See: Yadon v. East Tennessee Motor Company*, No. 747 (Tenn. Ct. App. filed March 7, 1988).

In DeBow v. Sledge, Civil Action No. 1-228-95, Circuit Court for Knox County, Tennessee, filed April 10, 1995, and tried before a jury September 1997, a significant issue was whether a general and vascular surgeon was competent to testify as to the standard of acceptable professional practice in regard to a cardiologist performing a heart catheterization. The issue of the surgeon's competency to testify was raised in pre-trial motions that were denied. At trial, I moved to *voir dire* the surgeon as to his

qualifications, following which the court excluded the surgeon's testimony. The exclusion of the surgeon's testimony had a significant impact on the outcome of the case.

In 1989 and 1990, I represented a soft drink bottler that was the subject of two federal grand jury investigations for possible violation of the Sherman Antitrust Act. During this representation, several important issues were raised; among them were: what constitutes a "contract combination or conspiracy in restraint of trade"; the Fifth Amendment's privilege against self-incrimination; and, the extent of the attorney-client privilege.

30. If you have served as a mediator, an arbitrator, or a judicial officer, please describe, including the dates, the courts or agencies involved, whether you were elected or appointed, and a description of your duties.

I have been appointed on two occasions as a Special Master. Both matters were resolved prior to any hearings.

31. If you have served as a mediator, an arbitrator, or a judicial officer, please list any noteworthy cases you handled in these capacities. As to each case: (1) give the date or period of the proceedings; (2) identify the court or agency; (3) summarize the substance of the case; and (4) explain why the case is significant.

Not applicable.

32. Describe the *pro bono* service you have given throughout your legal career, and describe activities in which you have been involved that demonstrate commitment to equal justice and equal access to justice.

The Pro Bono Project. The Pro Bono Project (formerly called the Volunteer Legal Assistance Program) is a joint effort of the Knoxville Legal Aid Society and the Knoxville Bar Association. Clients are screened for eligibility before placements are made. I serve on the Project's family law, torts, and miscellaneous panels. I have handled matters ranging from consumer fraud to drivers' license revocation. I have currently agreed to represent a mother in her efforts to be appointed conservator for her severely disabled daughter.

Additionally, as managing partner at Robertson Overbey, I have attempted to foster an environment that supports pro bono service. Attorneys are encouraged to treat pro bono work on par with billable service; and in addition to several individual awards over the years throughout the firm, the Pro Bono Project awarded Robertson Overbey its Law Firm of the Year Award in 2011 for service to those in need.

Mentor for the Moment. Mentor for the Moment is a project of the Knoxville Bar Association. The project pairs attorneys who have questions or problems in a particular area of expertise with the guidance of a more experienced mentor attorney. The program provides lawyers with a vehicle to fulfill their professional obligation to assist in

improving the legal profession. I volunteer for this program in the areas of antitrust, litigation and hospital and health care.

The Diocese of East Tennessee. As Chancellor of the Episcopal Diocese of East Tennessee for ten years, I served, according to the Church's Canons, as legal counsel to the Bishop, Diocesan Convention, and Bishop and Council. The actual work goes beyond what is stated in the Canons, and I make myself and the resources of my firm available to parishes, missions, and other organizations of the Diocese. I am also available to priests, deacons, and members of vestries and mission councils for legal advice and consultation.

33. List any legal articles or books you have published.

Not Applicable.

34. List any law school courses, CLE seminars, or other law-related courses that you have taught within the last three years.

In the fall of 2013, as an adjunct professor at the University of Tennessee College of Law, I taught the school's inaugural course in State & Local Government.

On September 24 of this year, I am scheduled to speak to the 2014 Lawyers as Leaders Class at the University of Tennessee College of Law. This will be my third year to be invited to speak to the leadership class led by George T. Lewis, III, and Dean of the Law School, Douglas Blaze.

For the past fourteen years, I have given the Annual Legislative Update of the Knoxville Bar Association. The Legislative Update has also been given to the Sevier and Blount County Bar Associations, although not on an annual basis. I have further presented Legislative Updates during the past two years at the annual meeting of the Tennessee Bar Association and two years ago at the Judicial Conference.

For three out of the past four years, I have presented a legislative update to the East Tennessee Lawyers Association for Women (ETLAW).

For the past three years, I have been a participant in the CLE seminars put on in Nashville by the Tort & Insurance Section of the Tennessee Bar Association.

35. List any presentations you have made to civic groups on legal topics within the past three years.

During the past fourteen years, I have given legislative updates to various civic groups in Sevier and Blount County, including appearing before the Kiwanis Club of Maryville on August 5, 2014.

36. State any other information about your legal experience that may reflect positively or adversely

on you or that you believe should be disclosed in connection with your application for Attorney General and Reporter.

I believe there are two facets of my legal experience that may reflect positively on this application. First, as shown above, I have handled a wide array of legal matters from domestic relations to antitrust and trade regulation to grand jury investigations. The Attorney General supervises and participates in a wide array of legal matters. Second, from at least 2000 to recently, I have been the managing partner of a growing and vibrant law firm. The Attorney General manages what, in essence, is a large and vibrant law firm. I believe that my legal background and experience over a wide array of cases and the management of a growing and vibrant law firm are factors that should be considered in connection with this application.

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## NON-LEGAL/CIVIC INFORMATION

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37. Describe any occupation, business, or profession other than the practice of law in which you have ever been engaged. Please give details, including approximate dates.

From 1982 to 1990, I served on the Board of County Commissioners for Blount County, Tennessee. From 2000 to date, I have served as a member of the Tennessee General Assembly.

Other than as an investor and not including the foregoing public service, I have not been engaged in any occupation, business, or profession other than the practice of law. My wife and I have rental property located out of state, and I previously (more than twenty years ago), along with my law partners at the time, had an interest as an investor in a distribution business involving an ice cream substitute.

38. If your current income is derived from sources other than the practice of law, specify the other income sources and the approximate percentage of your total income each source represents.

Practice of Law – 85%; Service in General Assembly – 13%; Investments – 2%.

39. If you are now an officer, director, or major stockholder (5% or more) of any for-profit organization or you are otherwise engaged in the management of any for-profit enterprise, please give details, including the name and nature of the organization, your position, the nature of your duties, and your term of service. If you are selected as Attorney General and Reporter, and you would consider continuation of your involvement, please address whether such continuation would be a conflict of interest.

I am currently on the advisory board of a financial institution and would resign that position if selected as Attorney General and Reporter. I am a partner in a law firm and would likewise end my interest in the law firm.

40. List all non-profit organizations other than legal professional associations to which you have belonged within the last ten years, including civic, charitable, religious, educational, social, and fraternal organizations. If you have held an office in any of these non-profit organizations, please give titles and approximate dates. If you have received any honors, prizes, awards, or other forms of recognition in connection with your participation in such non-profit organizations, please list.

See Attachment A.

41. If you are selected for this position, how much of your current level of civic and community involvement do you feel that you could continue?

I believe my current level of civic and community involvement would be difficult to sustain if selected for this position. Nonetheless, involvement in civic and community activities and my church has always been a part of my life, and I would hope to continue to be involved in those activities consistent with fulfilling the duties and responsibilities of office. The last 14 years have taught me to balance competing interests for my time, and I expect I would be able to balance the position of Attorney General with meaningful civic involvement as I always have.

42. If you have ever belonged to an organization, association, club, or society which limits its membership to those of any particular race, religion, national origin, or gender, please list the organization and describe the basis of the membership limitation. Do not include organizations formed for a religious purpose, such as a church or synagogue. Please address whether you would withdraw from any such organization if you are selected as Attorney General and Reporter.

No.

43. If you have served in a fiduciary capacity other than as a lawyer representing clients, please describe.

I was named as executor under the Last Wills & Testaments for my maternal grandparents, my father, and my mother. I declined the appointment for my mother's estate in favor of my older brother. I was also appointed attorney-in-fact for my parents and maternal grandparents.

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## MANAGEMENT AND GOVERNMENT EXPERIENCE

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44. Describe your management philosophy and your views on delegation to subordinates.

I believe in a collaborative and deliberative discussion of the issues or matters under consideration and including those people involved or effected by the decision in the process. When a decision is reached, it should be clearly articulated so that all concerned will have a clear understanding of the resolution. I believe getting matters into the hands of team members and colleagues who are best able to perform the task at hand. This approach builds camaraderie by making all in the organization a part of the team.

45. Describe any management experience you have had in the legal profession, such as managing attorneys, paralegals, and legal support staff. Approximate the number of persons over whom you had management responsibilities, and indicate whether your experience included preparing and managing a budget.

I have been a partner in my law firm since the age of 27. Over most of those years, I have served as the managing partner, which has involved the hiring and management of attorneys and support staff. We have intentionally remained a small law firm, generally employing 14 to 15 persons, counting attorneys, paralegals and legal support staff. I have particularly enjoyed working with and mentoring new lawyers and providing them with opportunities for direct client contact and court experience. The management of a law firm has also included budget preparation and monitoring monthly income and expenses.

46. Describe any management experience you have had in federal, state or local government. Approximate the number of persons over whom you had management responsibilities, and indicate whether your experience included preparing and managing a budget.

For the past fourteen years, I have been a member of the Tennessee General Assembly, which, collectively, has management of the state's budget, the legislature's only constitutional duty. During that time, I have been a member of the House Budget Subcommittee (2005 – 2008), the House Finance, Ways & Means Committee (2003 – 2008), and the Senate Finance, Ways & Means Committee (2009 – date). The Finance Committees take the budget presented by the Governor and hold budget hearings to determine where the budget as presented is in line with the state's priorities. The Finance Committees decide upon changes to the state's budget and send a final budget proposal to the floor of each house.

Regarding management, direct staff management is limited to the assistant assigned to the member by the Speaker's office and an intern. In the House, many of us shared a staff member with other members of the legislature which, as might be imagined, requires cooperation and planning.

47. Describe any other management experience you have had. Approximate the number of persons



over whom you had management responsibilities, and indicate whether your experience included preparing and managing a budget.

For three years in the mid-80's, I served as a member of the Vestry and Sr. Warden at St. Andrew's Episcopal Church. This service included preparation of the parish budget and working with the Rector in the management of the parish staff. Similarly, during the late 80's through a portion of the 90's, I was a member of the Bishop & Council for the Diocese of East Tennessee, which included preparing and managing the diocesan budget.

48. List any judicial or non-judicial government offices you have held, and describe your experience. Include the date, the position, whether the position was elected or appointed, and whether your responsibilities included legal matters or policy matters. If you have been a candidate for government office but were not selected, please list this as well, including date, position, and whether the position was elected or appointed.

2009 – Date	Tennessee State Senator, an elected position, responsibilities include policy and legal matters. Committees: Finance, Ways & Means, Judiciary, and Health & Public Welfare
2001 – 2008	Tennessee State Representative, an elected position, responsibilities include policy and legal matters. Committees: State & Local Government (2001-2002); Finance, Ways & Means (2003-2008); Health (2001-2008)
2014 to date	Supreme Court Advisory Commission on Rules and Practice and Procedure, appointed position, responsibilities include policy and legal matters
2013 to date	Second Look Commission, appointed position, responsibilities include policy and legal matters
2013 to date	Commissioner Henry's Children's Advisory Council, appointed position, responsibilities include policy and legal matters
2009 to date	Tennessee Department of Mental Health and Substance Abuse Services Statewide Planning and Policy Council, appointed position, responsibilities include policy and legal matters
2005 to date	City Attorney for the City of Alcoa, appointed position, responsibilities include policy and legal matters
1994	Candidate for Tennessee State Representative, an elected position
1998	Applicant to Tennessee Judicial Selection Commission for nomination to the Tennessee Supreme Court
1990	Finalist for position of U.S. Magistrate for Eastern District of Tennessee

49. Other than as an elected or appointed official, please describe any experience you have had with the legislative or executive branches of government, federal, state, or local. Indicate whether your experience related to legal matters or policy matters.

In 1974 I served for eight months as a college intern for Carson-Newman College (now University) with U.S. Representative James H. (Jimmy) Quillen. During this time, I had various assignments, including assisting in the drafting of legislation to promote the development of geothermal steam energy.

50. Describe any other government experience you have had. Please indicate whether any such experience involved legal matters or policy matters.

Not Applicable

51. State any other information about your management or government experience that may reflect positively or adversely on you or which you believe should be disclosed in connection with your application for Attorney General and Reporter.

During my service as a member of the Tennessee General Assembly, I have been honored to receive various "Legislator of the Year" awards and other recognitions from many groups across the state for my work in the legislature, including the Tennessee Supreme Court, Tennessee Bar Association, Tennessee District Public Defenders Conference, and Knoxville Bar Association. I believe these reflect positively on my commitment to our system of government, the judicial system, and for those who have no one to speak for them. The awards and recognitions are listed on Attachment B.

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## PERSONAL PERSPECTIVE

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52. What are your reasons for seeking this position?

For a person who has been a practicing attorney in this state for thirty-five years with experience ranging from antitrust litigation, grand jury investigations, and all manner of corporate and commercial litigation, and who also has spent a total of twenty-four years in public service, as a county commissioner and member of the General Assembly, the office of Attorney General presents a unique manner to combine his vocation and avocation. My goal in running for the offices of state representative and senator has been to make a positive difference for the people of my home state. I believe the office of Attorney General allows me the opportunity to combine a lifetime of legal and courtroom experience and public service to continue my efforts to make a positive difference in Tennessee by serving as its chief legal counsel.

53. Describe your perception of the primary duties, responsibilities, characteristics, and qualifications for the position of Attorney General and Reporter. Describe which of these may be delegated in whole or in part to subordinates and which may not.

The principal duty of the Attorney General and Reporter is to be Tennessee's chief legal office and the administrative head of the Attorney General's office. In terms of qualifications, I believe the Attorney General will be well-served by having a broad base of experience in the private practice of law. While the lack of private practice experience may not be disqualifying, I believe it is highly desirable for the state's lawyer to have actual experience in the representation of clients and courtroom experience. In terms of characteristics, I believe the Attorney General should be courtroom savvy, possess legal scholarship and acumen, have people and management skills, and be an effective communicator. While I believe there are matters, including cases of great significance for the state, in which the Attorney General should be intimately involved and personally present in either the highest court in the state or nation, many of the day to day, routine cases and case preparation should be delegated to the other attorneys in the office.

54. What is your view of the role of Attorney General and Reporter with respect to the executive branch, the legislative branch, and the judicial branch of state government?

The Attorney General & Reporter plays a critical role in Tennessee's system of government. Appointed by the Supreme Court, the Attorney General constitutionally is a part of the Judicial Branch. In practice, the Attorney General's office is autonomous and respected for its independence; that is the office's ability to make decisions and issue opinions independently of the three branches of government. While I believe the office of Attorney General should not be political – that is the role of the legislative and executive branches – I believe that office will be well-served by a person who has an understanding of the legislative and political process. It is important for the Attorney General to be able

to communicate effectively with the Governor's office, the legislature and members of the judicial branch and have an appreciation for how these offices work.

55. If selected as Attorney General and Reporter, what is your estimate of the amount of time you will actually appear in court or oral arguments in appellate matters?

While I have always enjoyed the advocacy portion of being a lawyer, including trial and appellate court appearances, I recognize the Attorney General and Reporter cannot be in the courtroom every day. Nonetheless, I believe the Attorney General should carefully select cases of significance and importance to the state, such as constitutional issues or major class action cases, for his or her personal attention and involvement, including personally being in court and presenting or sharing in the oral presentation in the State or U.S. Supreme Court.

56. If selected as Attorney General and Reporter, what will be your policy regarding personally practicing before the Tennessee Supreme Court?

As referenced in response to the preceding question, as Attorney General, I would carefully chose cases for my personal involvement and have no qualms or hesitancy about personally appearing as an advocate for the State of Tennessee before the Tennessee or U.S. Supreme Court.

57. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Tennessee Supreme Court in evaluating and understanding your candidacy for this position.

Over the course of my service in the Tennessee General Assembly, I have been an advocate for the judicial system in Tennessee. I believe that advocacy is important in bringing about a better understanding across our state of the judicial system. As stated earlier this Summer in my remarks to the Judicial Conference, I believe everyone in the judicial system, from practicing attorneys to bar associations to judges, should have a renewed focus on communicating to the public how the judicial system operates, its role in our system of government, and that it is a co-equal branch of government. As Attorney General, I would seek to continue to address this issue. I would want to develop a program similar to the Court's SCALES program to take to schools across the state to assist in developing a greater awareness and understanding of the judicial branch of government.

As referenced earlier, I believe the office of Attorney General will be well-served, as has the appellate courts, by consideration of an attorney who is not necessarily from a large firm but who has practiced in the trenches at the state and federal trial court level and has an appreciation for the day to day representation of clients. I believe the office will further be well-served by consideration of an attorney who has demonstrated a lifetime of commitment to the law as his vocation and a similar commitment to public service as his avocation. For myself, it would be a privilege and honor to serve in an office that combines my vocation and avocation.

Finally, I believe the Attorney General & Reporter should be approachable, willing to listen, and able to explain the positions taken. As a Senator, I have had to take many tough votes, and it is impossible to make everyone happy – sometimes neither side will be happy by a particular vote or position. But, the one thing I am consistently told by folks, including those who disagree, is that they have always found me to be approachable, willing to listen, and able to articulate the reasons for the positions I've taken or votes I've made.

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## AGREEMENT

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58. Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for appointment for the office of Tennessee Attorney General and Reporter, and, if appointed, I agree to serve in that office. If, between the time this application is filed and the time the Court makes its final selection, there are any changes that occur in the accuracy of the information provided here, I agree to file a written notification advising the Court of the specific changes and the reasons therefore.

I understand that the information provided in this application shall be open to inspection upon filing with the Administrative Office of the Courts and that the Administrative Office of the Courts may publicize the names of persons who apply for the position of Attorney General and Reporter.

I knowingly, willingly, and without reservation waive any right or privilege of confidentiality relative to any background checks that may be performed, including, but not limited to, the Tennessee Bureau of Investigation criminal and civil background investigation, including any check of financial or credit information, conducted for the purpose of review by the Tennessee Supreme Court. I also specifically waive any rights or privileges of confidentiality otherwise conferred in relation to checks of the Board of Professional Responsibility, Board of Judicial Conduct, Board of Law Examiners, or similar entity.

Dated: August 25, 2014.

  
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Signature

Return your completed application to:  
Debra Hayes  
Administrative Office of the Courts, Suite 600  
511 Union Street  
Nashville, Tennessee 37219

## Attachment A

### Question No. 40

#### List of Non-Profit Organizations

##### Church Activities

- Chancellor: Episcopal Diocese of East Tennessee (1994 to 2004); President: Standing Committee (1992); Chairman: Committee on Constitution and Canons (1992 to 1995); Member: Standing Committee (1989 to 1992); Member: Bishop and Council (1987 to 1989); Chairman: Episcopate Committee (1990); Member: Commission on Ministry (1993 to 1994); Co-Chairman: Bishop's Consecration and Arrangements Committee (1991 and 1999)
- St. Andrew's Episcopal Church; Senior Warden (1984 to 1986); Member: Vestry (1984 to 1986; 2000 to 2001)
- St. Andrew's Episcopal Day School, Inc.; Chairman (1984); Treasurer (1983); Member: Board of Directors (1982 to 1984)

##### Civic Activities

- Maryville College Board of Directors (2010 to date)
- Maryville College Board of Church Visitors (2000 to 2004)
- Maryville College Civic Arts Center Advisory Board (2008 to 2010)
- Tennessee Intercollegiate State Legislature Governor's Council (2013 to date)
- Carson-Newman College President's Advisory Board (2004 to 2007)
- Kiwanis Club of Maryville; President (1994 to 1995); President-elect (1993 to 1994); Member: Board of Directors (1991 to 1996); Member (1980 to date)
- Leadership Blount; Class of 2004
- Leadership Sevier, Class of 2009
- Presbyterian Homes of Tennessee, Inc.; Member: Board of Directors (2001 to 2007; 2009 to date)
- SunTrust Bank of East Tennessee Advisory Board (2003 to date)
- Blount County Children's Advocacy Council; Member: Board of Directors (2002 to 2009)
- Boy Scouts of America – Great Smoky Mountain Council; Member: Executive Board (2005 to 2009)
- A Secret Safe Place of Newborns of Tennessee, Inc.; Co-Founder; Member: Board of Directors (2001 to date)

- Jeff Roth Cycling Foundation; Member: Board of Directors (2007 to 2013)
- Success By Six; Member: Executive Committee (2002 to 2007)
- Blount County United Way; President (1994 to 1995); President-elect (1994 to 1995); Secretary/Treasurer (1991 to 1992); Member: Board of Directors (1989 to 1996)
- Blount County Chamber of Commerce; Member: Board of Directors (1987)
- Maryville-Alcoa College - Community Orchestra Society; Chairman, Board of Governors (1990 to 1992); Vice Chairman: Board of Governors (1988 to 1990); Member: Board of Governors (1988 to 1993)
- Knoxville Museum of Art; Board of Governors (1998 to 2002)
- National Kidney Foundation of East Tennessee, Inc.; President (1992 to 1993); President-elect (1991 to 1992); Vice President (1990 to 1991); Member: Board of Directors (1988 to 1994)
- Blount County Public Library Board; Member: Board of Directors (1983 to 1989)
- Johnson Girls Group Home; Chairman (1985 to 1987); Member: Advisory Board (1984 to 1987)
- East Tennessee Development District Executive Committee (2006 to 2008)
- East Tennessee Human Resources Agency Policy Council (2006 to 2008)
- Sevier County Ruritan Club; Associate Member (2009 to date)
- Tennessee Civil Air Patrol; Legislative Member (2008, approx., to date)



## Attachment B

### Question No. 51

#### List of Awards & Recognitions

<b>Year</b>	<b>Association</b>	<b>Award</b>
2013	Carson-Newman University	Distinguished Alumnus Award
2013	Tennessee Mental Health	Legislator of the Year
2013	Council of State Government	Henry Toll Fellowship
2013	City of Sevierville & Fire Service	Exceptional Public Service Award
2013	Tennessee Bar Association	President's Award
2013	Tennessee District Public Defenders Conference	Appreciation Award
2012	Tennessee Men's Health Network	Legislative Leadership Award
2012	Tennessee CASA Association	Legislator of the Year
2012	Tennessee Voice's for Children	Policy Makers Award
2012	Tennessee Road Builders Association	(Inaugural) Legislative Leadership Award
2012	ARC of Tennessee	Legislative Award
2012	Tennessee Pharmacist Association	Champion of Pharmacy Award
2011	Tennessee Men's Health Network	Legislator of the Year
2011	Tennessee Nurses Association	Legislator of the Year
2011	National Children's Alliance	Bud Cramer Award
2011	March of Dimes	Dedication Award
2011	Leadership Blount	Community Leadership Award
2010	Tennessee Men's Health Network	Legislator of the Year
2011	The Hearing & Speech Foundation	Appreciation Award
2010	Tennessee Network of Community Organizations (TNCO)	Legislator of the Year
2010	Tennessee Hospitality Association (TNHA)	Legislator of the Year
2010	Tennessee Development District Association (TDDA)	Legislator of the Year
2010	National Alliance on Mental Illness (NAMI)	Legislator of the Year
2010	Tennessee Chapter of Children's Advocacy Centers	CPIT Leadership Award
2010	Blount Memorial Hospital	Appreciation Award
2009	Boys & Girls Club of Tennessee	Appreciation Award
2009	Knoxville Bar Association	Law Through Liberty Award
2008	Tennessee Association of Mental Health Organization	Legislative Victory Award
2008	Saving Little Hearts	Excellence Award for Community Service

2007	Tennessee Optometric Association	Statesmen of the Year
2007	Blount County Local Law Enforcement	Appreciation Award
2006	American Physical Therapy Association	Legislator of the Year
2006	Tennessee Supreme Court	Certificate of Appreciation
2004	Tennessee Hospital Association	Legislator of the Year
2004	Tennessee Fire Service Coalition	Life Safety Award
2004	Disabled American Veterans Blount County Chapter #76	Appreciation Award
2004	Tennessee Association of Retired Persons	Legislative Champion
2004	County Officials Association of Tennessee	Outstanding State Representative
2003	Tennessee Association of Utility Districts	Legislator of the Year
2003	Epilepsy Foundation of East Tennessee	Appreciation Award