

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 22 December 2011

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INTRODUCTION

Tennessee Code Annotated section 17-4-101 charges the Judicial Nominating Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question, and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website <http://www.tncourts.gov>). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) **and** electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit fourteen (14) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to debra.hayes@tncourts.gov.

THIS APPLICATION IS OPEN TO PUBLIC INSPECTION AFTER YOU SUBMIT IT.

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Chancellor, Third Judicial District, State of Tennessee

2. State the year you were licensed to practice law in Tennessee and give your Tennessee Board of Professional Responsibility number.

I was licensed to practice law in Tennessee in 1983; BPR No. 010449

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

I am licensed to practice law in Tennessee. Date of License: October 15, 1983. License No. 5512. My license is currently active.

I was admitted and qualified as an attorney to practice in the United States District Court for the Eastern District of Tennessee on December 3, 1984.

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any State? If so, explain. (This applies even if the denial was temporary).

No

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

I have maintained the following professional employment since the completion of my

legal education.

1. Chancellor, Third Judicial District – March 1996 – Present;
2. General Sessions Court Judge for Hamblen County, Tennessee – September 1990 – March 1996;
3. Partner with Bacon, Dugger, Jessee and Perkins of Morristown, Tennessee, January 1989 – August 1990.
4. Associate with Bacon, Dugger, Jessee and Perkins of Morristown, Tennessee – October 1983 – December 1988;
5. Law Clerk with Bacon, Dugger, Jessee and Perkins of Morristown, Tennessee – August 1983 – October 1983.

I maintained employment prior to completion of my legal education as follows:

1. From 1981 through 1983, I was employed as a law clerk for the firm of Baker, Worthington, Crossley, Stansberry and Woolf, Knoxville, Tennessee.
2. During undergraduate studies at the University of Tennessee, I worked as an assembly line laborer at Lakeway Container, Morristown, Tennessee (cardboard box company).
3. During high school, I worked as a bus boy at Jack's Restaurant in Morristown, Tennessee.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

Not applicable

7. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

I currently serve as Chancellor for the Third Judicial District. Pursuant to T.C.A. 23-3-102, I do not practice law in the courts of this State. The Judicial District is comprised of Greene, Hamblen, Hancock and Hawkins Counties.

Within the Chancery Court plenary jurisdiction conferred by law, I maintain the responsibility of adjudicating and disposing civil cases of various types. The classifications of cases filed and disposed are identified by the Annual Report of the Tennessee Judiciary maintained by the Administrative Office of the Courts. According to the Annual Statistical Report for Fiscal Year 2010-2011, 2,958 filings and 3,274 dispositions occurred in the Chancery Court for the Third Judicial District. The primary types of cases adjudicated, with approximate corresponding caseload percentages, are as follows:

Probate - 30%;

Child support/residential parenting - 27%;

Other domestic relations - 30%.

8. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters. In making your description, include information about the types of matters in which you have represented clients (e.g., information about whether you have handled criminal matters, civil matters, transactional matters, regulatory matters, etc.) and your own personal involvement and activities in the matters where you have been involved. In responding to this question, please be guided by the fact that in order to properly evaluate your application, the Commission needs information about your range of experience, your own personal work and work habits, and your work background, as your legal experience is a very important component of the evaluation required of the Commission. Please provide detailed information that will allow the Commission to evaluate your qualification for the judicial office for which you have applied. The failure to provide detailed information, especially in this question, will hamper the evaluation of your application. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

While in private practice, the undersigned represented clients on various legal matters including:

Domestic Relations, Probate, Bankruptcy; real estate-title work; real estate-litigation (i.e., boundary line disputes, materialman lien actions, partition suits); estate planning; insurance defense; personal injury defense; lender liability; governmental tort liability defense; delinquent property tax collection; enforcement of municipal ordinances; workers' compensation.

While engaged in private practice, I performed various tasks at the request of certain partners who separately served as the County Attorney for Hamblen County and the City Attorney for the City of Morristown. Often requests were made for advisory opinions concerning the legality and/or constitutionality of certain governmental action. On several occasions, I sat as designee of the City Attorney during City Council meetings to address legal concerns under consideration. Similarly, I was frequently called upon to issue legal guidance for various departments of local government in the course of their business.

In furtherance of my representation of various clients, I appeared in courts of limited jurisdiction, state trial courts and Federal Bankruptcy Court. I also appeared for administrative hearings before the Tennessee Dept. of Safety.

Former client classifications included: local government, financial institutions, insurance carriers, secured creditors, families with estate planning needs, health care professionals and corporations.

9. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

Please see answer to question number 8.

10. If you have served as a mediator, an arbitrator or a judicial officer, describe your experience (including dates and details of the position, the courts or agencies involved, whether elected or appointed, and a description of your duties). Include here detailed description(s) of any noteworthy cases over which you presided or which you heard as a judge, mediator or arbitrator. Please state, as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) a summary of the substance of each case; and (4) a statement of the significance of the case.

- A. Following the election in August 1990, I assumed the duties and responsibilities of General Sessions Court Judge for Hamblen County, Tennessee on September 1, 1990. At that time, the Court exercised both civil and criminal jurisdiction as well as domestic relations jurisdiction and probate jurisdiction. My responsibilities as General Sessions Court Judge included serving as Municipal Judge for the City of Morristown.

Upon assuming the General Sessions Court bench in September of 1990, I initiated for Hamblen County a new program of intensive supervised probation for convicted misdemeanants. All probationers were required to meet with his/her probation officer once a week at a cost to the probationer of \$8.00 per week. All court costs, fines and restitution were required to be paid during the pendency of supervised probation.

Probationers were required to perform 16 hours per month of community service. With the assistance of the Hamblen County Community Service Director, the undersigned established a program which in 1994 included service to 65 participating agencies with probationers performing over 45,000 hours of community service. Giving back to the community is a substantial step toward personal development of self-esteem and respect for one's neighbors.

In one noteworthy case which I adjudicated while serving as General Sessions Court Judge, I addressed a factual situation where the father was in arrears in his child support payments. The Tennessee Department of Human Services had garnished his SSI benefits. Upon motion, father's child support payments were suspended. The Tennessee Department of Human Services appealed. In the case of Young v. Tennessee Dept. of Human Services, 1991 Tenn. App. LEXIS 791 (1991), the Tennessee Court of Appeals, Eastern Division, affirmed the trial court.

- B. Following my appointment by Governor Don Sundquist, I assumed the responsibilities of Chancellor of the Third Judicial District on March 8, 1996. The Chancery Court maintains plenary civil jurisdiction as conferred by law. The major types of cases adjudicated include domestic relations, probate, real estate, conservatorships and contracts. The following are noteworthy cases over which I have presided and for which the Tennessee Supreme Court subsequently rendered decisions:

1. Bratton v. Bratton, 136 S.W.3d 595 (Tenn. 2004). The Supreme Court, *inter alia*, rendered the following holding: "*We hold that postnuptial agreements are not contrary to public policy so long as there is consideration for the agreement, it is knowledgeably entered into, and there is no evidence of fraud, coercion or duress.*" Trial court and Court of Appeals were affirmed.
2. In Re: Estate of McFarland, 167 S.W.3d 299 (Tenn. 2005). The Supreme Court, *inter alia*, rendered the following holding: "*In summary, we hold that the lapsed residuary gifts at issue in this case are not to be divided among the remaining residuary beneficiaries. Rather the lapsed gifts result in a partial intestacy and therefore pass under the laws of intestate succession to the testatrix's heirs at law.*" Trial court and

Court of Appeals were affirmed.

3. Taylor v. Fezell, 158 S.W.3d 352 (Tenn. 2005). Regarding an issue of first impression, the Tennessee Supreme Court held, *inter alia*, as follows: “*We conclude that absent a showing that the retained earnings are excessive or that an obligor is actually manipulating his or her income, the retained earnings of an S corporation should not be imputed as income to the sole or majority shareholder in calculating a child support obligation.*” The trial court was affirmed by the Court of Appeals. The Court of Appeals was reversed.
 4. Boarman v. Jaynes, 109 S.W.3d 286 (Tenn. 2003). The Tennessee Supreme Court, *inter alia*, rendered the following decision: “*In sum we hold that the Court of Appeals erred in construing Tennessee Code Annotated, Section 8-20-101, et seq., so as to require the appellant to demonstrate an inability to maintain her office with her staff as presently constituted and compensated. We further hold that the evidence does not preponderate against the trial court’s judgment providing for the chief deputy clerk positions and the compensation to be paid each. Accordingly, that part of the Court of Appeals decision which reverses the trial court’s judgment approving the position of deputy clerk and increase in compensation is reversed, and the trial court is affirmed. We affirm the Court of Appeals dismissal of Defendant Jaynes’ counterclaim.*”
 5. Blair v. Badenhope, 77 S.W.3d 137 (Tenn. 2002). The Tennessee Supreme Court, *inter alia*, rendered the following holding: “*A natural parent cannot generally invoke the doctrine of superior parental rights to modify a valid order of custody, even when that order resulted from the parent’s voluntary consent to give custody to the non-parent. Instead, a natural parent seeking to modify a custody order that grants custody to a non-parent must show that a material change in circumstances has occurred, which makes a change in custody in the child’s best interest.*” Trial court and Court of Appeals were affirmed.
- C. In connection with the Court of Appeals, Eastern Division, CASE (Court of Appeals Affecting Student Education) project held in Morristown, Tennessee, I participated as Special Judge with reference to the case of Reed v. Carter Co., 2003 Tenn. App. LEXIS 828 (2003).
- D. On December 11, 2008, in Nashville, I participated by designation of the Supreme Court as Special Judge with the Tennessee Court of Appeals, Eastern Division, regarding six cases. I authored the following two opinions: Hermosa Holdings, Inc. v. Mid-Tennessee Bone and Joint Clinic, 2009 Tenn. App. LEXIS 282 (2009); In Re: A.C.S., 2009 Tenn. App. LEXIS 71 (2009).
- E. On February 27, 2012, I participated by designation of the Supreme Court as a judge on the Tennessee Supreme Court, Special Workers’ Compensation Panel, Eastern Section at Knoxville. The panel addressed five cases. I authored the following two opinions: Robertson v. Roadway Express, Inc., 2012 Tenn. LEXIS 405 (Tenn. Workers’ Comp. Panel, 2012); U.S. Food Service, Inc. v. Meredith, 2012 Tenn. LEXIS 301 (Tenn.

Workers' Comp. Panel, 2012).

- F. On October 26, 2009, I participated by designation of the Supreme Court as a judge on the Special Workers' Compensation Panel, Eastern Section, with regard to four cases. I authored the following opinion: Downey v. Griffin Industries, 2010 Tenn. LEXIS 332 (Tenn. Workers' Comp. Panel, 2010).
- G. On September 15, 2006, I participated by designation of the Supreme Court as a judge on the Special Workers' Compensation Panel, Eastern Section. I participated in eleven cases. I authored the following six decisions: Haney v. Magna International, Inc., 2007 Tenn. LEXIS 244 (Tenn. Workers' Comp. Panel, 2007); Hale v. U. S. Xpress Enterprises, 2007 Tenn. LEXIS 232 (Tenn. Workers' Comp. Panel, 2007); Givens v. Cleve Mac, Inc., 2007 Tenn. LEXIS 45 (Tenn. Workers' Comp. Panel, 2007); McKinney v. Inland Paperboard & Packaging, Inc., 2007 Tenn. LEXIS 53 (Tenn. Workers' Comp. Panel, 2007); Spires v. Watson Supermarkets, Inc., 2007 Tenn. LEXIS 44 (Tenn. Workers' Comp. Panel, 2007); Sutton v. Wackenhut Services, Inc., 2007 Tenn. LEXIS 54 (Tenn. Workers' Comp. Panel, 2007).
- H. On December 15, 2005, I participated by designation of the Supreme Court on the Special Workers' Compensation Panel, Eastern Section. I participated in eight cases and authored the following three opinions: McConkey v. Vonore Police Dept., 2006 Tenn. LEXIS 204 (Tenn. Workers' Comp. Panel, 2006); Price v. Tipton Steel Erectors, Inc., 2006 Tenn. LEXIS 601 (Tenn. Workers' Comp. Panel, 2006); Grace v. Kehe Food Distributors, 2006 Tenn. LEXIS 210 (Tenn. Workers' Comp. Panel, 2006).
- I. Pursuant to statute, the undersigned served as a judge *pro tem* in the General Sessions Court for Hamblen County, Tennessee, during the absence of presiding Judge James K. Miller. The undersigned presided in said capacity during various dates from January 1990 through August 1990.

11. Describe generally any experience you have of serving in a fiduciary capacity such as guardian *ad litem*, conservator, or trustee other than as a lawyer representing clients.

While engaged in the practice of law, I did occasionally serve in the capacity of *administrator cta* and guardian *ad litem*.

12. Describe any other legal experience, not stated above, that you would like to bring to the attention of the Commission.

The following matters, relevant to my legal experience, are presented for consideration in support of this application:

1. Selected as Presiding Judge for the Third Judicial District for four terms:

1996-1997

2000-2001

2005-2006

2011-2012

2. Member of the Tennessee Judicial Ethics Committee since 1993, having been appointed by the Tennessee Supreme Court.
3. Member of the Tennessee Bar Association's Task Force on Judicial Conduct Rules (2009-2012).
4. Member of the Task Force to Study Self-Represented Litigant Issues in Tennessee (2006-2007).
5. Participated as a Presiding Judge during the University of Tennessee College of Law 2010 Advocates Prize Competition.
6. Keynote speaker for University of Tennessee College of Law Hooding Ceremony, December 10, 2010.
7. Participant in the Tennessee Bar Association Leadership Conference 2011.
8. Participating Judge in the University of Tennessee College of Law Judicial Externship Program (2009).
9. National Adoption Day - National Adoption Day is a collaborative national effort raising awareness of more than 107,000 children in foster care waiting to find permanent, loving families and homes. The initiative, celebrated in all 50 states, involves hundreds of judges, attorneys, adoption agencies, adoption professionals and child advocates volunteering their time to finalize adoptions of children from foster care and for all children available for adoption.
Beginning in 2003, the Chancery Court for Hamblen County, Tennessee joined the initiative by holding court on the designated Saturday morning each year during the annual National Adoption Day celebrations. Since 2003, with the support of the Hamblen County Bar Association, the office of the Hamblen County Clerk and Master, City of Morristown and Hamblen County, I have had the privilege and honor of presiding over and finalizing the adoptions of 83 children.
10. In September 1999, I completed a three day Judicial Settlement Conference Training course sponsored by the Tennessee Supreme Court Commission on Alternative Dispute Resolution.
11. Participation in the A.O.C. Statewide Summit on Self-Represented Litigants (June 2003).

12. Member of A.O.C. Work Group on Self-Represented Litigants (2003-2005).
13. Participated as a presiding judge during regional, state and national High School Mock Trial Competitions.
14. Trial Court representative on the Advisory Commission to the Supreme Court on Rules of Civil and Appellate Procedure (2000).
15. During May of 1997, the undersigned coordinated the Tennessee Supreme Court SCALES Program for the Third Judicial District. This project involved eleven high schools in four counties. Approximately 500 students were afforded the opportunity to review pre-trial briefs, observe oral arguments, question counsel of record and share lunch with the Tennessee Supreme Court Justices.
16. In October 2003, I coordinated the Court of Appeals CASE Project in Hamblen County, Tennessee. The initiative afforded local high school students the opportunity to observe oral arguments and to share lunch with judges of the Tennessee Court of Appeals, Eastern Division.
17. Presenter during the Tennessee Judicial Conference, Fall Conference, regarding the training session for mentor judges. The session was entitled *The Tennessee Judicial Mentoring Program* and was conducted on October 18, 2006.
18. Participating judge in the Judicial Internship Program sponsored by the Tennessee Bar Association, Young Lawyers Division (2011).
19. During May 2003, I helped coordinate the Law Day event which included Bar Association and Judicial presentations to Hamblen County School principals and school administrators. The Court of Appeals, Eastern Division, was in attendance.
20. During September 1999, I coordinated the Third Judicial District Constitution Day event which entertained Russian Judges and Court officials. Local judges, legislators, attorneys, clerks, court reporters, high school students and teachers participated in the event which allowed the foreign officials an opportunity to view and examine our court system. The Chief Justice was the keynote speaker.

13. List all prior occasions on which you have submitted an application for judgeship to the Judicial Nominating Commission or any predecessor commission or body. Include the specific position applied for, the date of the meeting at which the body considered your application, and whether or not the body submitted your name to the Governor as a nominee.

1. My application for chancellor of the Third Judicial District was dated November 10,

1995. The date of the meeting of the Judicial Selection Commission was December, 1995. My name was submitted to the Governor.

2. My application for Court of Appeals, Eastern Division, was dated April 5, 1999. The date of the meeting of the Judicial Selection Commission was April 26, 1999. My name was not submitted to the Governor.

3. My application for the Court of Appeals, Eastern Division, was dated April 21, 2004. The date of the meeting of the Judicial Selection Commission was May 2004. My name was not submitted to the Governor.

EDUCATION

14. List each college, law school, and other graduate school which you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

1. Walters State Community College, September 1976 through May 1977. Transferred to continue education at the University of Tennessee;

2. University of Tennessee, Undergraduate B.A. degree awarded 6/10/80- Double major History and Political Science, Magna Cum Laude;

3. University of Tennessee Law School, J.D. awarded 6/9/83.

PERSONAL INFORMATION

15. State your age and date of birth.

I am 54 years old. My date of birth is October 9, 1958.

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

53 years

17. How long have you lived continuously in the county where you are now living?

53 years

18. State the county in which you are registered to vote.

Hamblen County, Tennessee

19. Describe your military Service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

Not applicable

20. Have you ever pled guilty or been convicted or are you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

No

21. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No

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

I have not.

23. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No

24. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC, corporation, or other business organization)?

No

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

Yes; see United States of America v. Thomas R. Frierson, II. United States District Court for the Eastern District of Tennessee, case No. CIV 2-92-209. As an associate of the law firm of Bacon, Dugger, Jessee and Perkins, the undersigned was, among other duties, assigned the task of preparing certain documentation in connection with a non-judicial foreclosure of real estate in the name of Jimmy C. Newcomb (taxpayer). The trustee pursuant to said trust deed was Mr. Herbert Bacon. Encumbrances upon the real estate included first and second mortgages in favor of First Tennessee Bank and a federal tax lien against said taxpayer. As the trustee's designee, the undersigned conducted a foreclosure sale on April 25th, 1986 wherein the only bidder was a representative on behalf of First Tennessee Bank, which successfully bid in the property in the amount of \$65,000.00. Said bid amount was erroneous and exceeded the amount of the second mortgage lien being foreclosed.

Immediately upon conclusion of the bidding at the courthouse steps, the IRS determined that the bid of First Tennessee Bank included surplus monies owed to the taxpayer-mortgagor. Accordingly, a Notice of Levy was issued upon the undersigned demanding payment.

The trustee, Mr. Bacon determined that the foreclosure was not consummated in that no monies were tendered and no deed was delivered. Accordingly, the trustee re-advertised said property for sale and conducted a subsequent foreclosure sale which was in fact consummated.

In 1992, the government instituted suit against the undersigned. The United States District Court, Eastern District of Tennessee, sustained the government's motion for summary judgment, which judgment was upheld by the United States Court of Appeals for the Sixth Circuit. Said judgment was timely paid in full by the law firm of Bacon, Dugger (estate), Jessee and Perkins as well as myself.

26. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices which you have held in such organizations.

1. Phi Beta Kappa;
2. Youth Emergency Shelter Board (former member and former president);
3. Boy Scouts of America (Cherokee District, Troop 91 Committee);
4. Walters State Community College, Legal Assistant Program (current Advisory

Committee member);

5. Morristown Boys and Girls Club Foundation (current member);
6. Morristown West High School Foundation (Alumni Association, Charter Member)
7. First United Methodist Church, Morristown, Tn.

27. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- a. If so, list such organizations and describe the basis of the membership limitation.
 - b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No

ACHIEVEMENTS

28. 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. List memberships and responsibilities on any committee of professional associations which you consider significant.

1. Tennessee Judicial Conference (1996-present). I served as President 2010-2011.
2. Tennessee Trial Judges Association (1996-present). I served as President from 2007-2009.
3. TBA Board of Governors (2010-2011).
4. Tennessee Bar Association (2009-present).
5. Hamblen County Bar Association (Honorary).
6. General Sessions Court Judges Conference (1990-1996).
7. Current Chairperson of the Judicial Family Institute Committee of the Tennessee Judicial Conference.

8. Current member of the following Tennessee Judicial Conference Committees:

Continuing Legal Education, Domestic Relations, Judicial Family Institute, Judicial Academy/Orientation, Public Trust and Confidence in the Courts.

9. Current member of the Tennessee Judicial Conference Foundation.

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

1. I was recognized as Trial Judge of the Year by the Tennessee Chapter of the American Board of Trial Advocates in 2000.

2. I was elected a fellow of the Tennessee Bar Foundation in January 2007.

3. I previously served on the University of Tennessee, College of Law, Alumni Advisory Council.

4. In July 2005, I was selected to serve as a member of the National Judicial Family Institute Committee (JFI). JFI is a subcommittee of the Past President's Committee of the Conference of Chief Justices. (Three year term).

30. List the citations of any legal articles or books you have published.

None.

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

1. Kingsport Bar Association – Lon V. Boyd Seminar, *Ethical Considerations for Electronically Stored Information*, April 21, 2007.

2. Northeast Tennessee Child Support Seminar, *Parties Agreement for Child Support: Definitions, Deviations and Decisions*, April 27, 2007.

3. Tennessee General Sessions Judge's Conference, *A Judge's Ethical Duties in Dealing with Self-Represented Litigants*, February 13, 2008.

4. Tenn. Bar U, *Proposed State Rules for E-Discovery*, February 29, 2008.

5. Greene County Bar Association, *Ethical Considerations for Accepting, Declining or*

Terminating Legal Representation, September 6, 2008.

6. Knoxville Bar Association Seminar, *Ain't Behavin', What Not To Do, "Top Twenty Tips"*, November 7, 2008.
7. Kingsport Bar Association – Lon V. Boyd Seminar, *Ethical Considerations for the Practice of Law: An Anchor of Civility in Changing and Uncertain Waters*, April 19, 2009.
8. Hawkins County Paralegal and Legal Assistants' ethics seminar, *Ethical Considerations and Professionalism for Paralegals and Legal Assistants*, August 5, 2009.
9. Kingsport Bar Association – Lon V. Boyd Seminar, *Recent Developments-Tennessee Domestic Relations and Probate Law*, April 17, 2010.
10. Northeast Tennessee Child Support Seminar, *Parenting Plans and Child Support: A Judicial Forum*, September 10, 2010.
11. Kingsport Bar Association – Lon V. Boyd Seminar, *Enforcement of Written or Oral Settlement Agreements*, April 16, 2011.
12. Tennessee Bar Association "Alternative Dispute Resolution Forum", *Enforcement of Written or Oral Settlement Agreements*, May 6, 2011.
13. Knoxville Bar Association Seminar, *Ain't Behavin', What Not To Do, "Top Twenty Tips"*, November 4, 2011.
14. Tennessee Attorneys' Memo-Law Conference for Tennessee Practitioners, *Ethical Considerations for Accepting, Declining or Terminating Legal Representation*, 2012 (scheduled), 2011, 2010, 2009 and 2008.
15. Tennessee General Sessions Judges' Mid-Winter Conference 2012, *Ethical and Technological Implications of Using Social Media*, February 28, 2012.
16. Kingsport Bar Association – Lon V. Boyd Seminar, *Ethical and Technological Implications of Using Social Media*, April 14, 2012.
17. Nevada Judicial Leadership Summit 2012, *Stress Resilience for the Judicial Family*, May 2, 2012.

32. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

1. Chancellor for the Third Judicial District; appointed by Governor Don Sundquist in March 1996. I have served continuously since March 8, 1996. Subsequently elected in

August 1996, August 1998 and August 2006.

2. General Sessions Court Judge for Hamblen County, Tennessee. Elected August 1990; served from September 1, 1990 until March 8, 1996.

33. Have you ever been a registered lobbyist? If yes, please describe your service fully.

No

34. Attach to this questionnaire at least two examples of legal articles, books, briefs, or other legal writings which reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

See attached copies of three Opinions. The Opinions were written by the undersigned.

ESSAYS/PERSONAL STATEMENTS

35. What are your reasons for seeking this position? *(150 words or less)*

The work of serving the needs of others is never completed. The opportunity to serve my home and community is truly an honor. I genuinely enjoy performing the duties of my current office while addressing the task of preserving the principles of justice.

An increasing number of disputes require judicial review. Technological advances, enhanced access to information and greater societal mobility mandate that a court answer the call for justice in an effective and professional manner. Limited government resources must be responsibly expended so as to promote public confidence in the judiciary while preserving the integrity of impartial adjudication.

Certainly these concerns are not restricted to the Third Judicial District. I seek the privilege of serving as Judge of the Tennessee Court of Appeals to meet the needs of others beyond district boundaries. Opportunities to enhance the judiciary's responsiveness to legal needs of the citizenry are endless. The challenge of successfully meeting those opportunities has been a personal, lifelong ambition.

36. State any achievements or activities in which you have been involved which demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. *(150 words or less)*

During private practice, I participated each year in the Private Bar Pro Bono Program offered through Legal Services of Upper East Tennessee. In connection therewith, I accepted various types of cases, primarily domestic relations, agreeing to accept one case strictly pro bono for each three cases under a low fee reimbursement arrangement.

In June 2003, I participated in a three day, statewide Summit on Self-Represented Litigants sponsored by the Tennessee Administrative Office of the Courts. The Tennessee Supreme Court subsequently formed the Task Force to Study Self-Represented Litigant Issues in Tennessee in July 2006. As a member of the task force, I participated in the study established. The task force presented its report to the Tennessee Supreme Court on December 4, 2007.

I am committed to participating in activities for the improvement of the law, the legal system and the legal profession, Supreme Court Rule 8, RPC 6.1(b)(3). I welcome the opportunity to present programs to judicial conferences, bar associations and other law related organizations on subjects including ethical considerations, self-represented litigants and civility in the law.

From 2009 through 2012, I had the privilege of being a member of the TBA Task Force on Judicial Conduct Rules. As judges may encourage lawyers to provide pro bono publico legal services, Canon 3, Rule 3.7(B), I have supported the *pro se* clinics sponsored by Legal Aid of East Tennessee. I am currently scheduled to meet with local attorneys, clerks and judges to discuss and explore establishing a *pro se* clinic for self-represented litigants in Hamblen County, Tennessee.

37. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. **(150 words or less)**)

This application is submitted for appointment to the office of judge of the Tennessee Court of Appeals – Eastern Division. The Tennessee Court of Appeals hears appeals in civil cases from trial courts and certain state boards and commissions.

A judge is the quintessential public servant. In the administration of justice, a court must proceed with promptness, professionalism and purpose. A judge must cooperate with other judges and court officials in the administration of court business, Supreme Court Rule 10, Canon 2, Rule 2.5(B). I am committed to performing the duties of judicial office impartially, competently, and diligently.

Many of the duties and responsibilities of a judge of the Court of Appeals are similar to those which I now perform. As Chancellor, I have reviewed administrative appeal records in actions seeking writs of certiorari. Numerous cases on the Chancery docket demand thorough research of the applicable law. Such research and memorandum opinion preparation engage a significant portion of my judicial day. In the prompt disposition of the court's business, I strive to devote appropriate time to judicial duties, as well as to expeditiously adjudicating matters under submission. I will continue to aspire to conduct promoting public confidence in the court's independence, impartiality, integrity and competence.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? *(250 words or less)*

The Tennessee Code of Judicial Conduct defines the parameters of permissible levels of community outreach activities. An effective way of promoting public confidence in the integrity and impartiality of the judiciary is for a judge to develop public understanding of and confidence in the administration of justice, Canon 1, Rule 1.2. I am thankful for the opportunity to have supported and coordinated the Supreme Court SCALES Project as well as the Court of Appeals CASE Project made available for local, participating high school students. These unique educational initiatives proved most beneficial toward enhancing the public's understanding and respect for our legal system and the administration of justice.

Through the years I have made special effort to accept invitations to speak in public schools on various subjects, including the operation of Tennessee courts, the purpose of the rule of law and general civics. Especially rewarding have been the occasions when I have participated in literacy day celebrations by reading age appropriate books, administering the Reader's Oath and explaining how the legal system operates.

The Tennessee Judicial Conference and the Tennessee Bar Association have recently partnered to create a judicial education program called GAVELS (Gaining Access to Valuable Education about the Legal System). The program's fundamental purpose is to promote public trust and confidence in the judiciary through meaningful education about the legal system. As a participant in the Tennessee Judicial Conference Speakers Bureau, I have previously presented programs to civic organizations and other interested groups on a variety of subjects, including adoptions, the history of Chancery court, and ethics.

I have enjoyed initiating and participating in community outreach activities through the years. I sincerely desire to continue to participate in such activities. I hope that I may have future opportunities to serve an expanded community of other counties and citizens throughout the State of Tennessee.

39. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Commission in evaluating and understanding your candidacy for this judicial position. *(250 words or less)*

Since the second grade of elementary school, I have aspired to be both a lawyer and a judge. For as long as I can remember, I have felt an urgency to bring peaceful resolution to circumstances of controversy. I am thankful that parents who strove to instill values of responsibility, accountability and respect for others directed my tutelage beyond the home into other institutions such as scouting and church. Scouting especially taught me much about such respect. This includes a judge's commitment to being patient, dignified and courteous to litigants, lawyers and others with whom the judge deals in an official capacity.

Perhaps one of the greatest assets for a judge is being a good listener. Listening comes naturally for me as I find myself in the courtroom and in settings beyond, listening to and weighing differing and competing interests before establishing a position or making a decision. Much may be learned by carefully watching and listening to others.

I consider myself a results-oriented person. Competence and diligence in the performance of judicial duties demand legal knowledge, thoroughness and appropriate preparation. I am committed to performing the responsibilities of judicial office by embracing these significant principles.

40. Will you uphold the law even if you disagree with the substance of the law (e.g., statute or rule) at issue? Give an example from your experience as a licensed attorney that supports your response to this question. *(250 words or less)*

I am committed to upholding the law even if I should disagree with the substance of the law at issue. I reference the appellate opinion in the case of Young v. Tennessee Dept. of Human Services, 1991 Tenn. App. LEXIS 791 (1991). I seriously embrace my oath of office in supporting the Constitutions of the United States of America and the State of Tennessee. The judiciary plays a central role in preserving the principles of justice and the rule of law, Supreme Court Rule 10, Preamble. Clearly, where the rule of law prevails, certainty and predictability thrive.

Litigants and lawyers alike demand and expect an impartial adherence to the law. Attorneys genuinely desire continuity, consistency and stability from the bench. A judge dedicated to fairness in procedure and the decision making process affords attorneys and parties the necessary foundation upon which cases may be prepared, tried and/or otherwise resolved.

I see no greater obligation through my oath of office than to perform my duties as judge with determined fairness. Through the years, I have embraced the fundamental principle of equal justice under the law. On this matter, there can be no compromise.

An impartial judiciary is foundational in the systemic structure of responsible government. As difficult as the challenge may seem, I am wholeheartedly committed to thoughtful adjudication without regard to race, gender, creed, religion, status and especially personal friendship.

Unsuccessful litigants may question the court's interpretation of the law but certain is the principle that they must know that their day in court was unblemished by any taint of bias, prejudice or favor.

REFERENCES

41. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Commission or someone on its behalf may contact these persons regarding your application.

- A. David W. Purkey, Governor's Homeland Security Advisor & Assistant Commissioner of the Department of Safety & Homeland Security, [REDACTED]
[REDACTED]
- B. Dennis H. Inman, Chief United States Magistrate Judge, United States District Court, Eastern District of Tennessee, [REDACTED]
[REDACTED]
- C. Senator Steve Southerland, Deputy Speaker, 107th General Assembly, State Senate, District 1, [REDACTED]
- D. Kay Solomon Armstrong, Clerk and Master, Greene County Chancery Court, Third Judicial District, [REDACTED]
- E. R. Michael Fishman, Publisher, Citizen Tribune, [REDACTED] [REDACTED]
[REDACTED]

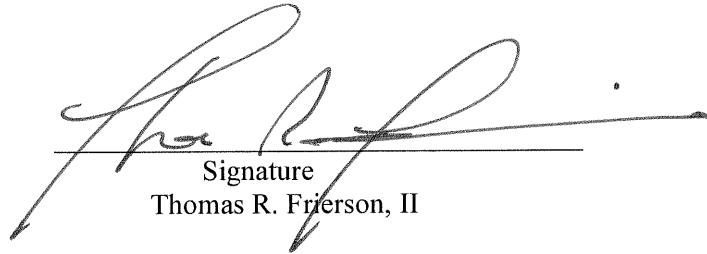
AFFIRMATION CONCERNING APPLICATION

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 nomination to the Governor for the office of Judge of the Court of Appeals, Eastern Section of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

Dated: October 15, 2012.



Signature
Thomas R. Frierson, II

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.



TENNESSEE JUDICIAL NOMINATING COMMISSION

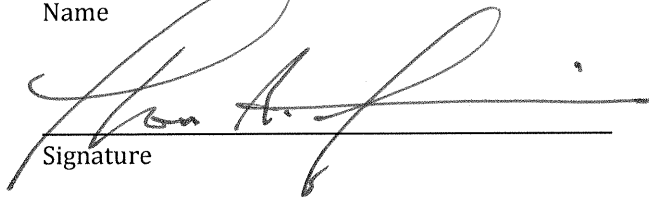
511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE COURT OF JUDICIARY
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information which concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Court of Judiciary and any other licensing board, whether within or outside the state of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Tennessee Judicial Nominating Commission to request and receive any such information and distribute it to the membership of the Judicial Nominating Commission.

Thomas R. Frierson, II
Name



Signature

October 15, 2012
Date

BPR #010449

Please identify other licensing boards that have issued you a license, including the state issuing the license and the license number.
