

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.

Hunter, Smith & Davis, LLP

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

Licensed in 1982

Board of Professional Responsibility Number 009756

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.

Tennessee

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 began as an associate with Hunter, Smith & Davis immediately after taking the bar examination in 1982 and have been a lawyer with Hunter, Smith & Davis continuously since then. I became a partner with the firm in 1986 and served as Managing Partner of the Firm in 1995 and 1996.

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 am a civil trial attorney primarily defending physicians, hospitals and other health care providers who are sued for medical negligence. In addition to trial work, I respond to daily inquiries on a real-time basis to assist with decision making and the legal implications which arise involving patients, staff, visitors, and physicians. I also handle other civil litigation covering a wide range of business disputes. Approximately eighty percent (80%) of my time is spent on medical malpractice matters, fifteen percent (15%) of my time is spent dealing with other civil litigation, and five percent (5%) of my time is spent responding to inquiries from the hospital.

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.

Over the past thirty (30) years, I have been privileged with the opportunity to practice before trial, appellate and regulatory authorities throughout East Tennessee and Southwest Virginia. During this time, I served as lead attorney in over one hundred (100) civil jury trials. I began my legal career handling personal injury cases, usually retained by an insurance company to defend its insureds, in automobile or premises liability disputes. Through these experiences, I developed a niche representing insurance companies in actions brought by individuals and companies whose property was damaged or destroyed by fire. However, in approximately 1994, the focus of my practice shifted to the defense of medical malpractice suits. While this is my primary practice area, I have also handled employment discrimination actions (on behalf of employers) and various business dispute cases ranging from misrepresentation and violation of the

Tennessee Consumer Protection Act relative to defective hardware and software, and litigation between *Forbes* 500 companies related to contractual disagreements. My trial experience has been extensive in both state and federal courts in Tennessee and Virginia. I have argued cases before the Tennessee Supreme Court, the Tennessee Court of Appeals and the United States Court of Appeals for the Sixth Circuit. I have appeared before several health related boards with the Department of Health, usually defending charges made by the department against health care professionals. I have handled all aspects of Alternative Dispute Resolution, including the arbitration of cases to a conclusion pursuant to the rules of the National Association of Arbitration. In addition, I have handled pro bono criminal matters involving misdemeanors or juvenile offenses.

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

I served as local counsel in a significant patent case representing a glass manufacturer who alleged a patent infringement. At the request of the lead counsel, a patent specialty firm in Arlington, Virginia, I handled the damages aspect of the trial, handling the direct examination of our damages expert and cross-examining the defendant's damages expert. After the federal judge granted a directed verdict on the issue of liability, the only issue for the jury was damages.

The jury returned a verdict that totaled \$43.7 million dollars in favor of our client. The sad rest of the story is that the United States Court of Appeals for the District of Columbia reversed the trial judge. The case was appealed four times.

I have tried several jury trials that were multiple weeks in duration, including a products liability case that involved a spinal injury resulting from diving into an above ground swimming pool, fire cases, medical malpractice cases, and a technology misrepresentation case.

A particularly rewarding plaintiff's case was for an eighteen (18) year old young man, son of a coal miner, who was being recruited by colleges for football prior to sustaining a severe leg injury in a trucking accident. A structured settlement that will provide lifetime financial resources for him was obtained.

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.

I serve as a member of the Board of Law Examiners appointed by the Tennessee Supreme Court. The Board conducts Show Cause hearings in July and December each year which are related to

determining Character and Fitness and we sit in judgment of the applicants who appear before us. While these Show Cause hearings comprise the majority of my quasi-judicial experience. I have also volunteered a number of times as a substitute judge for the former General Sessions Court judge in Sullivan County who had chronic health issues, as did other local attorneys. The cases were usually collections cases, landlord-tenant disputes, other small claims disputes, and the handling of arraignments.

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.

I was appointed as guardian ad litem by the former juvenile court judge on a few occasions to protect the interests of juveniles who were the subject of a custody dispute. I have not served as a conservator or trustee.

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

Serving on the Board of Law Examiners has been a rewarding learning experience that demonstrates my commitment to serve the interests of justice and to work towards improving the legal profession in Tennessee. I began with the BLE as an assistant examiner with the responsibility of writing and grading one of the essay questions on the bar exam. I have served as a board member since the late 1990s.

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.

This application is my only one for judgeship for a state judicial appointment. I was one of three lawyers nominated by then Senator Frist to President Bush for the federal district judgeship and I was interviewed by then United States Attorney General Gonzalez at the White House in 2003. Judge Ronnie Greer was appointed by President Bush, but I was honored to be considered for the position.

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.

Walters State Community College, 1975-1977, A.S., *summa cum laude*

University of Tennessee, 1977-1979, B.A., *summa cum laude*, major-Human Services

University of Tennessee College of Law, J.D., 1979-1981, with honors

PERSONAL INFORMATION

15. State your age and date of birth.

I am 55 years old. My date of birth is October 8, 1957.

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

I was born in Hamblen County, Tennessee, and except for ages 1-14, I have lived in Tennessee.

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

30 years

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

Sullivan County

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.

No

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.

I am currently one of several defendants, including the other members of the Board of Law Examiners and members of the Tennessee Supreme Court in a federal court action brought by Robert Marlowe, who was denied a law license in Tennessee. The action was filed on June 26, 2012 and is pending in the United States District Court for the Middle District of Tennessee. The docket number is Civil Action No. 3:12-cv-00646. I was just served with the Complaint on October 5, 2012.

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.

During the past thirty (30) years I have been a member of First Baptist Church, Kingsport and served on the Administrative Committee, the Personnel Committee, the Investment Committee, the Facilities Committee, and as a Sunday School teacher.

I have been involved in numerous school organizations and civic groups such as Girls, Inc., Holston Habitat for Humanity, Inc., United Way, Children First, and Junior League of Kingsport to name a few, but not within the last five (5) years.

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.
- If so, list such organizations and describe the basis of the membership limitation.
 - 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.

American College of Trial Lawyers, 2009 - present (invitation only)

American Bar Association, 1982-present

American Health Lawyers Association, 1997-present

Board of Professional Responsibility, Hearing Officer, 1997-2000

Tennessee Bar Foundation, Fellow, Board of Trustees 2003-2005, Chair, Grant Review Committee 2004, Governance Committee 2010-present

Tennessee Bar Association, 1982-present

Board of Governors, 1997-1999

House of Delegates, 1993-2009, Secretary, 1994-1996, Nominating Committee 2006
TBA Leadership Law, Speaker, 2005
TBA Ad Hoc Committee on Unfair Judicial Criticism, 1997-1998
TBA Racial Diversity Task Force, 2007
TBA Long Range Planning and Transition Committee, 2005-2006
Federal Bar Association, Northeast Tennessee Chapter, Charter Board Member, President
Admissions Committee for the Eastern District of Tennessee, USDC
Kingsport Bar Association, 1982-present
American Board of Trial Advocates, 2000-2001(invitation only)
ACTL/Tennessee State Nominating Committee, 2010-present
International Association of Insurance Counsel
Defense Research Institute

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.

American College of Trial Lawyers, 2009 – present
The Best Lawyers in America, The Best Lawyer in the Specialty of , 2009, 2010,2011,2012
Mid-South Super Lawyers, Super Lawyer, 2009, 2010,2011,2012
Mid-South Super Lawyers 2011, The Top 50 Women Attorneys of the Mid-South
Martindale-Hubbell, Awarded the Highest Rating (AV) for Attorneys

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.

None

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.

I was nominated by Senator Bill Frist for a district federal judgeship for the United States District Court for the Eastern District of Tennessee in 2003. The judgeship was an appointment by President George W. Bush.

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.

Attached

ESSAYS/PERSONAL STATEMENTS

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

1. With excellent training and mentoring by members of my firm, I have achieved a successful legal practice and while I have had the opportunity to train and mentor younger lawyers, I welcome this opportunity for another professionally challenging experience.
2. I believe that my "time" to make a difference is now. My mother died recently at a relatively young age, and her death has made me more cognizant that time to make a difference is short. My husband and I have raised three children whose educations are complete, thus financially we are ready for me to make a change.
3. I believe I would be the kind of appellate judge that litigants want. My strong work ethic and my ability to relate with others, along with my commitment to the legal profession, are talents that will be useful in the role of an appellate judge.

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)*

I have been active with numerous projects of the Tennessee Bar Association whose goal is to ensure equal justice under the law. I served on the TBA Task Force on Diversity to encourage increasing minorities in law school and the profession. Every year for the past 30 years I have provided legal service without fee to individuals who could not afford a lawyer. The types of cases have ranged from helping individuals who have minor criminal charges, to helping individuals who needed legal assistance with housing, immigration, protection from abusive spouses, and to seeking compensation for individuals with injuries. Hunter, Smith & Davis has implemented a plan to reward associates for their pro bono service and we provide them with opportunities to help individuals who cannot afford to hire a lawyer. Finally, I have provided legal advice to numerous not-for-profit organizations on a multitude of issues without charge for my services.

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)*

I am applying for the Eastern Section Court of Appeals that was vacated by the retirement of Judge Herschel Franks. The court hears only civil cases. I believe my selection will add a seasoned trial attorney to the court, with a strong knowledge base and a willingness to quickly learn the areas that have not been part of my practice for the past 30 years. I believe my selection will add another judge who will be impartial and apply the rules of law without regard to the identity of the litigants. Further, I believe my selection will add to the court an individual who has demonstrated a strong work ethic and a passion for adhering to the rules that govern our profession's conduct.

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)*

I was active in my children's school organizations, including the PTOs for 18 consecutive years. When our children were in college, we were active at the University of Tennessee and the University of the South. We were active in dance and swimming associations in which our children were involved. Additionally, I served in a leadership role at Girls, Inc. and was a charter member of the Committee of 100, a fundraising effort for Girls, Inc. I participated in the second class of Leadership Kingsport in 1987, and then served in a leadership role for SHOUT, the youth leadership program in 2007. I have also served in leadership roles with United Way of

Greater Kingsport.

My husband and I have been members of the same church since we moved to Kingsport 30 years ago. We have served in various leadership roles at church, serving as teachers and committee members and we have been supportive of the Interfaith Hospital program. I provided legal services, without fee, to the church in several situations.

If I am selected as the judge, then I believe I will have more time to give back to my community. My specific interests are working with underserved women and children.

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)*

Like many others of my generation, I was the first member of my family to graduate from college. My father passed away when I was a senior in high school. I benefited greatly from the location and opportunity provided by a community college in my hometown, Morristown. I did not have an appreciation for how successful I would and did become, both as a lawyer and as a member of the Bar. I feel a great sense of gratitude to my law firm for affording me good training and wonderful opportunities. Because I have been the recipient of many gifts, I have an obligation to return to my family, my school, my community, and my profession whatever I am capable. I am at that place in my professional career where I want to contribute more to my profession. I have had the privilege of hard work, and despite my modest start, I have achieved success in my legal career thus far.

While I take great pride in my career, my family has always been a priority. Being married to a husband with a charitable spirit has helped me stay grounded in what is important in life. With three young adult children, I have been humbled by their successes and challenges. I have empathy for others who have significant life events, but I believe my personal and professional experiences will help me make decisions that are based on the law and the facts of the case.

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 commit to uphold the law even if I disagree with the substance of the law. The Tennessee Supreme Court decided a case in 2006, *Calaway* that changed the statute of repose for children in medical malpractice cases in a meaningful way. Before *Calaway*, children had until age nineteen to file a lawsuit for personal injuries sustained during their years of minority. The Tennessee Medical Malpractice has a three-year statute of repose. The court in *Calaway* decided that the three-year statute of repose would apply to children in medical malpractice cases. After *Calaway*, there were a couple of actions that were filed on behalf of minors but beyond the three-year statute of repose. Because I represented the defendants in those cases, I was required to

assert the defense that the action was barred by the statute of repose, even though the result seemed unjust. The trial judges were reluctant to follow *Calaway*, and in one instance allowed the plaintiff to voluntarily dismiss the case. The lawsuit was then re-filed in federal court. Once again, I was required to assert the defense made available by the TMMA and *Calaway*, even though I disagreed with the substance of the law. If selected, I will uphold the law regardless of my personal disagreement with the law.

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. Dr. C. Mack Patton, [REDACTED]

B. Dr. Mike Boggan, [REDACTED]

C. Atty. Morris Hadden, [REDACTED]

D. Atty. Frank Anderson, [REDACTED]

E. Atty. Sid Gilreath, [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 19, 2012

s/Annice C. Miller

Signature

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.

Jimmie C. Miller

s/ Jimmie C. Miller
Signature

October 19, 2012
Date

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

Not Applicable
