

**Tennessee Judicial Nominating Commission**  
***Application for Nomination to Judicial Office***

*Rev. 22 December 2011*

Name: Michael A. Faulk

Office Address: 112 E. Main Blvd., P.O. Box 2080  
(including county)

Church Hill, Hawkins County, Tennessee 37642

Office Phone: 423-357-8088 Facsimile: 423-357-1067

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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

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

**PROFESSIONAL BACKGROUND AND WORK EXPERIENCE**

1 State your present employment.

I am self-employed as a solo practitioner at The Faulk Law Office, 112 East Main Blvd., Church Hill, TN 37642, practicing in Hawkins County just over 30 years now. I am employed in the Tennessee General Assembly where my term as State Senator expires November 6, 2012. Finally, I also manage a commercial real estate development

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

1980

BPR No. 007078

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

BPR No. 007078

April 26, 1980

Active

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).

**The Faulk Law Office**

**1982-present**

My current practice focuses on alcohol-related injury law – both prosecuting and preventing dram shop cases. I handle injury cases of all types, probate estates, prepare advance directive packages, and prepare documents such as deeds, leases and contracts.

**Hawkins County Land Company LLC – Manager** **2001 - present**

I manage a limited liability company that leases commercial real estate.

**Campaign manager, Committee to Elect a Bi-partisan Supreme Court 1982**

In 1982 I served the three Republican nominees for the State Supreme Court, Tom Hull, Tom Avery, and John Waters as their statewide campaign manager.

**Weintraub DeHart**

**1979-1982**

Memphis, TN

Associate attorney; law clerk. Practiced labor-management relations law on behalf of employers including but not limited to NLRB litigation, Fair Labor Standards Act litigation, labor contract dispute arbitration; and labor contract negotiations throughout the eastern United States.

**Admitted:** United States Supreme Court  
Sixth Circuit Court of Appeals  
All U. S. District Courts of 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.

Bodily Injury & property damage – 50%

Trust & Estates/Probate/Wills – 35%

Workers Compensation – 15%

See also answer to No. 5 above and No. 8 below.

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.

After one year of law school full-time, I changed over to the law school night program so I could work as Chancellor Robert Hoffmann's courtroom clerk in Shelby County. I was in court to administer oaths, mark exhibits and assist the Chancellor almost every day of court for two years. As a Deputy Clerk & Master, I watched daily the myriad of cases tried in Chancery Court including injunction proceedings in labor disputes. High profile labor disputes including the municipal strikes that darkened Memphis in the late 1970s were heard by Chancellor Hoffmann. I found these cases most intriguing. That interest was, in part, one of the reasons I received MSU School of Law's Kirby Bowling Labor Law Award.

Leaving the Clerk & Master's office in my last semester of law school, I went to work as a fulltime law clerk and then associate attorney with Weintraub & DeHart, a management labor law firm in Memphis. In two years at that firm I tried arbitrations, unfair labor practice charges before the National Labor Relations Board, Fair Labor Standards Act cases in federal courts, and injunction proceedings in both Chancery Courts around Tennessee and in federal courts. I represented employers in union election campaigns before the National Labor Relations Board. I also negotiated collective bargaining agreements on behalf of employers. I argued in the 6<sup>th</sup>

Circuit Court of Appeals during this employment.

My wife and I started our family in 1980. All the travel with Weintraub & DeHart did not fit with our desires in rearing a family so I returned to my native Hawkins County to start a general practice in September, 1982, taking practically any case that came through the door.

I handled delinquency, dependent/neglect, custody, child support, paternity and practically any conceivable case within the jurisdiction of Juvenile Court primarily in Hawkins and Sullivan County. By 1986, I was asked by Hawkins County Juvenile Court Judge G. Reese Gibson to serve as his Juvenile Court Referee. Over the next three years I heard dozens of juvenile court cases as Referee in Hawkins County and was called upon by other Juvenile Judges to sit as Referee pro tem.

My General Sessions Court practice started in the days before the present-day statewide Public Defender system was established. In Hawkins County, the dozen attorneys who handled criminal cases each had his "day-in-the-barrel" providing a defense to all defendants determined indigent by the Judge. Every twelve weeks, I would represent between ten and thirty defendants on misdemeanor criminal charges and would represent another three to five defendants in preliminary hearings. I tried hundreds of these cases over a four-year period. The Criminal Court Judge normally appointed the attorney who had handled the preliminary hearing to defend those bound over to the Grand Jury. In this same time period, I tried criminal court cases before juries dozens of times. I tried everything from destruction of public property to murder cases. I was also appointed to defend indigents a few times in federal court criminal matters. Most of my appellate court practice dealt with appeal of criminal convictions.

My General Sessions Court civil experience runs the gamut of cases within its jurisdiction. I've tried collections, forcible ejection & detainer, negligence, breach of contract, possessory hearing, garnishment, writ of detinue, attachment & replevy, trespass and defamation cases. The number of these cases I've tried would be in the hundreds.

In the Circuit and Chancery Courts I have tried most all types of cases in counties across the State. I have had jury trials in Carroll, Davidson, Putnam, Greene, Hancock, Hawkins, Hamblen, Sullivan and Washington Counties. The number of jury cases I've tried, mostly tort cases, is in the dozens. My jury trials include wrongful discharge, product liability and consumer fraud cases.

I did domestic relations work in these courts in multiple counties including divorce, custody, child support, paternity, name change, orders of protection and adoption. These cases number in the dozens. I have tried trespass, nuisance and boundary line disputes. The number of workers compensation cases I have handled is in the dozens.

I have continued an active probate practice over the years handling approximately 300 estates and all the different proceedings that accompany them. I have tried will contests, declaratory judgments to interpret wills, contested appointment of personal representative, contested claims against estates and contested conservatorships. The number of Last Will & Testaments, Powers of Attorney, Advance Care Plans, Appointments of Health Care Agents and so forth I have

prepared is in the hundreds.

My trial practice also included U. S. District Courts including a Labor Management Relations Act case and tort cases with diversity of citizenship. I practiced in the early 1990s in the U. S. Bankruptcy Court handling both consumer and creditor cases. In the last few years I have appeared in Bankruptcy Court to try contested matters incidental to bankruptcy proceedings. The number of bankruptcy cases I handled is in the dozens.

Throughout my 30 plus years of practice in Church Hill, I have done some transactional work. I still do deeds, leases, and contracts. I conducted a few real estate closings in my early years. After the demise of the Butcher banks in 1982 I was hired by the Federal Deposit Insurance Corporation to do title searches and collections work over several northeast Tennessee counties.

In the late 1980s, I served on the Tennessee Human Rights Commission which heard some appeals

Beginning in 1988 I developed a municipal practice and served as city attorney for two towns. In the process of representing the two, I tried an annexation case and a few condemnation cases. I tried writs of certiorari, mandamus and declaratory judgment cases. I made appearances before administrative agencies such as the Wastewater Financing Board. Transactional work was aplenty when the Town of Mt. Carmel installed a sewer system requiring hundreds of easements and the title work needed to obtain them. For a period of months, I also served as interim City Judge for the Town of Mt. Carmel.

Other administrative agencies before which I have appeared include the Department of Employment Security Board of Review, Department of Labor & Workforce Development Benefit Review Conference, Board of Pardons & Paroles, Board of Law Examiners, U. S. Department of Justice Drug Enforcement Administration, Medicare Administration and Pre-Hospital Care Regulatory Board.

In 1996 I was hired on my first dram shop case. Since that time a large portion of my practice has involved prosecuting dram shop cases and helping businesses with an alcoholic beverage service avoid over-serving customers or serving underage customers.

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

Tennessee Supreme Court Case of first impression – Curde v. Tri-Cities Bank, 826 S. W. 2d 911 (Tenn. 1992) regarding applicability of Electronic Funds Transfer Act, 15 U. S. C. §1693 *et seq.*

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 was certified as a Rule 31 mediator this past year but have not yet served as a mediator.

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

In the early years of my practice in Hawkins County, I was appointed guardian ad litem in a few conservatorship cases and juvenile court cases.

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

Not applicable

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.

Not applicable.

### 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.

J. D.	Memphis State University	1976-1979
Recipient:	Kirby Bowling Labor Law Award as outstanding labor law student for 1979	
M. Public Administration	Memphis State University	1975 - 1978
B S Business Administration	University of Tennessee at Martin	1971 - 1975
Major: Economics	Minor: Communications	Student Body President 1974-1975
Who's Who in American Colleges & Universities		

**PERSONAL INFORMATION**

15. State your age and date of birth.

59. Date of Birth: September 10, 1953.

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

All my life, 59 years.

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

30 years 3 months.

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

Hawkins 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.

Not applicable.

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 Divorce Final Decree entered October 25, 2005. Third Judicial District, Hancock County No. C-3120, Final Decree in uncontested irreconcilable differences entered

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

Oak Grove Baptist Church

Holston Valley Sportsman's Club

Kingsport Chamber of Commerce

Hawkins County Chamber of Commerce

East Hawkins County Chamber of Commerce

Jefferson County Chamber of Commerce

Grainger County Chamber of Commerce

National Rifle Association

Hawkins County Republican Party, 1<sup>st</sup> Vice-Chairman

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.

Kingsport Bar Association – 2002 – present

Hawkins County Bar Association – 1982 – present (former Chairman)

Tennessee Bar Association – 2002 – present

Tennessee Association for Justice – 2002 – present.

Supreme Court Ad Hoc Study Committee on Indigent Defense 2010 – 2012 (Chairman)

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.

Martindale-Hubbell – Rating of “AV” 21 consecutive years

Certified Civil Trial Specialist 1997 – present

Super Lawyers of the Mid-South 2007- present

2012 National Award winner: POPULAR Restore Integrity Award  
( ):

Who's Who in American Law 1987-1988

America's Leading Lawyers 1993

Outstanding Lawyers of America 2002 & 2003

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

Published articles:

Faulk, M., 2007, May, "One Too Many", *Tennessee Bar Journal*, Vol. 43, No. 5, ppg. 12- 15.

Faulk, M., 2006, Spring, "Dangerous Intersections: Parallel Civil & Criminal Prosecutions",  
*The Tennessee Trial Lawyer*, ppg. 30, 48.

Faulk, M., 2005-2006, Winter, "Dram Shop Cases", *The Tennessee Trial Lawyer*, p. 22-23.

I also author a weblog (blog) known as "Tennessee Dramshop Law" ( ) .

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.

"One Too Many: Dram Shop Cases" – 1 hour CLE presentation – available on-line through TennBarU CLE Center and also presented to local bar associations.

I also taught "Legal Environment for Business", an undergraduate course, as an adjunct professor for East Tennessee State University.

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.

State Senator 2008 – 2012 (elected 2008)

County Commissioner 1998 – 2002 (elected 1998)

Tennessee Human Rights Commissioner 1985 – 1991 (vice-Chairman 1989 – 1991)

Town Attorney, Town of Mt. Carmel, Tennessee 1988 – 2001 (appointed)

City Attorney, City of Church Hill, Tennessee 1992 – 2000 (appointed)

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. Both examples are exclusively my own personal effort.

### **ESSAYS/PERSONAL STATEMENTS**

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

Service to people has taken many forms in my career. All I've done and learned over the years can best be put to use on the Court of Appeals. After all, that court is asked to decide appeals of matters that have been tried. In my 32 years of practice I have been a litigator at every level of trial practice. The breadth of my trial practice is comprehensive.

I have been called on many times to sit as a trial judge. My Masters Degree in public administration has served me well as a municipal attorney and in the State Senate. My service on the State & Local Government Committee and the Judiciary Committee helped mold me into the lawyer I am today.

I feel the body of work I've done over my whole adult life has pointed me toward service on the Court of Appeals.

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)*

My service as a former member of the Board of Directors for Legal Services of Upper East Tennessee, Inc. is a prime indicator of my commitment to pro bono service. Not only did I accept Legal Services referrals on a low-fee basis, I also accepted Legal Service referrals occasionally charging no fee. In addition to those referrals, my practice has included dozens and hundreds of cases where I wrote off, waived or reduced fees to help those who literally could not afford legal services. I've been blessed beyond description by those folks whom I helped in this way. They have been the source of numerous referrals. They've shown their gratitude with cakes and pies, quilts, paintings, and many, many other expressions.

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)*

The Eastern Section Court of Appeals hears a diversity of civil cases arising out of Tennessee trial courts. Four members of the Court comprise the Eastern Section.

In its present composition, the Eastern Section has members whose practice was located in Knox or Hamilton County. The thirteen easternmost counties of the state with more than ten (10) percent of the state's entire population have supplied no current member of either Court of Appeals, Court of Criminal Appeals or Supreme Court. It has been over 20 years since this region of the state has been represented on any of Tennessee's appellate courts (Judge Clifford Sanders served last). The selection of a northeast Tennessean would address this glaring geographic imbalance.

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)*

"Get a Hit: Stay Fit" is a childhood obesity initiative I founded in 2007. It is designed to encourage exercise amongst elementary school children by incentivizing participation in organized summer sports programs. I'd certainly like to continue its promotion.

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)*

My father didn't finish the 8<sup>th</sup> grade. My mother was the first of her family to ever finish high school. I am the first of my family to finish college. The Scots-Irish blood that flows through my veins and all they taught me make me what I am today. As an 8<sup>th</sup> generation Hawkins Countian, growing up on a farm in eastern Hawkins County, I was taught to work harder because there's always somebody smarter, take personal responsibility because it may really be your fault, know

what you believe and why, put back more than you take, dare to stick your neck out, be kind to widows, orphans and dogs, and never forget there is a reason God gave you two ears and only one mouth. They didn't just teach them; both my parents lived these principles.

These principles guide me every day and seem principles worth following as a Judge on the Court of Appeals.

I love to write. In addition to the dramshop law blog I author, I have penned numerous articles for more than a dozen wildlife magazines and web sites. All my published outdoor articles along with anecdotes, photographs, recipes, and more about my love for all things outdoors can be read at Strum Island Journal ( ).

Applying all I learned over a 30 plus year career as a lawyer to a job which requires me to write is a job representing a dream come true.

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)*

As one of the dwindling number of attorneys in the General Assembly who has a trial practice, I felt placing caps on damages in injury cases was overkill and that I should speak up to warn against passing a bad law. I believe the imposition of caps on damages depreciates the value and good work done by jurors. I authored an Op-Ed piece which ran in several of the daily newspapers of the state. (See ).

Now that caps-on-damages is the law, I have no trouble applying the law even though I think capping damages was a mistake.

### 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. Lt. Governor Ron Ramsey [REDACTED]

B. Congressman William Jenkins, [REDACTED]

C. Dr. Randy Presnell, Pastor, Oak Grove Baptist Church [REDACTED]

(423) 357-7241

D. Heiskell H. Winstead, (retired District Attorney General), [REDACTED]  
[REDACTED]

E. Jack Vaughn, Fuller & Vaughn, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [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 18, 2012.

*Michael A. Faulth*

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.

Michael A. Faulk  
Type or Printed Name

Michael A. Faulk  
Signature

\_\_\_\_\_  
Date

007078  
BPR #

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

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