

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

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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 seventeen (17) 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.

I am employed as an attorney with the Chattanooga firm of Chambliss, Bahner & Stophel, P.C., of counsel. Chambliss is a general practice firm of 65 lawyers.

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 1970. My license is active.

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 have not sought licensure from other states, but my Tennessee license has been current since 1970.

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).

I have not been denied admission to, suspended from, or placed on inactive status by the Bar of any State.

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).

- 1969-1970: law clerk to Hon. William E. Miller, Chief Judge, United States District Court for the Middle District of Tennessee
- 1970-1973: United States Department of Justice, Washington, D.C., trial attorney, Civil Rights Division
- 1973-1976: Assistant United States Attorney, United States Attorney's Office, Chattanooga, Tennessee
- 1976-2006: associate and partner/shareholder (1976 to 2006) with Witt, Gaither & Whitaker, P.C. (later known as Shumacker Witt Gaither & Whitaker, P.C.)

- 2006-present: Of Counsel with Chambliss, Bahner & Stophel, P.C.

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.

I have been continuously employed since completion of my legal education.

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.

My primary work is related to litigation, both civil and criminal, and to mediation and arbitration. At present, approximately seventy percent (70%) of my practice is civil, fifteen percent (15%) mediation and arbitration, and fifteen percent (15%) criminal, although as with any litigation practice, those percentages have varied considerably during my career.

My civil practice is divided between active cases or disputes, and my work as General Counsel to the Chattanooga Metropolitan Airport Authority ("CMAA"). The work for the CMAA occupies perhaps twenty-five percent (25%) of my civil practice, more or less, depending on litigation. That work includes drafting and review of a variety of leases and agreements. My civil work has been in both state and federal courts, trial and appeal, largely commercial disputes, and largely defense. I have represented plaintiffs, both individuals and businesses, on numerous occasions.

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.

For my first year out of law school, I served as a law clerk to Chief Judge William E. Miller of the United States District Court for the Middle District of Tennessee (Nashville).

My association with Judge Miller, and my work in his court, gave me insight, early in my career, to what a judge does, day to day, how the law is applied to the facts in a particular situation.

I next worked as a trial attorney for the United States Department of Justice, Civil Rights Division, in Washington, D.C., from 1970 until 1973. All of the work was civil, and almost all of it related to school desegregation. Some small amount of work in Mississippi dealt with voting rights. I worked on large and small desegregation cases, from small two-school county systems, to major school systems including Austin, Texas and Savannah, Georgia. We built our cases from the ground up, interviewing teachers and parents, and reviewing demographic data. I participated in or conducted a number of hearings in Federal Court, in Savannah, Valdosta, Columbus and Atlanta, Georgia, and Austin, Texas. I took many depositions, and participated in a large number of meetings with local civil rights leaders, teachers, principals and school officials, at both the local and state levels.

Following my work in Washington I returned to Chattanooga as an Assistant United States Attorney, from 1973 until 1976. The Chattanooga office was small, never more than four attorneys, and most of the time two attorneys. We handled all of the government's civil and criminal work in the Chattanooga and Winchester Divisions of the Court. We took some citizen complaints, but for the most part worked directly with the various federal investigative agencies: FBI, ATF, Secret Service, and Postal Inspectors. I handled scores of cases on my own, from initial work-up, interviews of witnesses through presentation to the Grand Jury, through trial, and appeal.

In 1976 I joined Witt, Gaither & Whitaker as a litigation associate. I became a partner in 1977 and stayed with that firm, and a successor, until the firm dissolved in 2006. Along with several other partners from my previous firm, I joined Chambliss, Bahner & Stophel in 2006, and have been at Chambliss since then. I have represented both plaintiffs and defendants. For about 10 years I represented a major manufacturer in several hundred personal injury and property damage product liability cases. I have handled substantial antitrust work, in both state and federal courts, for a large, publically-traded company. For two major clients I handled all of their environmental work, both before regulatory agencies, and in court. I have represented individual clients in a wide variety of matters, including some domestic work. I have participated in many trials, almost always as lead counsel for my client. I have taken hundreds of depositions.

Because of my experience in the United States Attorney's Office, I have maintained an active criminal practice since 1976. I have accepted retained and appointed cases, both state and federal, throughout that time. I have been appointed counsel in three death penalty cases, two at trial and appeal, and one for a new penalty hearing following a reversal. I continue to handle federal criminal work, both retained white collar cases, and appointed general cases.

I have been involved in various forms of alternative dispute resolution. I was on the initial Early Neutral Evaluation Panel for the United States District Court for the Eastern District of Tennessee, and presently serve as an approved mediator for that Court. I was included in the first group listed as Rule 31 approved mediators in Tennessee, and have maintained that

designation. I am a member of American Arbitration Association (AAA) panel of neutrals, and I am a certified arbitrator for the Financial Industry Regulatory Authority (FINRA). I conduct contested arbitrations for both AAA and FINRA.

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

Trials

Smith v. Tennessee Consolidated Retirement System, 1987 WL 6953 (Tenn. Ct. App. 1987)

A class of retired Tennessee teachers believed that the Tennessee Consolidated Retirement System was incorrectly interpreting provisions of the statutes governing the retirement income to which they were entitled. I was lead counsel in all aspects of this case. The matter was certified as a class action, and after a bench trial in Davidson County Chancery Court before Chancellor Robert Brandt the class was awarded both prospective financial relief, and approximately \$12,000,000.00 in improperly withheld retirement benefits, rectifying the past errors. At the time this was believed to be one of the largest, if not the largest, judgment awarded by a Tennessee court.

All phases of the litigation lasted from 1982 through 1988. In ruling upon our fee petition, Chancellor Brandt said:

In this case, just even the lightest amount of work to do something on this case involved almost a reinvention of the wheel. *** Another factor that is important to the Court is the variety of legal skills involved in this case on both sides. *** It involves research and writing skills, which are way beyond that normally associated with trial work. *** This case involved an extraordinary amount of research and writing skills; it involved skills in trial advocacy, too. ***[T]his case was extraordinarily complex. *** The result obtained is pretty much a grand slam. Maybe not totally. But they were very successful for the people. And I think that anything short of the very best legal representation simply would not have worked in this case. *** And anything short of the very best product from a lawyer would not have produced this result. *** [T]his representation, I think, represents the very best of our profession. *** Nobody knows about this. And yet, I think this does represent, as I say, the very best of our profession, the quality of work which I have already alluded to plus the fact of the clients here. Here you have a group of historically underpaid people who performed an invaluable service to our society in teaching. *** [T]his is a major league lawsuit. That's all there is to it.

In Re: Petition of Knox County Public Defender, General Sessions Court of Knox County, Tennessee, Misdemeanor Division, Docket Number not assigned; transferred to Chancery Court of Knox County, Tennessee, Docket No. 174552-2; In the Court of Appeals of Tennessee, At Knoxville, No. E2010-01665-COA-R3-CV

Together with Max Bahner and Aaron Love, I represented Mark Stephens, Knox County Public Defender, in legal proceedings, including a trial, in which Stephens sought relief for his office from a heavy load of appointed cases. In a perhaps unique trial, the case was heard by all of the General Sessions Judges in Knox County, sitting en banc. Following the trial, we appealed the decision to the Chancery Court on a writ of certiorari. Norman Lefstein, a former Indiana law school dean and a consultant to the ABA, served as our expert witness. The case was eventually settled by an agreement between Mark Stephens and his office, and Knox County judges, prior to application for further appeal. Mr. Bahner, Mr. Love and I were later recognized by the Knox County Public Defender's Office for our work on the case.

Sovereign Order of St. John of Jerusalem, Inc. v. Grady, 119 F.3rd 1236, 43 U.S.P.Q.2d 1462 (6th Cir. 1997)

Together with my partner Doug Peck, I represented a group of the Knights of Malta in protracted trademark litigation in United States District Court. A jury verdict was entered for the Knights. Upon appeal the case was affirmed in part, reversed in part, and remanded for a new trial. The primary issue was ownership and use of a trademark. Both entities claimed right to the mark, dating back to the time of the Crusades.

United States v. Halpenny, 517 F.2d 1405 (Table) (6th Cir. 1975), *certiorari denied* 423 U.S. 1014 (1975)

Together with Assistant United States Attorney Lloyd Stanley I prosecuted the officers of the Chattanooga local of the Teamsters Union for conspiracy, and for the bombings of businesses and other locations in Chattanooga. This successful prosecution in United States District Court in Chattanooga (all defendants were convicted and sentenced to prison) ended efforts by the Teamsters to intimidate Chattanooga area businesses.

State v. Cozzolino, *prior opinion reported at* 584 S.W.2d 765 (Tenn. 1979) ; Hamilton County Criminal Court (because of conflicts, the matter was tried in Nashville, by designation, before Chancellor Robert High)

Ralph Robert Cozzolino had been sentenced to death by a Hamilton County jury, and the penalty phase of the case was reversed on appeal. See Cozzolino v. State, 584 S.W.2d 765 (Tenn. 1979). Neither of the two attorneys who had tried and

appealed the case was available for appointment. I was appointed (together with Doug Campbell) to handle the retrial of the penalty phase. The Davidson County jury deadlocked after considerable deliberation, and Cozzolino was given a life sentence.

United States v. Swafford et al., No. 1:04-cr-138, United States District Court, Eastern District of Tennessee, 2006

Together with Tom Greenboltz of my of office, I represented JES, Inc., a corporation wholly owned by individual defendant Swafford, in a nine-day trial in which Swafford and JES were charged with selling iodine with reasonable cause to believe that the iodine was being used in the manufacture of methamphetamine. Both Swafford and JES were convicted by the jury, but we were successful in negotiating the forfeiture of the property and in obtaining no fine for the corporation.

United States v. Lee, 542 F.2d 353 (6th Cir. 1976)

Together with Assistant United States Attorney Tom Dillard I successfully prosecuted this defendant for federal gambling offenses. The case was reversed on appeal in one of the Sixth Circuit's first applications of its Donovan rule, mandating the exclusion of wiretap evidence upon a showing of even inadvertent errors in a wiretap application.

United States v. Guidry, et al., 534 F.2d 1220 (6th Cir. 1976)

I successfully prosecuted two individuals for counterfeiting. They challenged both the use of a ruse (government agent posing as a repairman) and the probable cause (exigent circumstances, brought about by a fire adjacent to the dwelling as the defendants burned evidence) for the search and seizure of evidence used against them. The Sixth Circuit upheld the convictions, agreeing with the appropriateness of the exigent circumstances search. This case has been cited or mentioned by 30 courts, and in 15 secondary sources, including treatises, law review articles, and other publications.

United States v. Crane, 499 F.2d 1385 (6th Cir. 1974)

I successfully prosecuted this bank robber, together with three co-defendants (one co-defendant was acquitted) in an unusual bifurcated trial. The government sought the bifurcated trial in order to avoid potential Sixth Amendment problems. Defendant sought severance of his case from that of his co-defendants. The Sixth Circuit affirmed the use of the bifurcated procedure. The case has been cited or mentioned by more than 25 courts, and mentioned in more than 15 secondary sources.

State v. Nichols, 877 S.W.2d 722 (Tenn. 1994); see also, related cases; appeals from five trials, State v. Nichols, 1995 WL 755957, and State v. Nichols, 1990 WL 64526, involving double jeopardy issues #10

My partner Rosemarie Bryan (now Rosemarie Hill) and I were appointed to represent Harold Wayne Nichols in this death penalty rape/murder case, and in 12 other rape cases. Prior to trial of the rape/murder, four of the other 12 cases were disposed of, two through trial, and two by plea. (Nichols eventually pleaded guilty to several of the remaining rape cases, and one was dismissed.) After extensive work and investigation, a guilty plea was entered to the murder, and our efforts were concentrated on the penalty hearing. The Nichols cases were the first cases in Tennessee in which a jury from one county was taken to another county for trial, and that procedure was endorsed by the Supreme Court in its review. Nichols, who was known in the news media as the "Red Headed Stranger," was convicted, and is presently being held on death row at Riverbend Correctional Institution.

United States v. Roger Dunlap and Paul Cunningham, No. 74-1391 (6th Cir. 1974)

Two individuals from Texas purchased a Chattanooga business, and then liquidated its inventory, and other goods purchased in the name of the business. The individuals then declared bankruptcy. They were convicted of criminal bankruptcy fraud in what was at the time believed to be the first successful prosecution in the District of individuals for criminal bankruptcy fraud.

State v. Franklin, 714 S.W.2d 252 (Tenn. 1986)

Together with Jerry Summers, I was appointed to represent accused serial killer Joseph Paul Franklin on charges of bombing a synagogue in Chattanooga. The jury convicted Franklin, but the Court of Criminal Appeals reversed, finding that the trial court should not have allowed the defendant to interrupt the closing argument of his counsel in order to present his own argument, in which he admitted the charges against him. The Supreme Court reversed, and reinstated the conviction, holding that "No person can be compelled to take the advice of his attorney."

State v. Rounsaville, 701 S.W.2d 817 (Tenn. 1985)

Together with (now U.S. Magistrate Judge) Bill Carter, I was appointed to represent defendant on charges of forgery. We sought to suppress evidence that the defendant had apparently attempted to pass a forged instrument at the same bank two days before the offense charged in this case. The Court of Criminal Appeals affirmed, but the Supreme Court reversed, holding that "the testimony offered was quite prejudicial... and its probative value, if any, was very slight...." The case has been cited or mentioned more than fifteen times.

State v. Garner, 1993 WL 3474 (Tenn. Crim. App.1993)

My partner Rosemarie Bryan (now Rosemarie Hill) and I represented gymnastics instructor Bob Garner on charges of statutory rape. He was convicted upon the admission of the testimony of an accomplice, and on a taped telephone conversation. The Court of Criminal Appeals reversed, holding that the testimony of the accomplice was uncorroborated, and that neither party to the telephone call had consented to its taping. This case was favorably discussed and cited by the Court of Criminal Appeals.

State v. Carr, 1986 WL 12496 (Tenn. Crim. App. 1986)

My partner Rosemarie Bryan (now Rosemarie Hill) and I were appointed to represent defendant, charged with assault with intent to commit first degree murder, aggravated child abuse, and aggravated rape. Despite challenges that we raised to admissibility of certain evidence, the conviction of defendant was affirmed. Defendant later alleged ineffective assistance of counsel, asserting that we had improperly chosen not to litigate a consecutive sentencing issue on appeal. The Court of Criminal Appeals affirmed the trial court's denial of relief, stating: "Regarding counsels' effectiveness, the deliberate omission of the consecutive sentencing issue was a decision that we find was made after proper consideration and upon adequate justification. The tactic does not constitute ineffective assistance of counsel. Lawyers are not on 'piece work' and often more is not better." See Carr v. State, 1989 WL 108230 (Tenn. Crim. App. 1989).

United States v. Phinazee, 162 Fed. Appx. 439 (6th Cir. 2006)

I represented Rafael Phinazee, charged as a defendant in a cocaine conspiracy, in a nine-day trial. Phinazee was convicted, but on appeal we were successful in obtaining a new sentencing hearing (post Blakely). At the new sentencing hearing, the United States District Court Judge reduced Phinazee's sentence by five years.

Appeals

Messer-Gresheim v. Mellon Bank, et al., 45 S.W.3d 588 (Tenn. Ct. App.2001)

I represented Mellon Bank, the lender to a Kingsport producer of food grade carbon dioxide. The purchaser of contaminated carbon dioxide brought suit against several parties, including Mellon. Mellon was granted a summary judgment, and the Court of Appeals affirmed, holding for the first time in Tennessee that a lease financing arrangement did not make the lender liable for the torts of the borrower. This case has been discussed, cited or mentioned by more than 10 courts, and mentioned in more than 25 secondary sources.

the New York Court of Appeals in Whitestone Savings & Loan Assoc. v. Allstate Inc. Co., 28 N.Y.2d 332, 321 N.Y.S.2d 862, 270 N.E.2d 694 (1971). The case has been cited in two law review articles.

Watson v. Ameredes, 1997 WL 772865 (Tenn. Ct. App. 1997)

I represented Dr. Faye Ameredes as counsel in a successful effort to disqualify some of plaintiffs' counsel because of a conflict of interest. One of the attorneys for the firm defending Dr. Ameredes in a medical malpractice suit left that firm to work for a firm representing the plaintiffs. After a hearing, Circuit Court Judge John Hagler disqualified counsel, and this disqualification was upheld on appeal. This case, along with two other disqualification matters, are among cases principally involving ethics and professionalism in which I have served as counsel.

Chattanooga Metropolitan Airport Authority v. Thompson, 1997 WL 129366 (Tenn. Ct. App. 1997)

As general counsel for the Chattanooga Metropolitan Airport Authority I represented it in a declaratory judgment action, seeking to enforce the CMAA's right to regulate taxicabs on its premises, and to have a population exclusion in a relevant statute declared in violation of the Tennessee Constitution as an unwarranted exception to the "general law" requirement. The Court of Appeals affirmed the judgment of Chancellor Vann Owens holding the population exclusion in the statute to be unconstitutional.

Textron Inc. v. Barber-Colman Company, et al., 903 F. Supp. 1558 (W.D.N.C. 1995) #8

My partner Doug Peck and I represented Dixie Yarns, Inc. in this case in which Textron attempted to have the District Court impose environmental liability on a number of prior users of a North Carolina landfill. After my deposition of Textron's expert we filed a Daubert motion, challenging the sufficiency of the expert's opinion as unreliable and not scientifically supported. The case against Dixie was dismissed on this Daubert motion, and no appeal was taken by Textron. The case was subsequently mentioned in three law review articles, including THE DAUBERT HANDBOOK: THE CASE, ITS ESSENTIAL DILEMMA, AND ITS PROGENY, 29 Creighton L. Rev. 939, 1089 (1996), and is cited in Rodgers' Environmental Law (West).

Buchbinder v. Register, 634 F.2d 327 (6th Cir. 1980)

I represented Arthur Andersen and one of its partners, Levon Register, in a case of first impression involving application of the Tennessee Uniform Contribution Among Tortfeasors Act. The District Court granted summary judgment to Arthur Andersen and Register, and the Sixth Circuit affirmed. Buchbinder's release of

the fiduciary served also as a release of the alleged joint tortfeasors.

Wamp v. Chattanooga Housing Authority, et al., 527 F.2d 595 (6th Cir. 1975) #10

I represented the Department of Housing and Urban Development in opposing efforts by a group of Chattanooga plaintiffs to enjoin construction of an apartment complex on the former location of a city park. The plaintiffs were found to lack standing.

Lewis v. E.I. DuPont DeNemours & Company, Inc., 1987 WL 12873 (Tenn. 1987) #11

I represented DuPont in defending a workers' compensation case. The plaintiff was awarded compensation by the trial court. The Tennessee Supreme Court reversed, 3-2, on grounds that the claimant did not provide DuPont with proper notice of her injury.

Waring v. Polymer Materials, Inc., 1997 WL 32736 (Tenn. Ct. App. 1997) #12

I represented Polymer Materials in an employment contract action filed by a former officer of the company. The trial judge, applying the parole evidence rule, held that the summary judgment sought by the company should be granted, and the Court of Appeals affirmed.

State v. Lee, 634 S.W.2d 645 (Tenn.Crim.App.1982) #13

My partner Carter Lynch and I were appointed to represent appellant on a petition for post-conviction relief. The Court of Criminal Appeals denied relief, finding that although the trial court's instructions may have been inadequate, that error had been waived by trial counsel, and did not rise to the level of an abridgement of a constitutional right.

United States v. Jones, 542 F.2d 661 (6th Cir. 1976) #14

This prosecution of an individual for intercepting and disclosing wiretapped conversations of his estranged wife was dismissed by the United States District Court Judge as falling within an implied exclusion to federal wiretap laws for purely interspousal wiretaps placed on telephones within the marital home. The Sixth Circuit reversed, and returned the case for trial, holding that the "plain language" of the statute "compels interpretation of the statute to include interspousal wiretaps." This opinion has been cited or mentioned by courts more than 125 times, and mentioned in more than 60 secondary sources, including law review articles and treatises.

Rounsaville v. Evatt, 733 S.W.2d 506 (Tenn. 1987) #15

In an appointed post-conviction proceeding I raised the issue of whether the appellant, Alphonso Rounsaville, had been denied his Mackey rights when he was not informed in open court of his constitutional privilege against self-incrimination, and the court did not ascertain that he fully understood that right. The pleas were upheld by the Court of Criminal Appeals, but the Tennessee Supreme Court reversed. The case was subsequently cited or mentioned more than 100 times, as many post-conviction "Rounsaville" motions were filed.

Administrative

Along with my general practice in state and federal court, I have participated in several administrative matters. I have represented clients before the Environmental Protection Agency, the Tennessee Department of Health and Environment, and the Merit Systems Protection Board. Additionally I have appeared before local boards dealing with zoning matters, in agency proceedings related to unemployment compensation cases, and before the Chattanooga City Commission in regard to work for the Chattanooga Metropolitan Airport Authority.

In Re: Jackie L. McConnell, United States Department of Agriculture, before the Secretary of Agriculture, No. 12-0466

Together with my partner Tom Greenholtz, I represented Tennessee Walking Horse Trainer Jackie L. McConnell in administrative proceedings before the United States Department of Agriculture.

Truman Arnold Companies d/b/a TAC Air v. Chattanooga Metropolitan Airport Authority, United States of America Department of Transportation Federal Aviation Administration, Pursuant to Part 16 of the Federal Aviation Regulations

Together with Tom Greenholtz of Chambliss, and Washington, D.C. counsel Pablo Nueches, I represent the Chattanooga Metropolitan Airport Authority in an ongoing administrative proceeding filed before the Federal Aviation Administration, in Washington, D.C. The case concerns competition on the airfield. The matter was presented to the F.A.A. on briefs, and currently remains pending.

Tennessee Department of Health and Environment, proceedings relating to the proposed revision of TDHE Rule 1200-1-11-.02(1)(d)3(ii)(I), March 7, 1989

Together with my partner Doug Peck, I represented the Wheland Foundry Division of North American Royalties, Inc. in a successful effort to exempt certain foundry byproducts from treatment as a hazardous waste.

United States Environmental Protection Agency, In the matter of Wheland Foundry, Docket. No. RCRA-IV-89-25-R, final order of Administrative Law Judge issued October 22, 1993

Together with my partner Doug Peck, we continued to litigate the issue of whether certain foundry byproducts qualified for an exemption from treatment as a hazardous waste pursuant to the Bevill Amendment to RCRA. We were ultimately successful. An EPA Administrative Law Judge affirmed the applicability of the exemption to the Wheland Foundry byproducts.

Merit Systems Protection Board, Arnold v. TVA (No. AT-0351-98-0530-I-1), Ashe v. TVA (No. AT-0351-98-0679-I-1), Alder v. TVA (No. AT-0351-98-0770-I-1)

Together with my partner Doug Peck, I represented approximately 100 former TVA Public Safety Officers in an ultimately unsuccessful effort to save their jobs from a TVA reduction-in-force.

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.

Mediations

East Ridge Soccer Association v. City of East Ridge, Tennessee and Tim Gobble, Circuit Court of Hamilton County, Tennessee, Docket No. 12C268, Division I

In 2012, I successfully mediated a contentious dispute between the City of East Ridge and the independent East Ridge Soccer Association. The matter was resolved.

Arbitrations

Lofty Construction Co. v. Hamilton County, No. 03-1363, Hamilton County Chancery Court

In 2006, I served as the sole arbitrator of this complex construction dispute involving the construction of a five-mile segment of the Riverwalk in Chattanooga. Testimony was taken for 27 days, and the parties introduced over 1,000 exhibits, and the testimony of opposing expert witnesses. Each party claimed delay caused by the other, and additional damages under the applicable contract. My opinion was provided to the parties in June 2006.

Nicholas C. Hodges v. Partner Connections, LLC, Kirby Living Trust, James Kirby, et al., FINRA Dispute Resolution Arbitration Number 05-02771

In 2007, I chaired a three-person panel in a two-week arbitration for FINRA in Jackson, Mississippi of a multi-million dollar trademark and intellectual property ownership dispute between a broker and his former employer. The broker was the author of a very lucrative book series, and conducted seminars based upon his books. His former employer claimed ownership of the rights to the books and the seminars. The case was an unusual one for a FINRA panel, but was arbitrated because of the employment contract with the broker.

Tuftco Corporation v. Card-Monroe Corporation, No. 1:96-CV-352; Card-Monroe Corporation v. Tuftco Corporation, No. 1:96-CV-550, United States District Court, Eastern District of Tennessee

In 1996, I served as mediator in the successful mediation of this complex patent dispute. Because of the issues involved we decided to employ the services of a second mediator, a patent attorney from Washington, who assisted in evaluation of the patent issues in the cases.

BioMimetic Therapeutics, Inc. vs. Deutsche Bank Securities Inc., FINRA Dispute Resolution Arbitration Number 09-00876

In 2010, I was a member of a three-person FINRA arbitration panel that heard a weeklong case involving a \$16 million claim from a business that claimed to have lost that amount because of unwise investments in auction rate securities. This was one of the first, if not the first, of the auction rate securities cases to be tried, and the panel was presented with and analyzed a substantial amount of expert testimony on financial markets, mortgages, and the collapse of the market for auction rate securities.

United States of America v. Estate of William T. Rogers, et al., No. 1:97-CV-461, United States District Court, Eastern District of Tennessee

In 2001, I was appointed by United States District Court Judge Allen Edgar to mediate this complex civil Medicare fraud matter between the U.S. Department of Justice and the private parties. Mediation sessions were conducted both in Chattanooga and in Washington, D.C.

Motorola v. On Call, Inc.

In 1996, I mediated a contractual dispute between Motorola and On Call concerning paging devices.

I sat three or four times as a substitute judge of the General Sessions Court for Hamilton County, in the early 1990s. I have served as a mediator on numerous cases, from dog bites to complex patent disputes, and I have mediated a case by appointment of the United States District Court

for the Eastern District of Tennessee.

I have participated on panels, both as a chair and member, in the following arbitrations in which awards are publicly available from FINRA:

<u>Case ID</u>	<u>Case Name</u>	<u>Closed Date</u>
11-03721	Corey L. Price vs. ING Direct Investing, Inc.	07/31/2012
10-03797	UBS Financial Services Inc. vs. Benjamin Alvis Gentry, II	11/14/2011
10-00145	Ameriprise Advisors Services, Inc. vs. Homer Vining	03/09/2011
10-00553	Ameriprise Financial Services, Inc. vs. Harrison Blackwell	12/03/2010
08-01314	Richard Isaac, Personal Representative of the Estate of William Coleman Bryan, et al. vs. Morgan Keegan and Company, Inc.	04/01/2010
07-03505	L. Pauline Clark Rev Trust, L. Pauline Clark TTEE & Russell Clark v. Morgan Keegan and David Fortenberry	11/24/2008
07-02917	Gertrude McLean v. Matthew J. Clark, Timothy G. Dumas and Morgan Keegan & Co., Inc.	10/30/2008
07-01953	Lisa R. Hart v. Signator Investors, Inc.	05/28/2008
05-02771	Nicholas C. Hodges v. Partner Connections, LLC, Kirby Living Trust, James Kirby, et al CONS W/Case # 05-4012	02/08/2007
05-00701	John H. Chandler, Jr. and Kathleen W. Chandler vs. Morgan Keegan & Co., Inc.	12/01/2006
03-02884	Floyd E. Austin v. L.H. Ross & Company, Peter Dunne and Gary Redding	07/06/2006
02-03846	Marvene Carey v. Prim Securities, Incorporated, Timothy F. Brown, John M. Bixler and Michael C. Brady	05/27/2005
03-00517	Joseph Charles Barna vs. TD Waterhouse Investor Services Inc.	05/05/2005
03-07149	Prudential Securities vs. Lee C. Vaughan IV, John Connelly and Merrill Lynch, Pierce, Fenner and Smith, Inc.	05/21/2004
02-05810	Andrew K. Alepra v. Edward Jones and Joe Turner	02/17/2004
01-02439	Estate of Virginia B. Edwards v. J.J.B. Hilliard, W.L. Lyons Inc.,	

	PNC Bank Corp., PNC Financial Services Group, Inc.	07/29/2002
01-02562	Morgan Keegan & Company, Inc. v. Daniel C. Holloran	06/04/2002
00-02196	L. Rowe Driver v. Ladenburg Thalmann & Co., Inc., and Mark C. Hotton, M. S. Farrell	12/12/2001
98-02897	Terrell Bridges and Francis Bridges vs. Bear Stearns & Co., Bear Stearns Securities Corp. and First Cambridge Sec. Corp.	02/28/2001
99-02945	Georgia Capital Partners, Inc. d/b/a Traders Advantage vs. Francis J. McMahon, Jr.	08/16/2000
99-01240	Robert C. Nowotny v. J.P. Turner & Company, L.L.C., Marion Sherrill and Argent Securities, Inc.	05/05/2000
97-01819	Eula Franklin, Eric Choate, Jerry & Marie Peacher, Cauley & Erlene Bridges, Glenn & Nell Harrison v. Morgan Keegan & Co	08/19/1998
95-05061	Arthur Bice Asbury, Jr. vs. Aetna Life Insurance and Annuity Company	10/03/1997

I am a member of the American Arbitration Association and serve as a panel arbitrator. I have arbitrated the following cases in which awards are publicly available from AAA:

<u>Case ID</u>	<u>Case Name</u>	<u>Closed Date</u>
30 148 E 512 10	Wells Fargo v. Peymax Properties, et al	1/2011
30 434 E 955 09	Robin Cook v. American General Financial Services, Inc.	5/2010
30 430 E 276 09	Travis Wanamaker v. Rural Community Insurance Svcs.	5/2010
30 104 E 789 09	Regions Bank v. Robert Bell, et al.	3/2010
30 145 E 681 09	Bob Cook Sales, Inc. v. Dan Haggerty's International Products Incorporated d/b/a Precision Design & Mfg.	1/2010

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 hold powers of attorney for my Mother. I also served as the Chairperson of the Permanent Endowment Committee at Brainerd United Methodist Church, Chattanooga, Tennessee, and I have been Treasurer of the Friends of the Festival, Inc. (Riverbend Festival). I am a member of

the board of two charitable foundations, Community Foundation of Greater Chattanooga, and BOTA Foundation.)

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

I have had an extensive appellate practice, in both state and federal courts. I have participated in approximately 50 appeals, and have argued cases before the Tennessee Supreme Court, the Tennessee Court of Criminal Appeals, and the Tennessee Court of Appeals. I have also argued cases before the United States Court of Appeals for the Sixth Circuit and the United States Court of Appeals for the Federal Circuit.

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.

July 6, 2006. I submitted an application for nomination to the Tennessee Court of Criminal Appeals. The application was considered by the Tennessee Judicial Selection Commission that summer. My name was submitted to Gov. Phil Bredesen as a nominee.

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.

I attended Vanderbilt University from 1962 to 1966, and was awarded a Bachelor of Arts degree. My major area of study was political science, and I had minor areas of study in English and history. I was editor of the student newspaper, The Hustler.

I attended Yale Law School from 1966 to 1969 and was awarded a Bachelor of Law degree.

I served on the Editorial Board of The Yale Advocate (student newspaper) from 1967-1969. I participated in the intra-school, appellate moot court program as a law student at Yale.

PERSONAL INFORMATION

15. State your age and date of birth.

Age 68; DOB: June 29, 1944.

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

My parents are both natives of Knoxville, and I was born in Norfolk, Virginia in 1944 while my father was stationed there during World War II. We moved back to Tennessee in 1946 or 1947. I lived in Knoxville, briefly, and then continuously in Chattanooga until entering college in 1966. I lived in Nashville, Tennessee while attending Vanderbilt University and in New Haven, Connecticut while attending Yale Law School. I lived in Washington, D.C. 1970-73, while I was with the United States Department of Justice. My wife and I moved back to Chattanooga in 1973, and I have lived there continuously since then. Other than the two or three years in Norfolk, Virginia, the three years I lived in Washington, D.C., and my years in law school. I have always lived in Tennessee.

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

I am presently living in Hamilton County, and I have lived here continuously since 1973. I also lived in Hamilton County, Tennessee from 1947 to 1969.

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

Hamilton 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.

N/A

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.

I have no convictions for the violation of any law, regulation, or ordinance except for two traffic violations. In the fall of 1969, I pled guilty to speeding in Davie County, North Carolina, and I paid a fine. In 1961, I pled delinquent in the Hamilton County Juvenile Court for failure to yield

right of way. I also paid a fine.

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.

I am not, to my knowledge, under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule.

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 never been disciplined or cited for breach of ethics or unprofessional conduct by a court, administrative agency, bar association, disciplinary committee, or other professional group.

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 tax lien or other collection procedure has ever been instituted against me by any federal, state, or local authorities or creditors.

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

I have never filed bankruptcy (either personally or as part of any partnership, LLC, corporation, or other business organization).

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.

As sometimes occurs, I have been named in ineffective assistance petitions filed by clients I was appointed to represent. All such petitions have been dismissed or denied. A petition filed by Harold Wayne Nichols was denied in the trial court and affirmed on appeal. See Nichols v. State, 2001 WL 55747 (Tenn. Crim. App. 2001). Likewise, a petition filed by Jack P. Carr was denied in the trial court and affirmed on appeal. See Carr v. State, 1989 WL 108230 (Tenn.

Crim. App. 1989). Finally, a petition filed by Dewey Sizemore is the late 1970s or early 1980s was dismissed by the United States District Court for the Eastern District of Tennessee.

In 2006, my wife and I sued a waste hauler in Hamilton County General Sessions Court for damages to our property. (Case No. 05GS10896, Hugh Moore & Jean Moore vs. Tennessee Waste Haulers, LLC & Daryl Wilkey.) The matter was settled, and the case was dismissed.

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.

•	<i>Brainerd United Methodist Church, Chattanooga, Tennessee:</i>	
	Chair, Administrative Board	1995-1998 (approximate)
	Chair, Church Council	1998-2000 (approximate)
	Chair, Permanent Endowment Committee	2000-2004
	Member, Finance Committee	various, including 2000-2003, and 2005-present
•	<i>Chattanooga Rotary Club</i>	
	Chair, Scholarship Committee	2006-2007
•	<i>Orange Grove Center, Inc.</i>	
	Board of Directors	1996-2012
	President, Board of Directors	2005-2007
•	<i>Friends of the Festival, Inc. (Riverbend Festival)</i>	
	Board of Directors	1983-1988 (approximate) 1995-2012
	President	1997-1998, 2010-2011
	Treasurer, Executive Committee	2004-2012
•	<i>Community Foundation of Greater Chattanooga</i>	
	Board of Directors, Program Committee	June 2010-present
•	<i>BOTA Foundation</i>	
	Board of Directors	2012-present

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.

Yes. a. **Chattanooga Downtown Rotary Club:** I joined the club in 1986. Membership was limited to men until sometime in the 1990s. For approximately 20 years membership in the club has been open to both men and women. I would not intend to resign from the Chattanooga Downtown Rotary Club.

b. **Mountain City Club:** This is a downtown dining club. I joined the club in the 1980s. Membership was limited to men, except for widows of deceased members. The policy changed more than 20 years ago, and membership in the club is open to both men and women. I would not intend to resign from the Mountain City Club.

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 Bar Association, 1970-present
Editor, Litigation News 1983-1990
- Tennessee Bar Association, 1970-present
- Chattanooga Bar Association, 1973-present
Board of Governors, early 1980s, chair Law Day Committee, 1970s, member Pro Bono Committee 1994, chair Pro Bono Committee 2003-2009
- Federal Bar Association, 1970s-1980s, 1995 (approximately)-present
President, Chattanooga Chapter, 1976-1977
- Member, Commission on the Status of Women and Minorities in the Practice of Law (Tennessee Bar Association), 1992-1993
- Member and Chair, Tennessee Supreme Court's Advisory Commission on the Rules of Civil and Appellate Procedure. I was first appointed to this Commission on January 1, 1995 and served until December 29, 2003, when the Commission was merged with the Advisory Commission on the Rules of Criminal Procedure.
- Member and Chair, Tennessee Supreme Court's Advisory Commission on the Rules of Practice and Procedure. I was the chairperson of this Commission from its inception on December 29, 2003 until my last term expired on December 31, 2009.

These commissions meet five times each year and make recommendations to the Supreme Court on changes in the Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Appellate Procedure and Rules of Evidence.

- Member, Hearing Committee, Tennessee Board of Professional Responsibility, 1996-2002
- Founding Master, Brock-Cooper Inn (Chattanooga), American Inns of Court, an organization designed to improve the skills, professionalism and ethics of the bench and bar.

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.

- Fellow, American College of Trial Lawyers, 1990, former member of State Committee
- Fellow, American Bar Foundation
- Fellow, Tennessee Bar Foundation
- Fellow, Chattanooga Bar Foundation
- Chattanooga Bar Association Volunteer Lawyers Program, Founders Award, December 1, 1994
- Listed in *The Best Lawyers in America* since 1995. I am presently listed in the categories of Bet-the Company Litigation, Commercial Litigation, and Municipal Litigation.
- Listed in *Mid-South Super Lawyers* from 2006-2010.
- I received two Letters of Commendation from FBI Director Clarence Kelley for work I performed on cases while with the United States Attorney's Office: August 15, 1975 and December 24, 1975.
- I was appointed by United States District Court judges to two panels regarding selection of the United States Magistrate Judge. I was the chair of panel in early 1990s that was appointed to review and make a recommendation regarding reappointment of Magistrate Judge John Y. Powers. I was also a member of a panel appointed in 2004 to interview and make recommendations regarding appointment to newly created Magistrate Judge position in Chattanooga.

- I am a court-appointed mentor for other members of the Criminal Justice Act panel for the United States District Court for the Eastern District of Tennessee.
- In 2011 I received the Ralph H. Kelley Humanitarian Award from the Chattanooga Bar Association. The award is given annually by the CBA “to a member of the profession of judicial officer who displays exemplary service to the community of Chattanooga by civic, professional and/or other activities directed toward to improvement and preservation of the lives, property and dignity of its citizens. *** The recipient must...have...recognized community service with emphasis on social service of both public and charitable nature....”

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

- Hugh Moore, Jr., *A Newspaper's Risks in Reporting "Facts" from Presumably Reliable Sources: The Study in the Practical Application of the Right of Privacy*, South Carolina Law Review, 22 S.C.L. Rev. 1 (1970).
- Paul Campbell, III & Hugh J. Moore, Jr., *Mass Tort Litigation in Tennessee*, 53 Tenn. L. Rev. 221 (1986).
- Numerous articles from my time as an Associate Editor of *Litigation News*, published by the American Bar Association, 1983-1990.
- I published a quarterly column in the Journal of the Tennessee Law Enforcement Officers Association from 1977 to 1996. The column, which was entitled “Legal Corner,” gave guidance and advice to law enforcement officers regarding various changes in the law and constitutional procedure. The Tennessee Law Enforcement Officers Association passed a resolution recognizing my work in researching and preparing these articles.

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 within the last five (5) years.

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.

In November, 2010 I was elected to a four-year term as Commissioner of the City of Ridgeside, Tennessee.

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

I have never been a registered lobbyist.

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.

- Hugh J. Moore, Jr., *A Newspaper's Risks in Reporting "Facts" from Presumably Reliable Sources: The Study in the Practical Application of the Right of Privacy*, South Carolina Law Review, 22 S.C.L. Rev. 1 (1970). This article was entirely my work product. (Attached as **Exhibit A**)
- Global Material Technologies, Inc. v. Dazheng Metal Fibre Co., Ltd., Dazheng Metal Fibre Co., Ltd. d/b/a ChuanGuPing a/k/a "Tru Group"; and Dong Juemin, individually, United States District Court for the Middle District of Tennessee, No. 2:11-0023. Partial Response to Dispositive Motion of Defendants Regarding Defendants' Motion to Dismiss Under Rule 12(B)(6) of the Federal Rules of Civil Procedure; filed September 16, 2011. This pleading is ninety-five percent (95%) my work product. (Attached as **Exhibit B**)
- United States of American v. Dianik Barroso, et al., United States District Court for the Eastern District of Tennessee, at Chattanooga, No. 1:11-cr-73. Sentencing Memorandum of Defendant Dianik Barroso; filed June 15, 2012. This pleading is eighty percent (80%) my work product. (Attached as **Exhibit C**)

ESSAYS/PERSONAL STATEMENTS

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

I would like to serve the people of this state as a judge on the Court of Appeals, and this position is one in which I would do well. Since graduating from law school, I have been involved in public service, and work as an appellate judge would be a continuation of that public service in ways that continue to be of interest to me. For example, I have a strong interest in the law and in its just application to individuals and entities. I also enjoy writing and research, and each has long been of interest to me, whether as a lawyer or in previous days as a reporter. My experience with newspapers some 40 years ago taught me the need for writing both concisely and clearly. My law firm has asked me to work with associates on a continuing basis on their writing skills. No better way exists to put these interests to work than as a judge 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)*

For approximately three years from 1970 to 1973, I worked as a trial attorney with the Civil Rights Division, Education Section, of the United States Department of Justice in Washington,

D.C. Each day, this work was directed at helping individuals achieve equal justice under law. Although I worked once in Mississippi as an election observer, the remainder of my time with the Division was spent in preparing and litigating school desegregation cases and incidents of teacher and student discrimination in Georgia, Virginia, South Carolina, Florida and Texas. During my tenure as an Assistant United States Attorney, I worked to see that the federal justice system treated all persons with dignity and fairness. I have continued to accept pro bono criminal appointments, both state and federal, in order to make real my commitment to see that everyone has the right to competent representation. I was recognized by the Chattanooga Bar Association for being one of the founders of the Volunteer Lawyer Program of the CBA, and I served as Chair of the CBA Pro Bono Committee for approximately 10 years. As noted above, with two other Chambliss attorneys, I devoted more than 350 pro bono hours in an effort to reduce the heavy caseloads in the Knox County Public Defender's Office.

In August 2010, I represented Lawyers Without Borders U.S. as one of the United States' delegation to the 2012 Colombia Caravana Internacional de Juristas. With about 50 other attorneys, from Canada, Mexico, Great Britain, Spain, and several other countries, I spent a week in Colombia working with Colombian attorneys in an effort to bring some international attention to the difficulties they face on a daily basis. More than 400 lawyers have been murdered in Colombia since 2000. I met with the Acting Attorney General of Colombia, and with officials of the United States Embassy. My group also spent time in Tunja, a provincial capital, interviewing attorneys and others, and meeting with student groups. A summary report of our work was presented to an agency of the United Nations.

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 Tennessee Court of Appeals, Eastern Section, sits regularly in Knoxville, and occasionally in Nashville and Jackson. It is the first level of appeal for any civil matter in the state, and also hears appeals for certain boards and commissions. Because further review of civil cases is generally discretionary by the Tennessee Supreme Court, this court often serves as the final arbiter of justice in the vast majority of civil cases within the state. The Court's analysis of the legal issues and its rulings are particularly important because most appeals do not go beyond that Court.

There are at present 12 judges who sit on the Court. No more than four members may reside in one grand division of the state. The seat I am seeking must be filled by a resident of the Eastern Grand Division. My selection would impact the court by providing it with additional representation from southeast Tennessee.

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 intend to stay active promoting the pro bono efforts of the Chattanooga Bar Association and the Tennessee Bar Association. I would retain my present positions on various committees at my

church. I would like to continue my work on the boards of the BOTA Foundation and the Community Foundation of Greater Chattanooga.

Finally, I would be available to speak to groups, large and small, about our justice system, and the importance of equal access to that system, by everyone. I am particularly interested in discussing with students the merits of a career in law, and the public service aspects of such work.

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)*

This judgeship would allow me to combine my career-long interest in justice and the law, with my ability to research an issue thoroughly and write about it clearly, concisely and in a well-reasoned manner. My father was a law enforcement officer, retiring as a Lieutenant after 40 years in the Public Safety Service for the Tennessee Valley Authority. He taught me the value of fairness in dealing with individuals, and entities, no matter what the situation. From him and my mother I learned early to expect the best from people and to treat people as I would wish to be treated.

I went to law school with the thought that I would continue in journalism after graduation, but the three years of law school opened my eyes to a new world. My professors had been involved in public service at all levels. My classmates were interested in public service, and one-third of the graduates in my class went to work for legal aid agencies and another third took positions as judicial law clerks. I left law school believing that I should give something back to the country, to everyone that had helped me. My work with the Civil Rights Division and as a federal prosecutor were service positions that tried to put these ideals into practice. I'm ready to reenter public service, and I believe that my life experiences will enable me to serve the people of Tennessee well as an appellate judge.

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)*

Yes. The law is what it is. The duty of an appellate court judge is to apply the law, as it exists, to a particular fact situation. As an arbitrator I have learned to apply applicable rules, fairly and impartially, in situations where I may have considerable sympathy with a complainant. These are not situations in which I necessarily disagree with a given rule, but application of the rule to the facts of a case is the correct, if not the easy, thing to do. In my environmental work for manufacturers, I often thought that certain regulations were perhaps unreasonable in a particular situation. Nevertheless, I worked with my clients to achieve full compliance with the existing 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.

Retired Chief Justice Muecke Barker
Of Counsel
Chambliss, Bahner & Stophel, P.C.

[REDACTED]

T. Maxfield Bahner
Attorney and Shareholder
Chambliss, Bahner & Stophel, P.C.

[REDACTED]

Rosemarie L. Hill
Attorney and Shareholder
Chambliss, Bahner & Stophel, P.C.

[REDACTED]

Moses Freeman
Retired; Community Leader

[REDACTED]

Chip Baker
Executive Director
Friends of the Festival, Inc.

[REDACTED]



TENNESSEE JUDICIAL NOMINATING COMMISSION

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

TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY TENNESSEE BOARD OF JUDICIAL CONDUCT 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 Board of Judicial Conduct 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.

Hugh J. Moore, Jr.

Type or Printed Name

Hugh J. Moore, Jr.

Signature

OCTOBER 17, 2012

Date

000883

BPR #

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