

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

*Rev. 22 December 2011*

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**INTRODUCTION**

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

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website <http://www.tncourts.gov>). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) *and* electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit fourteen (14) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to [debra.haves@tncourts.gov](mailto:debra.haves@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 currently in private practice with Sheppard and Mynatt, PLC, a firm that handles primarily civil litigation, business and estate planning, and domestic relations law.

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

I was licensed on April 26, 1980. My BPR number is 007180.

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 is the only state in which I have sought licensure. My license is currently 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).

After graduating from law school in December of 1979, I took and successfully completed the Tennessee Bar Examination in February of 1980. My professional employment has consisted of the following:

April, 1980 - December, 1985: Lockridge and Becker, P.C. (originally Lockridge Dougherty and Becker, P.C.).

January, 1986 - August, 1988: Allen, Taylor, Sheppard and Parris.

September, 1988 - February, 1989: Law Office of Sarah Y. Sheppard.

March, 1989 - March, 1994: Susano and Sheppard (later known as Susano, Sheppard, Giordano and Swanson).

April, 1994 - present: Sheppard and Mynatt, P.L.C. (formerly Sheppard, Swanson, Mynatt and McMillan, P.L.C. and subsequently Sheppard, Swanson and Mynatt, PLC, until Mr. Swanson became Law Director for the City of Knoxville in December of 2011.)

From 1988 to the present, I have been an instructor with the Tennessee Law Institute, teaching an annual continuing legal education seminar to attorneys and judges across the state regarding recent developments in the law. This job, which is performed on my personal time outside of my full time law practice, involves the analysis of all new statutes and appellate cases relevant to Tennessee practitioners, and the teaching of these important new developments to between 2000 and 3000 lawyers per year, as well as to federal judges and Tennessee trial judges, intermediate appellate judges, and Supreme Court justices at a series of seminars across the state.

From 1987 through 2002, I served as an adjunct professor at the University of Tennessee College of Law, where I taught trial practice and family law.

For approximately five years, I was also an instructor with BAR/BRI Bar Review Course, teaching the domestic relations law portion of the Tennessee bar review.

Throughout undergraduate school and part of my first year of law school of law school, I was employed by the University of Tennessee in the Registration Office, ultimately in a supervisory position. Prior to that job, my only jobs were as a counselor in training at YMCA Camp Montvale, babysitting, and as a store clerk at Hickory Farms of Ohio. Since law school graduation, in addition to the employment listed above, I am a member of Colonial Hill, LLC, which is a two-member limited liability company that owns the office building in which my law practice is located. I own fifty percent of the entity.

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

Not applicable.

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

I am in private practice handling civil matters, as follows:

A. Sixty-five percent of my practice is in the area of domestic relations, with an emphasis on complex divorce cases involving significant assets and complicated business and valuation issues. I also handle adoptions, termination of parental rights cases, domestic violence matters,

custody cases and child support matters.

B. Five percent of my practice involves estate planning, trusts, and probate matters.

C. Ten percent involves business planning and business litigation, typically for small, closely held business entities.

D. Five percent of my time is devoted to a pro bono non-profit client, the Episcopal Diocese of East Tennessee. My title is Chancellor. The role is similar to being house counsel to a business. I provide legal advice on numerous issues, including the areas of human resources, real estate, torts, corporate law and, to a limited extent, immigration and criminal issues. I also advise the Diocese on canon law.

E. Five percent of my time is spent acting as a mediator in various civil cases.

F. The remaining five percent of my practice encompasses miscellaneous civil matters, including serving as an expert witness in legal malpractice cases and acting as a court appointed special master.

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.

When I first began the practice of law, I was an associate in a firm with an extensively diverse practice. In the 1980's, long before the days of mediation, many more matters were resolved through litigation at the trial and appellate levels. Because of my experience on the University of Tennessee Law Review, I was assigned many appellate briefs to write and was involved in twelve appeals in my first two years of practice. This was an extraordinary opportunity for a young lawyer to review trial records, many of which involved trials in which I had no prior involvement.

I learned to review a trial record, determine what facts supported the firm's client's position, and research the law to find authority to support the desired outcome. I also learned very quickly the

necessity of building a proper record at trial and the value of winning at the trial level, in light of the abuse of discretion standard that applies to a significant portion of appellate review.

In the early years of my practice, one of the firm's partners frequently argued constitutional issues to save otherwise lost causes, and I learned much from him about the sanctity of the state and federal constitutions. I also learned about the creative use of constitutional challenges when other legal alternatives appeared futile.

In addition to appellate work, I developed a general civil practice which included various types of domestic relations cases, business cases, tort cases, such as personal injury and products liability matters, drafting wills, probating estates, and drafting corporate and employment agreements.

After approximately five years with one firm, I moved to another firm that focused its practice on transactional law, including corporate, estate, and some securities matters and administrative law. My role included handling my own domestic relations, tort, business and estate matters. I also played a major role in most of the litigation that was spawned by the transactional work of my partners. This included various types of business disputes, such as partnership dissolutions and suits over non-compete covenants, as well as tax matters, both in court and at the administrative level with the Tennessee Department of Revenue. I had other administrative cases, such as representing entities seeking a certificate of need before the Health Facilities Commission.

Since starting my own firm in 1988, my practice has encompassed general civil litigation, domestic relations law, transactional law, medical malpractice representation for both plaintiff and defense, legal malpractice, other torts, such as automobile accident cases for both plaintiff and defense, civil rights matters, collections issues, certificate of need approvals before the Tennessee Health Facilities Commission and appeals to an administrative law judge, securities law, landlord/tenant law, municipal law, tax law, guardianships, conservatorships, representation of attorneys in ethics matters before a Board of Professional Responsibility hearing panel, and a small amount of zoning, construction law, Fair Labor Standards Act issues, workers compensation, RICO and criminal law. Other administrative entities before which I have appeared include the Knox County Metropolitan Planning Commission and the Tennessee Board of Probation and Parole.

I have tried cases in the general sessions, circuit and chancery courts and have handled appeals in the Court of Appeals and the Tennessee Supreme Court. I have also handled matters in the United States District Court for the Eastern District and Middle District of Tennessee and the Sixth Circuit Court of Appeals. In addition to these courts, I have been admitted to practice in the United States Supreme Court and the United States Tax Court.

I have always practiced in small firms. Therefore, my role in each matter has been significant, from drafting pleadings, planning trial strategy, preparing discovery and conducting trials. Since the early years of my practice, I have had primary responsibility for most of my clients' cases and sole responsibility for many of those.

In addition to practicing in these areas, my twenty-four years of work with the Tennessee Law Institute has involved the review and analysis of court decisions in many areas of law, including torts, domestic relations, conflict of laws, civil procedure, evidence, civil rights, constitutional law, securities law, secured transactions, contracts, estates, taxation, property, antitrust, trade

regulation, ERISA, constitutional law and ethics. In order to effectively teach the substance and impact of new legal decisions, an understanding of the law is critical. When faced with a legal issue outside of my general sphere of expertise, I have been required to conduct extensive research to educate myself about the issues at hand in order to arrive at the appropriate analysis of the legal issues at state. I believe this experience would be invaluable for a judge on the Court of Appeals. This work is done on my personal time, outside of my full-time law practice. The fact that I have been able to handle both a busy private practice and my lecturing duties for these many years speaks, I believe, to the quality and extent of my work ethic.

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

**In re Caleb L. C.**, 363 S.W.3d 581 (Tenn. Ct. App. 2011), *permission to appeal denied*: I handled the appeal of this complex dependency and neglect case, which began in Juvenile Court for the City of Bristol and was appealed to Sullivan County Circuit Court. It involved a young boy whose mother died. Temporary custody was granted to the child's paternal uncle and aunt. The child's father vigorously contested the finding of dependency and neglect and the award of custody to the uncle and aunt. Multi-day trials had occurred in both the juvenile and circuit courts, and the proof clearly established that the father had an extensive history of abusive behavior to a number of his own family members, including his mother, daughter, and two ex-wives, and would present a threat to the child if given custody. I was retained to represent the uncle and aunt in the appellate phase. Complex procedural issues were raised by the father on appeal, and I successfully convinced the Court of Appeals to affirm the trial court. The Tennessee Supreme Court denied the father's request for permission to appeal. The case is noteworthy on a legal level because the court clarified procedural intricacies of the dependency and neglect statutory scheme. It is also noteworthy because it enabled a young boy to be raised in a loving, peaceful home rather than in a violent, abusive one.

**Bratton v. Bratton**, 136 S.W.3d 595 (Tenn. 2004): I represented the husband in this divorce case, which was tried in 2003 in Hamblen County Chancery Court. The case was appealed to the Court of Appeals and subsequently to the Tennessee Supreme Court. The primary issue on appeal was the validity, or lack thereof, of a post-nuptial agreement executed by the husband at the wife's insistence providing that, if the husband were ever guilty of misconduct giving rise to grounds for divorce, the wife would receive half of his income. Fortunately for my client, the court found the post-nuptial agreement to be invalid for lack of consideration. However, the case is noteworthy because it established that a properly drafted post-nuptial agreement with adequate consideration is enforceable in Tennessee.

**Aaby v. Strange**, 924 S.W.2d 623 (Tenn. 1996): In this post-divorce custody appeal, I represented the mother, who was the primary residential parent of the parties' minor son. She wished to relocate to Kentucky with her son and new husband. Ultimately, the Tennessee Supreme Court allowed her to relocate. In doing so, the court established the standards and procedures to be used in determining whether parental relocation of a custodial parent with a minor child is appropriate. These standards were adopted by the legislature the following year, when Tennessee's parental relocation statute was enacted. The case played a pivotal role in

establishing law that continues to be in effect today.

**Dover v. Dover**, 821 S.W.2d 593 (Tenn. Ct. App. 1991): This case addressed the role of an expert witness appointed by the trial court pursuant to Rule 706 of the Tennessee Rules of Evidence, which gives the trial judge the right to appoint its own expert in non-jury cases. It was the policy of the trial judge in this case to routinely appoint a psychologist to perform a custody evaluation in all cases involving contested custody of children. The expert, typically a psychologist, would conduct the evaluation of the parties and their children and file a report with the court. The report then became part of the record and was considered by the trial court in reaching a custody decision, regardless of whether the expert ever testified. In this case, the expert's unsworn report was detrimental to my client, and I objected to its automatic admission into the record. The Court of Appeals agreed. The mere fact that an expert is court appointed under Rule 706 does alleviate the requirement that the witness appear and testify under oath, absent stipulation to the contrary.

**In re Peter Lillilid**, Knox County Chancery Court (1997): This four day long trial involved custody of a two year old child. His family, including father, mother and older sister, had stopped at a rest area on I-40 near Greeneville, Tennessee. His father, a devout Jehovah's Witness, had been passing out some religious information at the rest stop. The family was kidnapped by a group of six teenagers who forced the family to a remote location, shot all four of them, and stole their van. The parents and daughter died, and the son, Peter, suffered a severe spinal cord injury. A custody fight ensued between the child's maternal relatives, who lived in Miami, and the child's paternal aunt and uncle, who lived in Sweden. The case was significant because it was one of the first in Knoxville in which portions of the trial were covered extensively on local television as the case unfolded. The chancellor's opinion was broadcast live. The case attracted extensive community interest and gave many local citizens their first view of what actually occurs in a real court proceeding.

**Weisgarber v. Tittle**: I represented the plaintiff in a significant medical malpractice case in Anderson County Circuit Court, which was tried for approximately a week and resulted in a hung jury. The plaintiff suffered an infection and serious complications after foot surgery. As a result, she was hospitalized for sixty-one days over a four month period and underwent extensive and painful debriding and other treatment. This significantly interfered with her ability to care for her quadriplegic husband. The husband, a star witness at trial, died unexpectedly shortly thereafter. The case involved complex issues regarding causation, liability, and the specific type of infection. The loss of consortium claim of the quadriplegic husband was unique because he depended on his wife for his daily care. Ultimately, my client received an equitable settlement in post-trial mediation. The case was noteworthy not only because of the very positive outcome to her, but also because it demonstrated the benefit of mediation in conjunction with the jury system to achieve a just result.

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 invited to participate in mediator training in 1993 by the United States District Court for the Eastern District of Tennessee. At that time, the magistrate judges were being called upon to act as settlement judges, or quasi-mediators, in many cases, which took a significant amount of their time. As the mediator concept blossomed, our local federal court selected twelve individuals to train as mediators, thus freeing up the magistrate judges. I was fortunate to be one of those twelve people. In 1998, I became a Rule 31 Listed Mediator.

I estimate that I have served as the mediator in more than 150 mediations. I have not retained a running list of these through the years, but I have served as mediator approximately one day per month. In most of these mediations, I was selected by agreement of the parties and their counsel, although a few have been court appointments. The cases I have mediated have included sexual harassment matters, business disputes, wrongful termination cases and tort cases in federal court. The majority of my mediation cases have been domestic relations cases, typically involving large marital estates and complex financial issues. Although each of these cases has been significant to the parties involved, I do not recall any that I would identify as noteworthy in the overall scheme of things.

In 2008 I was appointed by Chancellor Daryl Fansler to serve as a special master in in a divorce case involving substantial property issues, Gilbert v. Gilbert, Knox County Chancery Court cause number 164520-2. A multiday hearing was held and I rendered a lengthy report, most of which was adopted by the court.

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 have served as executor of the estate of several clients and family members. I have also served as trustee of testamentary trusts of family members and as attorney in fact for my father. Early in my career, I was appointed as a guardian ad litem in a variety of conservatorship, guardianship, and termination of parental rights cases.

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

I had the distinct privilege of being appointed to the Tennessee Bar Association Task Force on Rules of Judicial Conduct in 2009. This group consisted of seven judges and six attorneys who were charged with reviewing the then existing ethics rules for judges, which were based on the American Bar Association Model Rules from 1991, in light of the 2007 ABA Model Code. My job as reporter for the task force included researching and reviewing each provision of the new model code, comparing it to the comparable existing Tennessee provision, looking at what each of the other states has done, and presenting this information to the rest of the group. We met many times over a two and one-half year period and went through the rules sentence by sentence. I then compiled the provisions agreed upon by the task force into a proposed new Code of Judicial Conduct, which the Tennessee Bar Association presented to the Tennessee Supreme



Court. The court published the proposal for comments, and many were received from bar associations, judges and others. I was one of several speakers before the Tennessee Supreme Court when the matter was argued in December of 2011. It was a great honor and privilege to work with the fine judges and lawyers on the task force. This experience gave me extensive insight into the requirements of being a judge.

From 1998 to 2007, I served on the Advisory Commission to the Tennessee Supreme Court on Rules of Practice and Procedure. This body reviews suggested changes to the Tennessee Rules of Civil, Criminal, Appellate and Juvenile Procedure and the Tennessee Rules of Evidence. Annually, a package of proposed changes is presented to the Supreme Court for its consideration. The proposed rules are published for public comment, and the court then determines which of these should be submitted to the Tennessee General Assembly for consideration.

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.

I applied for the Tennessee Supreme Court in 1994. The Selection Commission meeting was held in late January, to the best of my recollection. My name was not submitted to the Governor.

I applied for the Tennessee Court of Appeals, Eastern Division in the fall of 2008. To the best of my recollection, the commission meeting was held in November of 2008. The commission submitted my name to the Governor 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 the University of Tennessee, Knoxville from September, 1972 through May, 1976. I received a Bachelor of Arts degree, with honors. My major was organism and systems biology, with a minor in chemistry.

I attended the University of Tennessee College of Law from September, 1976 through December, 1979, at which time I was awarded a Doctor of Jurisprudence degree. While in law school, I served as a staff member of the Tennessee Law Review, was named to the Dean's List, and received the A.J. Graves Memorial Scholarship.

**PERSONAL INFORMATION**

15. State your age and date of birth.

I am fifty-seven years old and was born on January 30, 1955.

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

I have lived continuously in the State of Tennessee for fifty-one years.

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

I have lived continuously in Knox County for fifty-one years.

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

I am registered to vote in Knox 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, with the exception of three speeding tickets in forty years of driving. I have not retained a record of the dates.

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.

A. First American National Bank v. Lockridge & Becker, P.C. and Sarah Y. Sheppard, Knox County Circuit Court, Cause No. 1-39-86:

In January of 1986, my prior law firm and I were sued for legal malpractice. The suit was filed by a bank serving as executor of the estate of William Southgate Green. My firm had represented Dr. Green in a divorce, and I drafted a prenuptial agreement prior to his subsequent remarriage. He was killed in an automobile accident. The bank was concerned about being caught in a dispute between his first and second wives. The lawsuit alleged that the prenuptial agreement was valid, but that, in the event a court ever determined it was not valid, my firm should be held responsible. The case was totally meritless, was voluntarily dismissed within a few months of having been filed, and was never filed again.

B. Two Centre Square v. Susano and Sheppard et al, Knox County Chancery Court, cause number 11440-2:

In approximately July of 1992, my firm, my partner at the time, and I were sued by Centre Square Two, our landlord. We had endured an ongoing dispute with the landlord because our office space, on the sixth floor of Centre Square II in Knoxville, had been leaking intermittently for a period of many months. Despite our repeated complaints, the landlord did not successfully

stop the leak. As a result, we suffered property damages and at least one of our employees suffered some health problems from exposure to mold. Ultimately, we gave notice that we were departing the premises for the landlord's breach of the lease. The landlord sued, alleging breach of contract. The matter was settled out of court.

C. John J. Hooker case:

At some point in time during my tenure as chair of the Judicial Evaluation Commission, I was sued by John J. Hooker. I do not recall the court or docket number, but I believe it was filed in Davidson County. I was sued in my capacity as chair of the commission, and perhaps in my individual capacity as well. To the best of my recollection, the other defendants included each justice of the Tennessee Supreme Court, as well as each of the intermediate appellate court judges. The plaintiff challenged the Tennessee Plan and sought significant money damages against all or most of the defendants except Judge Patsy Cottrell. He alleged that she should turn over her appellate seat to him. 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.

Good Samaritan Episcopal Church  
Tennessee Certified Master Gardener - 2006 to present  
UT Friends of the Garden  
UT Arboretum Society  
Knoxville Heritage  
Knoxville Botanical Garden

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

I have not belonged to any such organization, other than my college sorority which, to the best of my knowledge, limited its membership to females at that time.

**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.

**Tennessee Bar Association Task Force on Code of Judicial Conduct** – Reporter, September 2009 to present.

**State of Tennessee Judicial Evaluation Commission** - Vice Chair, 1996 - 1999; Chair, 1999 - 2007.

**Advisory Commission to the Tennessee Supreme Court on Rules of Practice and Procedure**- 1998 to 2007.

**Knoxville Bar Association** - 1980 to present; served as President in 1994; have also served as Treasurer (2 terms) and member of Board of Governors (4 years).

**Knoxville Bar Foundation** - 1992 to present; President, 2003 to 2006; Secretary and member of board of directors, 1992-2002; Fellow since 2001.

**Tennessee Bar Association** - 1992 Chair of Litigation Section; East Tennessee Vice President of Young Lawyers Conference; Member, Commission on Women and Minorities, 1992 - 1996; Chair of CLE Committee, 1995 - 1997; Board of Governors, 1996 - 1999; 1998 - 2000 Co-Chair of the Futures Committee.

**Tennessee Bar Foundation** - Fellow since 1994.

**Tennessee Bar Association Family Law Code Revision Commission** - 1996-2001.

**Fellows of the Tennessee Young Lawyers Conference** - Treasurer, 1992-93; Secretary, 1993-94; President-Elect, 1994-95; President 1995-96.

**American Bar Association** - member, Family Law section.

**American Inns of Court** (Barrister, 1988-1993; Master of the Bench, 1995 - 2001; Emeritus, 2002 to present).

**American Judicature Society**

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.

Tennessee Bar Association Governors' Award in recognition of service as Reporter for Tennessee Bar Association Task Force on Code of Judicial Conduct – June 2011.

American Bar Association Special Judges' Section Judicial Education Award – August 2007.

1993 YWCA Tribute to Women Award in the field of business and government.

1994 Outstanding Alumni of Roosevelt Inn, Phi Delta Phi.

“Best Lawyers in America” (1994 to present).

“Best 101 Lawyers in Tennessee” by Business Tennessee magazine (Jan. 2004 to present).

“Best Lawyers in Knoxville” by Citiview Magazine (2005 to present).

“SuperLawyers” (2006 to present).

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

Tennessee Law of Evidence (2<sup>nd</sup> Ed. 1991, 3<sup>rd</sup> Ed. 1995, 4<sup>th</sup> Ed. 2000, 5<sup>th</sup> Ed. 2005, 6<sup>th</sup> Ed. 2011) [co-authored with Neil P. Cohen and Donald F. Paine].

Domestic Relation - Divorce – Restrictions on Recrimination, 46 Tennessee Law Review 461 (1979).

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.

The Tennessee Law Institute's Annual Review Seminar (at six locations across the state in each of the last five years).

Tennessee Judicial Conference Civil Law Update (each of the past five years).

Tennessee Bar Association CLE Ski Program – Recent Developments in Evidence and Civil Procedure (each of the last five years).

Tennessee Bar Association New Code of Judicial Conduct (May 2012).

Joint Tennessee Bar Association and Tennessee Judicial Conference Program – Proposed Code of Judicial Conduct (June 2011).

Knoxville Bar Association – Ethics, Basics and New Developments in Family Law Mediation (November 2010)

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.

Not applicable.

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.

**In re Caleb L. C.**, 363 S.W.3d 581 (Tenn. Ct. App. 2011), *permission to appeal denied*: Brief of Appellees: Although the names of the trial attorneys are listed on the brief, I was appellate counsel and I alone researched, wrote and edited the brief.

**Bratton v. Bratton**, 136 S.W.3d 595 (Tenn. 2004): Reply brief of Appellee and Brief of Appellant. I researched, wrote and edited this brief.

### **ESSAYS/PERSONAL STATEMENTS**

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

I have always had a strong interest in appellate work, beginning with my tenure on the Tennessee Law Review and my extensive brief writing early in my career. I have been involved in more than forty appeals. In my twenty-four years with the Tennessee Law Institute, I have read, analyzed and taught the most significant appellate developments to lawyers and judges across the state. Since 1990 I have co-authored a treatise on Tennessee evidence law, which is now in its sixth edition. I enjoy writing and I believe I have the intellectual ability to serve on the Court of Appeals. It serves an important function in our judicial system, affirming the many good decisions from the lower courts and correcting errors when necessary. I have been very fortunate in my career. I would like to give back to the judicial system and the community through this public service.

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

I was an organizer, officer and board member of the Knoxville Bar Foundation, a 501(c)(3) entity which awards annual grants for projects related to the administration of justice. Equal justice under the law has also been a focus of the TBA Futures Commission, on which I served as co-chair, the TBA Committee on Women and Minorities, the Federal Court Civil Justice Reform Advisory Committee and the Federal Defender Services of East Tennessee Board of Directors, and I served on all of these. Pro bono work has always been a part of my private practice, and I have performed in excess of 100 hours per year for many years.

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

I am seeking a position on the Court of Appeals for the Eastern District of Tennessee, which primarily handles intermediate appellate civil cases from the eastern grand division of the state. There are four judges on the panel, all of whom are men. If selected, I would be the youngest member, the only female member, and only the second woman to serve on that court. I hope my selection would impact the court by bringing a competent writer and author with a breadth of legal knowledge, more than three decades of experience in private practice, and almost a quarter of a century of legal analysis and teaching. Additionally, my eleven years on the Judicial Evaluation Commission and my tenure as the reporter of the TBA Task Force that rewrote the Code of Judicial Conduct give me a unique insight into the qualities and obligations that are required of an appellate judge.

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)*

My community service has included serving on the board of directors of St. Mary's Foundation (related to a local hospital) and the board of directors of YMCA Camp Montvale. I have also been, or currently am, a member of horticultural and arts related entities, such as the UT Arboretum Society, the UT Friends of the Garden, the Knoxville Botanical Garden and the Dogwood Arts Festival. I am also a Master Gardener, which involves service work to the community. I have also been an avid supporter of Habitat for Humanity and, during my tenure as president of the Knoxville Bar Association, I started the first of several lawyer built Habitat homes. I have provided pro bono legal services to community efforts, such as Kids on the Block of Knoxville, which provided educational puppet shows to school children. I have been extensively involved in my church and have held several leadership positions. I also serve as Chancellor of the Episcopal Diocese of East Tennessee. I am mindful of the provisions of Rule of Judicial Conduct 3.7, which encourages participation in educational, religious, charitable, fraternal and civic organizations, as well as the limitations set forth in Rule 3.1. If appointed judge, I will continue to be involved in community service, but only to the extent allowed by the Rules.

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)*

I have a unique understanding of what the job entails from my eleven years of the Judicial Evaluation Commission, eight of which I served as chair. In evaluating appellate judges to recommend whether or not they should be retained, I learned what makes a good appellate judge and what problems can occur. The commission looked at the quality of written opinions, promptness in writing opinions, judicial ethics, lack of bias, judicial temperament, and the ability to get along with other judges and court personnel. It analyzed surveys about each judge from attorneys, judges and other court personnel. We interviewed each Supreme Court justice and intermediate appellate judge and discussed all of the foregoing. I gained great insight into the strengths and weaknesses of appellate judges, as well as the problems that can cause an appellate judge to be less than effective. I have great sensitivity for the delicate balance between writing good quality, authoritative opinions and the need to complete the task in a timely way, as lives of litigants hang in limbo while awaiting a decision. I believe that knowledge will serve me well if selected for this position.

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

I will uphold the law even if I disagree with the substance of the law. I firmly believe in separation of powers and that judges are sworn to uphold the law, rather than substituting their own personal agendas. The litigants of this state deserve to have judges who are not biased on the basis of race, gender, ethnicity or sexual orientation. Equally important are judges who are not pro-plaintiff or pro-defense and whose decisions are not driven by individual beliefs. As an advocate for clients, especially in domestic relations cases, I have had the experience of disagreeing with my client's agenda or desired outcome, but as his or her advocate was charged with attempting to obtain the desired result. In cases in which the client's wishes were totally inconsistent with the law, I have withdrawn from cases rather than argue an unreasonable and improper legal position. Similarly, judges must uphold and apply the law and perform all duties of office fairly and impartially, without bias or prejudice, and without being swayed by outside interests. To do otherwise not only violates the Code of Judicial Conduct but does a major disservice to the litigants and to the judicial system.

### 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. William H. Haltom, Jr., Esquire; Partner, Thomason, Hendrix, Harvey Johnson & Mitchell PLLC; [REDACTED]
B. Karen A. Sproles; Owner, The Lunchbox Market & Café; [REDACTED]
C. Charles W. Swanson, Esquire; Law Director, City of Knoxville [REDACTED]
D. H. Richard Tate, Esquire; Attorney and Financial Planner; [REDACTED]
E. Charles G. vonRosenberg; Retired Bishop, Episcopal Diocese of East Tennessee [REDACTED]

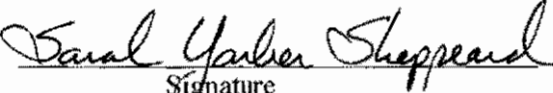
**AFFIRMATION CONCERNING APPLICATION**

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

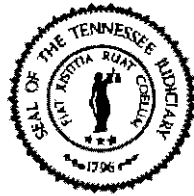
I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Court of Appeals for the Eastern District of Tennessee, and if appointed by 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 21, 2012.

  
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.

Sarah Yarber Sheppard

Sarah Yarber Sheppard  
Signature

October 21, 2012  
Date

007120  
BPR #

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

Not applicable

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