

**Tennessee Trial Court Vacancy Commission**  
***Application for Nomination to Judicial Office***

04/15/16

Name: Matthew J. (Matt) Sweeney III

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**INTRODUCTION**

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy 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 [www.tncourts.gov](http://www.tncourts.gov)). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) Review the separate instruction sheet prior to completing this document. Submit original (unbound) completed application (with ink signature) to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to [debra.hayes@tncourts.gov](mailto:debra.hayes@tncourts.gov), or via another digital storage device such as flash drive or CD.

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

**PROFESSIONAL BACKGROUND AND WORK EXPERIENCE**

1. State your present employment.

Shareholder, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

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

1976; BPR No. 05015

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

Tennessee, BPR No. 05015, 1976, 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).

Neal & Harwell, Nashville, Tennessee (1976-1979)

State of Tennessee, Department of Correction, Staff Attorney (1979-1981), at inception of Governor Alexander's term, to help reorganize the department

Dearborn & Ewing, Nashville, Tennessee (1981-1986)

State of Tennessee, Circuit Court Judge, Nashville, Tennessee (1986-1990), civil jurisdiction with a temporary assignment as a Criminal Court Judge

Farris, Warfield & Kanaday, Nashville, Tennessee (1990-1994)

Tuke, Yopp & Sweeney (later Yopp & Sweeney), Nashville, Tennessee (1994-2000)

Dinsmore & Shohl, LLP (2000-2004)

Baker, Donelson, Bearman, Caldwell & Berkowitz (2004-Present)

Adjunct Instructor, Trial Practice, Vanderbilt School of Law (1994-1997)

Instructor, Civil Procedure, Nashville School of Law (2003-2009)

6. 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.

Mediation and arbitration (85%); civil trial and appellate practice in state and federal courts (15%). Currently most of my practice is business related, plaintiff and defendant. Additionally, I am my law firm's Conflicts Counsel.

7. 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.

I am a trial and appellate lawyer, arbitrator and mediator. Initially I was trained in white collar criminal defense, but over time have handled most types of civil litigation and a limited criminal practice. Civil cases have included civil rights actions, family law matters, medical malpractice, contract disputes of many types, condemnation cases, personal injury cases, consumer protection cases, business disputes, non-compete agreements, landlord-tenant disputes, construction cases, governmental claims, zoning and employee benefit matters. In recent years, cases have tended to be more complex, class action or shareholder derivative litigation, with a concentration in areas of business divorces, franchising and related antitrust, securities, fraud and fiduciary duty. Arbitrations and mediations have covered a wide variety of matters throughout the southeast, including personal injuries, divorce agreement enforcement, defamation, business disputes, contract cases, intellectual property cases, real property controversies, employment matters (age, race, sex), U.S. Olympic qualifications and sport eligibility, and commercial property and

equipment leases. See also response to question nos. 6 and 8

8. Describe any matters of special note involving your practice in trial courts, appellate courts, and administrative bodies.

I have practiced extensively throughout the country. I have been admitted pro hac vice in 11 federal districts and states. I have taken depositions in 28 states and one foreign country. I have argued appellate cases in two states in addition to Tennessee and have argued cases before the U.S. Court of Appeals for the Sixth Circuit. I have been the mediator/arbitrator in hundreds of cases in 5 states and one U.S. territory. Matters of special note include:

*Brooks v. Brooks*, Davidson County Circuit, 1977. Contested divorce. My first trial, I believe.

*United States of America v. Flynn* (2 cases), United States District Court, Middle District of Tennessee, 1978. Junior co-counsel in 2 three week criminal mail fraud prosecutions based primarily on alleged breach of fiduciary duty. Multi-week jury trials. First trials in federal court.

*United States of America v. Foutch*, United States District Court, Middle District of Tennessee, 1981. Appointed co-counsel for defendant in criminal prosecution for conspiracy to bomb Jewish Temple. Multi-week jury trial.

*Cartee v. AETNA Casualty and Surety Company*, No. 81-3180, United States District Court, Middle District of Tennessee. Ethical issue arose in middle of trial. Jury trial.

*Smith v. Tittle*, No. 3-83-07634, United States District Court, Middle District of Tennessee. Civil rights action by inmate against correctional officers. Jury trial.

*Centex Rogers v. Treasure Island*, No. 88-1630-II, Circuit Court for Davidson County Tennessee. Complex hotel construction case with foreign deposition.

*Hudgins v. Metropolitan Government*, No. 91C-2408, Chancery Court for Davidson County, Tennessee. Interesting challenge to the Metropolitan Government in expanding garbage services as constituting inverse condemnation of private haulers in annexed areas.

*Mike v. Po Group*, No. 89-1713-II, Chancery Court for Davidson County, Tennessee. Complicated breach of fiduciary duty claim by minority shareholder against majority shareholders. Issues of first impression regarding fiduciary duties owed to minority shareholders.

*Flynn v. Shoney's, Inc.*, No. 89-1802-I, Chancery Court for Davidson County, Tennessee. Jury trial in age discrimination case.

*Sinclair v. Rocco*, No. 90C-373, Circuit Court for Davidson County, Tennessee. Aluminum poisoning medical malpractice case.

*Nyquist v. Servpro Industries, Inc.*, No. CV-94-066-BU, United States District Court for the District of Montana, 1997. Complex franchise, tort and breach of fiduciary duty. Jury trial.

*J & J Seafood v. Shoney's, Inc.* No. 3:94-1116, United States District Court for the Middle District of Tennessee. Complex franchise and antitrust case.

*The Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Board of Commissioners of the City of Forrest Hills*, No. 95-1137-III (II), 96-868-III (II) and 96-1421-I (II), Chancery Court for Davidson County, Tennessee. Administrative appeal, certiorari and constitutional challenge to the refusal of the city to rezone property for religious use.

*Ginkowski v. International Comfort Products*, No. 11077, Chancery Court for Marshall County, Tennessee. Class action shareholder/breach of fiduciary duty case. Involved issues of Canadian law.

*Whitaker v. Shoney's, Inc.*, No. 02C-549, Circuit Court for Davidson County, Tennessee. Class action shareholder/breach of fiduciary duty case.

*Faust v. The Metropolitan Government*, No. 96-3238-III, Chancery Court for Davidson County, Tennessee. Declaratory judgment action regarding employee benefits.

*Amos v. The Metropolitan Government*, No. 02-2622-I, Chancery Court for Davidson County, Tennessee and appeal including argument before the Tennessee Supreme Court, No. M2005-00932-SC-R11-CV. Declaratory judgment action regarding employee benefits.

*Hicks v. Crescent Resources, Inc.*, No. II25632, Chancery Court for Williamson County. Jury trial on dispute by leasing agent against employer.

*Bass v. Servpro Industries, Inc.*, No. 96-2359-CA, Circuit Court for Duval County, Florida, 2005. Complex franchise, contract and tort. Jury trial.

*In re Jackie Manning for (S.D., a minor)*, Claim No. 415-67-3149, Office of Hearings and Appeals, Social Security Administration. Restoration of benefits case for child who was determined to have "recovered" from mental retardation. Benefits restored upon proof of brain injury.

*In re Student Selection for Magnet Schools in Davidson County*, Tennessee, Davidson County Board of Education, 1995. This is not really a case or an administrative hearing as these were avoided by direct presentation to the Board of Education. It was determined that the "random" system in place in Davidson County for student selection to magnet schools was in fact not random, because it was statistically flawed. Attempts to bring the matter to the attention of the administration and of individual members of the school board failed. Through providing information to the press in conjunction with conducting a hearing before the school board

demonstrating that if the same methodology was used, certain members of the Board would always be selected and others could never be selected, the Board recognized that the system was flawed. A new, truly random method of selection was then devised.

*In re Direct General Corporation Securities Litigation*, No. 3:05-0077, United States District Court for the Middle District of Tennessee. Securities class action.

*In re Direct General, Inc. Derivative Litigation*, No. 3:05-0158, United States District Court for the Middle District of Tennessee. Breach of fiduciary duty derivative action.

*Edith Freemon v. Logan's Roadhouse, Inc.*, No. 05C-1703, Circuit Court for Davidson County, Tennessee. Personal Injury case. Jury trial.

*Randall L. Woodruff, et al. v. South Central Conference of Seventh-Day Adventists, et al.*, No. 3:07-0445, United States District Court for the Middle District of Tennessee (dismissed); *Randall L. Woodruff, et al. v. South Central Conference of Seventh-Day Adventists, et al.*, No. 07C1889, Circuit Court for Davidson County, Tennessee (refiled) and then No. 08-1633-II Chancery Court for Davidson County, Tennessee (transferred). Complex piercing corporate veil and fraud case.

*State of Tennessee, on the Relation of Karen Beyke*, City Attorney for the City of Franklin, Tennessee v. *Mary Dodson Randolph*, No. 33815, Chancery Court for Williamson County, Tennessee. Action for ouster of city alderman.

*Sandler v. Estate of Raymond L. Danner*, No. 07-1562-I (consolidated with No. 07-2529-I) Chancery Court for Davidson County, Tennessee. Claims for fraud and minority shareholder oppression.

*Christopher A. Davis v. State of Tennessee*, No. 96-B-866, Criminal Court for Davidson County, Tennessee and No. M2010-01045-CCA-R3-PD, Tennessee Court of Criminal Appeals. Death penalty post-conviction case.

*Wiggins v. Metropolitan Government of Nashville-Davidson County, Tennessee et al*, No. 3:14-cv-01950, United States District Court for the Middle District of Tennessee. Civil rights case against Metro, police officers and our client, a retail store, related to a police search of a criminal suspect on store premises.

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

As a Circuit Court Judge, I tried more than 150 jury trials. After serving as a Judge for two years, I received a positive response from 84% of the lawyers on the Nashville Bar Association Judicial Evaluation Poll. **See Exhibit A.** Since leaving the bench, I have served as a juror in a criminal case and was selected as a member of the Davidson County Grand Jury. Twice, I have been an expert witness on legal ethics issues.

During my judicial tenure I was involved in two projects that improved court administration. In one, I suggested, and the other judges agreed, we change the way jury cases were assigned for trial. Under the new system, major cases would stay for trial with the original courts. All of the other cases, which had not earlier involved significant court consideration, would be set in a “bank-line” system, allowing them to be heard by the next available court. Previously each court had its own docket, resulting in under-utilization of some courts, over-taxing of others and unnecessary continuances. Under this new system, Davidson County Circuit Courts more promptly tried and disposed of a greater number of cases; in a varied form, this system is still used. The second situation involved the selection of the civil case jury venire, which responsibility rotated among the judges. When it was my turn, instead of excusing potential jurors due to scheduling conflicts, we found future dates when they were available, up to a year out. The effect was to give potential jurors convenient opportunities to serve, which resulted in deeper, more diverse jury pools.

As a mediator and arbitrator I have resolved hundreds of cases throughout the Southeast, involving a broad array of issues, from business disputes, to employment claims, to personal injury actions.

10. List and describe all prior occasions on which you have submitted an application for any state or federal judicial position.

July 2003, Chancery Court, 20th Judicial District (Nashville). My name was submitted to the Governor as one of six nominees for the two open positions. I was not appointed.

July 2007, Court of Appeals, Middle Section. My name was not submitted to the Governor as one of the nominees.

October 2007, Court of Appeals, Middle Section. My name was not submitted to the Governor as one of the nominees.

January 2008, Chancery Court, 20th Judicial District (Nashville). My name was not submitted to the Governor as one of the nominees.

June 2013, Court of Appeals, Middle Section. My name was not submitted to the Governor as one of the nominees

### **EDUCATION**

11. 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.

Seton Hall University  
South Orange, New Jersey  
History, *Cum Laude*  
1969-1973

Vanderbilt University  
School of Law  
Nashville, Tennessee  
1973-1976

National Judicial College  
General Jurisdiction Program  
Reno, Nevada  
Summer, 1987

**PERSONAL INFORMATION**

12. State your date of birth.

September 4, 1951

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

43 years

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

43 years

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

Davidson

16. 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, however, I was nominated as an alternate candidate to compete for admission to United States Air Force Academy (1969). In college I received the Northern New Jersey



Reserve Officers Award, Army ROTC, Seton Hall University (1971).

17. Have you ever pled guilty or been convicted or are now on diversion for violation of any law, regulation or ordinance other than minor traffic offenses? If so, state the approximate date, charge and disposition of the case.

No

18. 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

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint.

None

20. 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

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

No

22. 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.

No

23. 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.

St. David's Episcopal Church, Nashville, Tennessee

Room in the Inn (overnight shelter volunteer)

Meharry Medical College Circle of Friends

National Judicial College, Board of Trustees (2011-), Board Chair (2015-), Executive Committee (2014-)

Nashville Conflict Resolution Center, Board of Directors (2012-2015)

Monroe Harding, Board of Directors (2006-2009), Board of Advisors (2009-2014)

Nashville Committee on Foreign Relations

American Inns of Court Foundation, Sixth Circuit Trustee (2016-)

24. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.

- a. If so, list such organizations and describe the basis of the membership limitation.
- b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No

### **ACHIEVEMENTS**

25. 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.

Nashville Bar Association (member, Board of Directors, 1993-1995; co-chair, Ethics and Unauthorized Practice of Law Committee, 1986-1988; chair, Professionalism Committee, 1990 when we drafted Ethics Handbook)

Tennessee Bar Association (chair, Committee on the Judiciary (2015-) member, Juvenile Justice Committee, 1980-1984 when we drafted Rules of Juvenile Procedure; member, Professional Standards Study Committee, 1995-1999 when we drafted the Rules of Professional Conduct; vice-chair, Committee on Ethics and Professional Responsibility, 2000-2006)

American Bar Association (Judicial Division Council, 2015-)

Nashville Bar Foundation (trustee, 1996-1998; fellow, 1992-)

Tennessee Bar Foundation (fellow, 1995-)

Tennessee Board of Professional Responsibility, Hearing Committee, Disciplinary District V (member, 2013-)

Tennessee Judicial Council, Legislative Sub-committee for Study and Review (chair, 1989)

Federal Court Committee (member; chaired subcommittee charged with drafting an updated manual for the judges' non-rule practices and procedures, 2005)

Merit Selection Panel for the United States District Court, Middle District of Tennessee (chair, 2007), which was charged to review the performance of a magistrate judge and recommend to the district judges whether he should be reappointed

Civil Justice Reform Act Advisory Group, United States District Court, Middle District of Tennessee (chair, 1995-1997), which was charged with the review of local practices and procedures with an eye toward reductions of costs and delay

Disciplinary Committee, United States District Court, Middle District of Tennessee (member, 1977-1981)

Leadership Council on Legal Diversity (mentor, 2012)

American Inns of Court Foundation, (board of trust member, 2016-)

Harry Phillips American Inn of Court (master, 1990-1994 and 1998-2009; emeritus member; executive committee, 2001-)

Tennessee Trial Lawyers Association (aka Tennessee Association for Justice) (member, 1994-2000 and 2003-2009)

AAA Arbitration Panel (Commercial, Employment, Sports), Mediation panel, Judicial

Settlement Panel

Tennessee Academy of Mediators & Arbitrators

National Academy of Distinguished Neutrals

NASD Board of Arbitrators (former member)

CPR National Panel of Distinguished Neutrals (Franchise) (former member)

Tennessee Commission on Alternative Dispute Resolution (approved mediator)

26. 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.

Appointed Circuit Court Judge (by Gov. Lamar Alexander), 20th Judicial District of Tennessee, 1986 and then elected to same position (1988)

Elected Assignment Judge, Circuit Courts, 20th Judicial District (1989)

Elected Presiding Judge, 20th Judicial District (1990)

Elected to the Board of Trustees, The National Judicial College (2011-)

Nashville Bar Association, President's Award for Contribution to the Community and Profession (1989)

Inducted into the Nashville Bar Foundation (1992)

Inducted into the Tennessee Bar Foundation (1995)

Elected a member of the Board of Directors of the Nashville Bar Association (1993)

Appointed by Chief Judge, as chair, Civil Justice Reform Act Advisory Group, United States District Court, Middle District of Tennessee (1995)

Argued rule issues before Tennessee Supreme Court in favor of adoption of specific rules of proposed Rules of Professional Conduct (2002)

Listed in Best Lawyers in America®, commercial and securities litigation, bet the company litigation, franchising, administrative/regulatory law, arbitration and mediation and Nashville Franchise Lawyer of the Year (2015)

Listed in Chambers USA – America's Leading Business Lawyers as a leading commercial litigation attorney in Tennessee (2005, 2006)

Listed in Mid-South Super Lawyers (2010-)

Listed in “Best of the Bar,” Nashville Business Journal (2008)

Received an AV Preeminent rating from Martindale-Hubbell, which is its highest rating for both ability and ethics

After serving as a circuit judge for two years, received a positive response from 84% of the lawyers on the Nashville Bar Association Judicial Evaluation Poll (see **Exhibit A**). On those later occasions where I sought commission nomination or election to the Davidson County Trial Courts and the Court of Appeals, I received strong support from the local bar. (see articles/poll results attached as **Collective Exhibit B**). Apparently no polls were conducted by the NBA for the 2007 Court of Appeals positions

Baker Donelson firm awards: Nashville office pro bono attorney of the year, 2007 and 2009; team award, 2011; Howard H. Baker Award in recognition of significant contribution to the legal profession, 2012; mentor of the year, 2014.

27. 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.

Judge, Circuit Court, 20th Judicial District, Davidson County, Tennessee (1986-1990) (completed the term of predecessor Judge Joe C. Loser). Initially appointed and then elected. In 2006 I unsuccessfully sought election as a circuit court judge in Davidson County.

### **ESSAYS/PERSONAL STATEMENTS**

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

I was fortunate to serve as a judge early in my career and was the youngest Trial Court Judge in Tennessee at the time of my selection. It was challenging, rewarding. Twenty-six years ago, at the end of my term, I decided not to seek re-election, a responsible, but regrettable decision. My return to practice has broadened me both as a trial attorney and as an ADR neutral, which is similar to a judge in certain ways. I relished the challenges of judging — trying to reach the right decision, not just advocating a position; the legal scholarship and learning something new virtually each motion day; providing a fair, impartial forum where all parties could fully and properly present their cases. Serving as a judge has been the most fulfilling facet of my career. I would appreciate the opportunity to serve again.

29. 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 seek appointment to the Chancery Court, 20th Judicial District of Tennessee, which serves only Davidson County and includes four judges. The court hears a broad mix of civil cases, including equity/extraordinary relief, employment, contract/business, securities/fiduciary duty/fraud, government/agency, constitutional and prisoner cases. I have practiced extensively in this court and in each of these substantive fields. This court handles many unique or one-off cases, where broad and deep previous experience is particularly useful; my business transaction experience, including knowledge of deal structures and familiarity with transaction documents, is well suited to a practical understanding of some of the complex issues the court must resolve. My prior service as a judge and extensive experience as a legal instructor, trial lawyer, arbitrator and mediator, has prepared me to serve well on the first day of the term. When I previously served as a judge, I was regarded as fair, even tempered, knowledgeable, prepared, hardworking, timely and efficient.

30. 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. A judge may not disregard the law with which she/he disagrees. Although I have never faced the exact situation this question poses, I have addressed one somewhat similar when I was a judge. In *Michitti v. Arrowsmith*, No. 89-106-II, 1989 Tenn. App. LEXIS 577, August 30, 1989, a complex medical malpractice case, plaintiff moved to set aside a jury defense verdict due to the jury's exposure to non-record evidence. Although the jury verdict appeared consistent with the weight of the evidence, regardless of the outside influence, the jury misconduct could not be considered legally harmless. On motion, after a hearing, I granted a new trial. The decision was affirmed on appeal.

**REFERENCES**

31. 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. Lew Conner, partner, Waller,   |
| B. Aubrey B. Harwell, Jr., partner, Neal & Harwell  |
| C. Anne Russell, special counsel, Adams and Reese LLP,  |
| D. <u>Walter Kurtz,</u> <span style="float: right;"><u>retired former judge (my assigned</u></span> |

mentor as a new judge)

E. Jackie Manning,

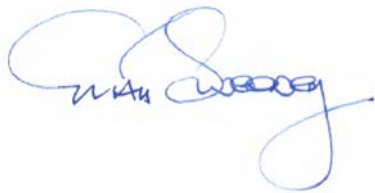
**AFFIRMATION CONCERNING APPLICATION**

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 Chancery Court, 20th Judicial 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: May 19, 2016.

A handwritten signature in blue ink, appearing to read "W. H. Hayes", written in a cursive style.

Signature

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





**TENNESSEE TRIAL COURT VACANCY COMMISSION  
ADMINISTRATIVE OFFICE OF THE COURTS**

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 that 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 (previously known as the Court of the 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 Trial Court Vacancy Commission to request and receive any such information and distribute it to the membership of the Commission and to the Office of the Governor.

Matthew J. Sweeney III

Type or Print Name

\_\_\_\_\_  
Signature

Date May 19, 2016

BPR # 05015

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

None

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Metro • State news

# Bar association gives Sweeney strong support in judicial race

KIRK LOGGINS

Staff Writer

Circuit Judge Matt Sweeney, who has two opponents in the March 8 Democratic primary, received a strong vote of support in poll results released yesterday by the Nashville Bar Association.

In the only other contested judicial race on the primary ballot, General Sessions Judge Phillip Sadler was outdistanced by challenger George Linebaugh in the "candidate evaluation poll" conducted by the bar association.

Linebaugh received positive votes from 57% and negative votes from 8% of the 935 lawyers who responded to the poll.

Sadler, who served on the Metro Council for 11 years before the council chose him to fill a General Sessions Court vacancy in January 1987, got positive responses from 37% of the lawyers and negative responses from 28%.

Both Linebaugh and Sadler received "no opinion" responses from 35% of the NBA members who participated in the poll.

The bar association recommended endorsement of three unopposed incumbents, Criminal Court Judge Ann Lacy Johns, Criminal Court Judge Tom Shriver and District Attorney General Torry Johnson, in an "incumbent evaluation poll" in December.

Sweeney was recommended for endorsement by 75.4% of the 1,033 lawyers who responded to the December poll, while Sadler was recommended for endorsement by 36% of the December poll respondents.

NBA rules provide for a second poll involving all contested judicial races, and Linebaugh said yesterday he was pleased that he had been "endorsed" by the bar association.

But NBA president-elect Jonathan Harwell said yesterday the organization uses the word "recommend" rather than "endorse" in the second round of polling.

In the second poll, NBA members were not asked whether they "endorse" one candidate over another, but whether they "highly recommend," "recommend," "do not recommend" or have "no opinion" on candidates for judicial office.

The poll is aimed at assessing a candidate's "ability to be a judge," Harwell explained. "It has nothing to do with character per se."

Harwell said officials of the bar association "hope the public will make use of this information about how the lawyers feel about these candidates."

Sweeney received positive responses in the latest poll from 84% of the lawyers and negative responses from 6%. Only 10% of the poll respondents said they had no opinion of Sweeney, whom former Gov. Lamar Alexander named to a Circuit Court vacancy in September 1986.

One of Sweeney's challengers, attorney Fred E. Cowden Jr., got positive responses from 36% of the lawyers, negative responses from 21% and "no opinion" votes from 43%.

Attorney E. Lee Allen, the third candidate for the Circuit Court seat, received positive responses from only 8% of the lawyers and negative responses from 31%. More than half, or 61%, of the survey respondents said they had no opinion of Allen's qualifications to be a judge. ■

# Chancery, appeals court candidates named

## Bredesen makes final decision

By Amanda Wardle  
awardle@nashvillecitypaper.com

The 17-member state Judicial Selection Commission last weekend completed deliberations in the selection of potential appointees for available Metro and state judgeships, choosing and recommending candidates for two Metro Chancery Court judgeships and one Court of Appeals vacancy to Gov. Phil Bredesen for appointment.

Six candidates were presented Friday evening for two Chancery Court positions on the Metro bench:

- Matthew Sweeney, private attorney and former Metro Circuit Court judge.
- David Randall Kennedy, private attorney, partner Kennedy & Brown.
- Charles High Jr., disciplinary council to the state Board of Professional Responsibility.
- Richard Dinkins, private attorney and principle at Dodson, Parker,

Dinkins & Behm.

- John M.L. Brown, private attorney.
- Claudia Bonnyman, Chancery Court clerk and master.

One of the available Chancery Court vacancies was made available earlier this year following approval by state legislators after they reviewed a weighted caseload study that showed judges in Davidson County to be facing extremely heavy caseloads that were showing substantial increase every year. The second vacancy was left open with the announcement that longtime Metro Chancellor Irvin Kilcrease would retire this fall.

The commission also presented three candidates for one vacancy on the Tennessee Court of Appeals, an opening that was left with the announcement that Judge Ben Cantrell will retire.

- Connie Clark, Director of the Tennessee Administrative Office of the Courts.
- Donald Capparella, a private attorney specializing in appellate matters.

- Frank Clement Jr., Metro Seventh Circuit Court Judge.

Candidates for all three positions will be appointed by Bredesen, though there is no deadline for his decision, and he has offered no specific timeframe, except to say that appointments will be made "in a timely fashion." Bredesen has given no indication as to what, if anything, might influence his decision, but he said through a spokesperson last week that he looks for "strong legal abilities, a good reputation in the legal community in general and someone with the highest ethical standards."

The Nashville Bar Association last week issued a poll of its members, who were asked to provide their opinions about the applicants for available Metro and state judgeships. The following are the results of that poll for the candidates recommended last week by the state Judicial Selection Commission for available positions in Metro Chancery Court and Tennessee Court of Appeals.

Chancery Court	Highly Recommend			Do Not Recommend			No Opinion
	Highly Recommend	Recommend	Do Not Recommend	Do Not Recommend	Opinion		
Claudia Bonnyman	39%	27%	8%	26%	60%		
John M.L. Brown	10%	20%	19%	51%	30%		
Richard Dinkins	16%	25%	40%	19%	30%		
Charles High Jr.	9%	24%	15%	51%	30%		
David Randall Kennedy	6%	14%	11%	70%	14%		
Matthew Sweeney	35%	22%	10%	33%			
<b>Court of Appeals</b>							
Donald Capparella	12%	17%	10%	60%			
Connie Clark	30%	21%	10%	30%			
Frank Clement Jr.	55%	25%	6%	14%			

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## Sweeney rated highest for election by lawyers 78% of nearly 900 recommend him



Matt Sweeney

By SHEILA BURKE  
*Staff Writer*

Published: Tuesday, 03/28/06

Nashville lawyer Matt Sweeney got more recommendations than any other candidate running in the upcoming judicial races in Davidson County, according to a poll released yesterday of nearly 900 lawyers in the Nashville Bar Association.

Sweeney, who is running for the Davidson County Circuit Court Division II seat, was recommended for the job by 78% of his colleagues.

"I was heartened that people still remember my performance as a judge and my performance as a lawyer and mediator and arbitrator," he said.

"I'm really looking forward for the opportunity to serve the community again."

The lawyers, however, gave Davidson County Circuit Judge Carol Soloman the most negative votes, with 35% of them voting to not recommend her. Soloman, who hears roughly half of all divorce cases in Nashville, still had more positive recommendations than her opponent, Nashville lawyer Jefre Goldtrap.

"It's been a tradition that domestic judges get low marks because a good domestic judge leaves both parties somewhat unhappy," she said.

Candidates are fighting for six judicial seats, two court clerk positions and the office of Metro Public Defender in the May Democratic primary election. Since all but one of the candidates are Democrats, every race but the one for judge in General Sessions Division III will be decided on May 2.

"The goal of doing the poll is to provide the media and the public with information," Nashville Bar Association president Sheree Wright said in a statement.

"The purpose is twofold: One, to encourage the election of qualified judges and public officials in the judicial system, and two, to have attorneys who are likely to know these candidates, both personally and professionally, provide an opinion on their qualifications." •

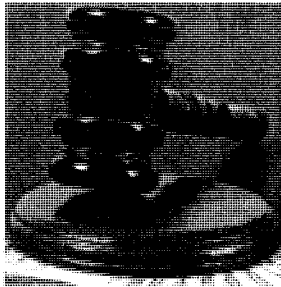
Published: Tuesday, 03/28/06



## Jameson, Binkley lead Nashville Bar poll for Circuit Court slot

**UPDATE** - Appointment could launch Metro Council race; Baker attorney heavily favored for Chancery post

Published February 29, 2008 by Ken Whitehouse



The Nashville Bar Association has published the results of a survey of its members on who they'd like to succeed Judge Walter Kurtz on the Circuit Court bench.

Metro Councilman Mike Jameson and local attorney Joseph Binkley, Jr. lead the poll, in which almost 1,100 members of the bar participated. Also rating highly is Mary Ashley "Marsh" Nichols, special master for the Davidson County Circuit Courts. In the race for Chancery Court judge, **Matthew Sweeney of Baker Donelson Bearman Caldwell & Berkowitz** leads the pack by a mile among Bar members.

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The choices both positions, however, will be up to the Tennessee Judicial Selection Commission. While the candidates await that decision, there is another group of individuals waiting to see if Jameson is selected. Should he don the robe, he would resign from the Metro Council and thus set off a special election for that seat.

*NashvillePost.com* has already heard of a number people that might be interested in stepping up to the plate for that job. Among them are former at-large candidate Peter Westerholm and local attorneys Jeff Ockerman and Kenny Byrd.

While those names are pure speculation from political insiders, here are the abridged results of the Nashville Bar's poll, with the candidates ranked by the percentage of respondents highly recommending them for the bench. (To download the full results, [click here.](#))

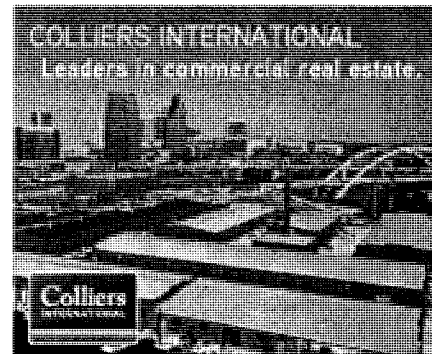
- Michael Jameson - 23.9%
- Joseph Binkley, Jr. - 20.1%
- "Marsh" Nichols - 19.1%
- Russell T. Perkins - 6.8%
- Amy Gowan 4.6%
- Marian LeRoy Kohl - 4.4%
- "Kitty" Boyte - 4.2%
- Sarah Stein - 2.3%
- Cynthia M. Odle - 2.2%
- Jefre Scot Goldtrap - 0.5%

But Nichols jumps to the top when the 'highly recommend' and 'recommend' responses are combined:

- "Marsh" Nichols - 42.5%
- Joseph Binkley, Jr. - 41.0%
- Michael Jameson - 37.7%
- Russell T. Perkins - 16.0%
- "Kitty" Boyte - 15.1%
- Amy Gowan 12.5%
- Cynthia M. Odle - 10.4%
- Marian LeRoy Kohl - 10.0%
- Sarah Stein - 8.7%
- Jefre Scot Goldtrap - 3.7%

**Politics | Davidson County Circuit Court** Jefferson H. Ockerman | Joseph Pitts Binkley Jr. | Kenneth S. 'Kenny' Byrd | Mary Ashley Nichols | Michael F. Jameson | Peter Westerholm | Walter C. Kurtz | **Judicial appointments/elections** Politics: Metro government

### POSTDATA: SEARCH



### POSTDATA: CHARTERS

- AMSURG PORT ORANGE ANESTHESIA LLC
  - AMSURG CITRUS ANESTHESIA LLC
  - 219 FRANKLIN ASSOCIATES LLC; H G HILL BRENTWOOD LLC; HILL H G BRENTWOOD LLC; TWO NINETEEN FRANKLIN ASSOCIATES LLC
  - RAY PROPERTY INVESTMENTS LLC
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### POSTDATA: WARRANTY DEEDS

- BAL, DEEPTINDER S; BAL, INDUMEEET B
  - JAIN, SHEETU; JAIN, YUGESH KUMAR
  - PINE OAKS PROPERTIES TWO GP; YAZDIAN, FRED
  - CHAPPELL, ERIC; CHAPPELL, KRISTEN
- [MORE >>](#)

### POSTDATA: JUDGMENTS

- BISHARA, VICTOR; HAYSVILLE ESTATES LLC; THREE RIVERS OF RUTHERFORD LLC; VANDERSCHAAP, CLAIR D
  - CROWDER, LINDSAY; J & L ENTERPRISE; J&L ENTERPRISE;
  - KILLOM, GERALD G; KILLOM, GEORGE; SWAYZE, LINDSAY
- [MORE >>](#)

**2. In the selection for the position of Chancellor for Chancery Court, Davidson County (evaluate each candidate):**


	<b>Highly Recommend</b>	<b>Recommend</b>	<b>Do Not Recommend</b>
Katherine Dent "Kitty" Boyte	3.9% (42)	11.1% (120)	9.8% (106)
Julie M. Burrstein	25.6% (277)	15.4% (167)	6.3% (68)
Jeffe S. Goldtrap	0.5% (5)	3.1% (34)	23.3% (252)
William Joseph Haynes, III	16.0% (173)	24.2% (262)	10.1% (109)
Renard A. Hirsch, Sr.	5.1% (55)	9.4% (102)	14.3% (155)
Alan D. Johnson	12.7% (137)	11.7% (127)	3.8% (41)
Irwin J. Kuhn	16.2% (175)	17.8% (193)	5.8% (63)
Russell T. Perkins	6.2% (67)	9.1% (99)	11.0% (119)
Cristi Eileen Scott	7.2% (78)	11.8% (128)	13.9% (151)
Sarah Stein	2.2% (24)	6.6% (71)	12.8% (139)
Matthew Sweeney	<b>47.4% (513)</b>	22.3% (241)	11.1% (120)



# Tennessee Bar Association

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## NBA Survey: Sweeney Top Choice for Appeals Court

By Stacey Shrader ... on Tue, 06/25/2013 - 4:00pm

Nashville attorney Matthew J. Sweeney drew the highest marks in a just released survey ranking the 10 candidates seeking to serve on the Tennessee Court of Appeals. Conducted by the Nashville Bar Association (NBA), the survey asked members to rate the candidates as "highly recommend," "recommend," "do not recommend" and "no opinion." Sweeney, who practices with Baker, Donelson, Bearman, Caldwell & Berkowitz, significantly outpolled other members of the group with 47 percent of respondents highly recommending him. The NBA conducts the poll, Executive Director Gigi Woodruff said, to provide the Judicial Selection Commission, the governor and the public with "input from attorneys who are likely to know these candidates, both personally and professionally, and are able to express an opinion on their qualifications to be a judge." See the survey results.

Attachment	Size
nba_survey_appealscourt_062513.pdf	8.49 KB





[TBA Law Blog](#)

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1. As to Court of Appeals Middle Section Judge, I vote to:

	Highly Recommend	Recommend	Do Not Recommend	No Opinion	Rating Average	Rating Count
Christina Henley Duncan	1.8% (16)	4.7% (42)	5.5% (49)	88.0% (783)	1.69	890
Robert Lee Holloway, Jr	11.3% (101)	11.0% (98)	5.1% (45)	72.6% (646)	2.23	890
Robert L. Huskey	0.7% (6)	3.1% (28)	14.5% (129)	81.7% (727)	1.25	890
John D. Kitch	27.9% (248)	29.8% (265)	9.4% (84)	32.9% (293)	2.27	890
Janet M. Kleinfelter	11.9% (106)	14.7% (131)	12.7% (113)	60.7% (540)	1.98	890
Linda W. Knight	26.1% (232)	21.3% (190)	8.9% (79)	43.7% (389)	2.31	890
William Neal McBrayer	16.1% (143)	12.5% (111)	4.6% (41)	66.9% (595)	2.35	890
Forrest Shoaf	6.7% (60)	12.2% (109)	16.2% (144)	64.8% (577)	1.73	890
Kathryn Ann Stephenson	20.1% (179)	16.4% (146)	4.9% (44)	58.5% (521)	2.37	890
Matthew J. Sweeney	47.0% (418)	25.5% (227)	8.7% (77)	18.9% (168)	2.47	890
<b>answered question</b>						<b>890</b>
<b>skipped question</b>						<b>0</b>