

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 14 September 2011

Name: Mary Ashley Nichols

Office Address: 1 Public Square, Suite 501, Davidson County
(including county) Nashville, TN 37201

Office Phone: 615-880-2548 Facsimile: 615-880-2315

Email Address: marshnichols@jis.nashville.org; nicholsminton@comcast.net

Home Address: [REDACTED] Davidson County
(including county) [REDACTED]

Home Phone: [REDACTED] Cellular Phone: [REDACTED]

INTRODUCTION

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

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website <http://www.tncourts.gov>). The Commission requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the word processing document.) Please read the separate instruction sheet prior to completing this document. Please submit the completed form to the Administrative Office of the Courts in paper format (with ink signature) **and** electronic format (either as an image or a word processing file and with electronic or scanned signature). Please submit seventeen (17) paper copies to the Administrative Office of the Courts. Please e-mail a digital copy to debra.hayes@tncourts.gov.

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

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Special Master of the Davidson County Circuit Courts

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

1988; 13362

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 13362; 1988; 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).

Inactivity status from May 17, 1996 to August 13, 1996 due to maternity leave.

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).

Parker and Allen, 1988 to 1995. This was an office sharing arrangement.

Judge Hamilton Gayden, law clerk, 1996-1998.

Special Master, Davidson County Circuit Courts, 1998 to present.

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.

From January 1995 to August 1996, I was on maternity leave, during which time I had two

children.

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 do not engage in the private practice of law. In 1998, the circuit court judges of the 20th judicial district created the position of special master and appointed me. I have served in that position full time since the appointment.

My duties have included presiding over the individual courts on an as – needed basis due to the unavailability of the judge, conducting the judicial committal docket at Middle Tennessee Mental Health Institute, calling the monthly nonjury docket and assigning cases to each available court, sitting as special or substitute judge on jury or nonjury cases as needed and hearing matters referred pursuant to Rule 53, T.R.C.P. My position requires knowledge of civil, domestic and probate law. I am trained as a Rule 31 mediator and have conducted judicial settlement conferences. I routinely handle discovery disputes. I am responsible for case flow management for all jury cases assigned to three courts. My responsibilities include scheduling/conducting 50-75 conferences per week, establishing and monitoring scheduling orders and identifying cases appropriate for mediation. My active docket includes 1,200 – 1,500 active civil cases.

I also discuss case-readiness with counsel the week before a case is set to determine whether problems exist that might prevent a case from going forward as scheduled and act accordingly.

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.

I practiced in general sessions court, state civil and criminal courts and county juvenile courts in

Tennessee primarily from the beginning of my career in 1988 until 1995, when I took an 18 month maternity break.

In general sessions court, my cases were varied and included defending traffic tickets, minor car wreck cases (the jurisdictional limit was \$15,000 at the time), defending DUIs and conducting preliminary hearings in felony criminal cases.

For a brief time, I took appointments representing indigent defendants in state criminal courts. I learned this was not my calling and began focusing on domestic relations cases and general civil cases, primarily automobile accidents.

I primarily represented plaintiffs in automobile accident cases. I defended only one case.

My domestic relations caseload was quite heavy. I handled contested and uncontested divorces and tried several. I cannot provide exact numbers (many files are shredded from that time) but I easily handled in excess of 200 divorces, as well as ancillary matters including but not limited to child custody. From time to time, I was appointed guardian ad litem in cases for children and also for incapacitated adults. This required me to interview numerous people and make site visits whenever necessary.

My maternity leave lasted from approximately 1995, with the birth of my first son, through about August, 1996, with the birth of my second son. For about 15 months, I served as law clerk for Judge Hamilton Gayden of the First Circuit Court for Davidson County in a job-sharing arrangement. My responsibilities included reviewing all motions, writing summaries of the facts and law, and presenting recommendations to the court in preparation for the motion docket each Friday.

In January, 1998, the Davidson County circuit court judges created the position of special master and appointed me. I have remained in this position continuously since then.

My duties are varied. Prior to the Tennessee Court of Appeals ruling in Maxwell Medical, Inc. v. Chumley, on May 18, 2008, I served as substitute judge for a court whenever a judge was not available. This meant I stepped into the judge's shoes and held court for him or her with the review to the court of appeals. I heard motion dockets, discovery issues, jury trials and nonjury trials. This required me to have a wide understanding of the law as I was handling domestic relations, probate and general civil matters. I also regularly traveled to Middle Tennessee Mental Health Institute (at least 20 times a year) to hear the involuntary committal docket.

I attended a 21 hour training course to become a Rule 31 mediator in the late 1990s. The purpose was to help me identify cases that should be placed on a mediation track, rather than a trial track, as I conducted case management conferences for three of the five general civil courts.

For the first five years of this appointment, I regularly held court for Judge Muriel Robinson of the Fourth Circuit Court, which, at the time, heard 75 percent of Davidson County divorces. In 2003, Judge Robinson hired a full time master to assist her and I shifted my concentration nearly exclusively to general civil jury cases.

I assist the courts in the management of medical and legal malpractice cases, automobile accident cases, workers compensation cases, contract and retaliatory discharge cases, to name a few. I am responsible for 1,200 plus cases at any given time from filing to resolution and paying court costs. Some cases are quite routine and some are highly complex. I meet with attorneys four days a week to discuss issues in the case, scheduling matters and any disputes we can talk through. If unable to resolve an issue, a motion is filed for the court to address. My goal is to keep cases moving through the system with individual attention as inexpensively as possible, which includes scheduling mediation in appropriate cases. I meet with the attorneys every three to four months to discuss new issues that arise and adjust scheduling.

This system has allowed Davidson County to reduce the number of jury weeks over the years by about 12 weeks and eliminate all backlog and reduced the time an attorney had to wait for a trial date from 11 months to zero. Our case delay now is determined by the attorneys' calendar, not the courts.

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

I did not practice before administrative bodies during my private practice, to my recollection. I argued before the Court of Appeals in the early 1990s in an unremarkable case for which I cannot recall the name or facts, except that it was a one issue argument.

The only truly remarkable case I recall was Hill v. Hall, 92A-118 which was tried before Judge Walter C. Kurtz in Fifth Circuit Court in 1992 or 1993. The court appointed me guardian ad litem for a small child whose birth parents challenged the validity of the surrender and placement with a Nashville couple.

The case was tried for four days and the child ultimately was returned to her birth parents following a highly emotional trial. The case and its circumstances were twice featured on the ABC television network news program "20/20."

A further discussion of this case is found in Question # 40.

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 am trained as a Rule 31 mediator. I do not presently conduct mediations given time constraints owing to my other responsibilities. Nonetheless, my training assists me in determining cases appropriate for mediation. Early in my tenure, after mediation training, I found it necessary to persuade many attorneys to try mediation because the practice was fairly new to our area and seen as an unnecessary expense. That attitude changed dramatically in the years to come as the attorneys came to understand that mediation can hold down costs and make it possible to resolve cases more quickly in lieu of conducting expensive discovery and waiting for a trial date.

Importantly, the mediation training has helped me to identify cases appropriate for a judicial settlement conference, which is a very limited resource.

As special master, I consider myself a judicial officer. I've served in this capacity for nearly 14 years. My duties and responsibilities are described throughout this application.

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 serve as the trustee to three family trusts, all of which benefit either myself and my four siblings or an immediate member of my family.

Two of the three trusts were dissolved following the death of my mother in May 2007. The other trust is established to provide for the needs of my younger sister, which is severely disabled due to multiple sclerosis.

I served as executrix to both of my parents' estates.

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

My position as special master is unique. Prior to the Court of Appeals ruling in Chumley in 2008, I routinely held court if one of the circuit court judges I was unavailable.

Since 2008 I nearly exclusively handle case management and other administrative tasks. Each week, I conduct about 50 case management conferences per week. I meet with counsel, discuss issues and problems unique to their lawsuits, prepare a scheduling order and identify cases appropriate for alternative dispute resolution, including mediation. I have participated in the management of some of the most complex matters filed in circuit court during my tenure, including the \$1.8 billion dollar dispute over the sale of Dollar General Corporation during the summer of 2007. In the course of the management of this case, I also heard and resolved

numerous discovery disputes. I served as special master in the following cases of note or provided critical support:

In Re: Dollar General Davidson County Circuit Court No.: 07MD1

Meighan and Buhl v U.S. Sprint Communications Davidson County Circuit Court No.: 98MD1

Judge Thomas W. Brothers appointed me as special master in this case. This is a class action lawsuit in which the plaintiffs are landowners across much of the state. The plaintiffs allege the defendant illegally took their land by placing fiber optic cable in the beds of the railroad lines. The defendant maintains the railroad owned a fee simple interest in the land over which the tracks run and therefore the agreement between the railroad and the defendants protects the defendants from liability to the landowner. The plaintiffs maintain that the railroad only had an easement. My duties included maintaining communication with counsel, holding hearings to determine scheduling and case progression. I also held a series of hearings to determine whether originally negotiated an easement or sale of the property to the railroad.

Bridgestone/Firestone Tire Litigation – Davidson County Circuit Court No.: 01MD2 and 01MD3, approximately 25 cases.

Judge Thomas W. Brothers appointed me special master in these cases. My duties included communication with counsel, holding hearings to determine scheduling and case progression and general case management. The case is ongoing.

Hooker v Purcell, Davidson County Circuit Court No.: 03C-1928

Judge Walter C. Kurtz appointed me special master to review any complaints filed by Mr. Hooker in a 24 month period alleging violations of Article X Section 3 of the Tennessee Constitution and/or T.C.A. Section 2-19-126 and to determine whether the filings are legally frivolous and/or merely duplicative of matters already decided. Judge Kurtz' directive required me to provide a written report reflecting these findings and recommending whether the complaint proceed or be dismissed.

Lewis v Newschannel 5 Network, Davidson County Circuit Court No: 00C-2704 and Dollarhide v Newschannel 5 Network, Davidson County Circuit Court No.: 01C-1873

Judge Walter C. Kurtz appointed me as special master in this case to assist in a discovery dispute between the plaintiffs and a witness, Metro Government, involved hundreds of retrievable, non-privileged e-mail messages. The trial court directed me to meet with counsel

and their respective computer experts to determine the protocol to allow Metro to produce the subpoenaed e-mails which the court defined as relevant. I later was directed to review the e-mail produced and identify whether any created a serious question of privilege or relevance.

Dixon v Dollar General Corp., Davidson County Circuit Court No.: 01C-1332

I assisted Judge Marietta Shipley in the early, pivotal issues surrounding this shareholder's derivative action.

High Pressure Laminate Antitrust Litigation, Davidson County Circuit Court No.: 01MD1

I assisted Judge Marietta Shipley in this complex anti-trust litigation.

McClure v Philip Morris USA, et al, Davidson County Circuit Court No.: 98C-148

Judge Carol Soloman appointed me to coordinate scheduling and case progression in this class action tobacco litigation.

In addition to the above-named cases, I routinely handle case progression in medical malpractice, contract, automobile, and other cases filed in circuit court. The management of these cases requires a strong knowledge of civil procedure and the law in each area.

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.

Part I Chancery Court for Davidson County in 2003. The body did not submit my name to the Governor as a nominee.

Fifth Circuit Court for Davidson County in February 2008. My name was submitted to Governor Bredesen as a nominee.

EDUCATION

14. List each college, law school, and other graduate school which you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

Mississippi State University

B.A. 1979

Communication

Nashville School of Law

J.D. 1988

PERSONAL INFORMATION

15. State your age and date of birth.

55, 09/09/1956

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

Since March 18, 1980

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

1987 to present

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

Davidson

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.

State of Mississippi, City of Starkville Municipal Court

1976 or 77

Alcohol-related driving offense

Dismissed

21. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No

22. If you have been disciplined or cited for breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group, give details.

No

23. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No

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

No

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This

question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

Mary Ashley Nichols v Nashville Banner

Davidson County Chancery Court

Sexual discrimination

Filed in 1983 and voluntarily dismissed without prejudice. Refiled in 1988 under docket number 88-64-III. Final order entered 7-31-91

Disposition under seal.

Mary Ashley Nichols v Christopher Michael Minton

Davidson County Circuit No.: 02D-567

Complaint for divorce filed 03.06.02

Voluntary dismissal 05.13.03

Mary Ashley Nichols v Christopher Michael Minton

Davidson County Circuit No.: 06D-2388

Complaint for divorce filed 08.18.06

Final order entered 09.30.08

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.

Whitworth Swim Club – summer swim membership.

27. Have you ever belonged to any organization, association, club or society which limits its

membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.

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

No

ACHIEVEMENTS

28. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices which you have held in such groups. List memberships and responsibilities on any committee of professional associations which you consider significant.

Nashville Bar Association 1988 to 2010

Tennessee Bar Association – 2003 to 2011

Napier-Looby Bar Association – 2003 to 2007

Tennessee Bar Association Leadership Law – Inaugural Class 2003-2004 President, Alumni Association 2006-2007

Assistant Editor, Nashville Bar Association “The Docket”

Editor, The Nashville Bar Association Bar Journal (two years)

Nashville Bar Association Board of Directors, 2004 to 2007 Member Finance committee 2004-2006; Member executive committee 2006-2007; liaison to mediation committee 2007; liaison to Circuit & Chancery committee 2004-2007

Williamson County Inns of Court, 2005-2007

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.

Nashville Bar Association President’s Award, 1992

Nashville Bar Foundation Fellow, 2001

Nashville Bar Association Catfish Queen, 2007

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

None

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

None

32. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

None

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.

This position requires strong writing skills. I consider myself a writer secondary only to being a lawyer. My undergraduate training was in communication/journalism and I worked professionally as a print journalist prior to attending law school. My recent writing samples are few in number because I am not called upon to write briefs as one does in traditional practice. Therefore, what should be one of my strongest assets for this position is not adequately presented to this commission, in part due to the nature of my present position.

My regular caseload consists of all the jury trials assigned to three courts, which is around 1,200. I work energetically and efficiently, moving quickly from one task to another with very little transition time.

I relate to persons from many walks of life. I understand and appreciate the ability to work as a

team with one's colleagues and, when necessary, to disagree with respect.

ESSAYS/PERSONAL STATEMENTS

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

I seek this position because I am qualified and I like the intellectual challenge it presents. I served as special master of the Davidson County Circuit Courts for the past 15 years. This work introduced me to much of the work performed by a circuit court judge in our jurisdiction. I enjoy the intellectual stimulation and the daily responsibilities of a member of the bench.

As special master, I preside over jury and nonjury trials. I routinely conduct case management conferences to address issues and scheduling in all types of cases, from the simple to the complex, holding about 2500 conferences in 2010. I am a trained mediator and I identify cases appropriate for mediation. I understand the administrative side of the job and the importance of being collegial with other judges. I am fair, respectful, patient and trustworthy. I understand the judicial system and the need for quick, correct and economical resolutions to disputes.

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

My position as special master is a daily exercise in the pursuit of equal justice, but I would like to highlight one thing in particular: my regular role presiding over the weekly involuntary committal docket at Middle Tennessee Mental Health Hospital.

The issues facing persons suffering from mental health issues are extremely challenging. I find that colleagues and friends are surprised I enjoy this docket. I firmly believe these patients are as vulnerable as children and need our legal system's greatest protections so they are not lost in the mental health system.

In contested cases, my role is to listen carefully and release the patient if the state does not prove all elements to allow committal. Sometimes this means releasing someone who does not meet committal criteria yet may well return to the hospital very soon after discharge.

Occasionally, situations allow creative solutions. Often, the underlying, nearly hidden issues prove to be the most important facts to the case. Justice is served by an ability to view the entire picture to look for solutions to meet the needs of the patient.

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 seek to be appointed as judge of the Third Circuit Court for Davidson County, located in the 20th Judicial District. This is a court of record with concurrent jurisdiction with chancery court in many areas but exclusively hears conflicts for unliquidated damages.

The circuit court hears eight weeks of nonjury cases each year and about 20 weeks of jury cases each year. An interesting aspect of the circuit courts in Davidson County is our central assignment docket which means that any judge may hear another judge's noncomplex case any week. An exception is found in complex cases where the particular judge heard numerous motions prior to trial. This system requires cooperation and consideration for one's fellow jurist.

Our circuit court bench includes eight judges but only five hear the general civil docket. The Fourth Circuit Court hears domestic relations cases. The Seventh Circuit Court hears probate cases. Presently, the distribution of domestic relations cases between Fourth Circuit Court and the other civil courts is in limbo pending the appointment of this position. I am qualified to hear domestic cases and all general civil cases and have the temperament to switch between the two.

I am confident that the extensive experience I bring will have a significant positive impact on the court. As circuit court special master, I am familiar with the volume and variety of cases on our docket and the cost of litigation. I certainly know well the lawyers who regularly appear before this court. I know from personal experience that the majority of the cases tried are relatively small in scope and that mediation plays a huge role in the resolution of these matters, even with the presence of a liability or causation issue.

I understand that judges must cooperate and cover for one another from time to time and that a collegial bench is critical to a smoothly flowing court system. I assure the commission that I am ready to go to work immediately with minimal transition time and training.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? *(250 words or less)*

I was active in the Nashville and Tennessee Bar Associations until about two years ago, when my son experienced behavioral problems that required me to dedicate all assets to his tuition at a therapeutic boarding school. He is expected to complete his program in Montana in May, 2012, which should free me to return to my bar activities, which I enjoy. I completed a three-year term as a member of the board of the NBA in 2007 and served as second vice president my final year.

I participated in two standing Nashville Bar Association committees, Circuit and Chancery and Alternate Dispute Resolution, and served as editor of the Nashville Bar Journal two consecutive years and editor of The Docket in its final year. I am committed to establishing an endowment for the Nashville Bar Association through my participation as an NBA Fellow.

I actively participate as an alumnus in the TBA Leadership Law program, serving as alumni chair in 2007.

I am involved in the activities of my other high school child.

My family and I live in an historic and diverse area with a strong and active neighborhood association. I support this group through membership and participation in annual community events. I served on the Arthritis Foundation board in 2007.

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 served in a quasi-judicial capacity for several years and one of the joyful parts of my job is the close contact I have with many attorneys on a daily basis. I am a third generation attorney and I cannot think of a more noble profession in which to participate. Through daily contact with lawyers, most of whom comprise the subsection of our bar called the trial bar, I am privileged to interact regularly with some of the finest minds available. Our discussions about the law, procedure and other aspects of their cases keep me sharp. We may not always agree, but we conduct ourselves professionally. These contacts also keep me well grounded, reminding me what it was like to practice law and to meet the challenges involved in balancing trial conflicts, discovery deadlines and demanding clients, all while trying to pay your overhead and get home in time for your child's ball game. I understand that an attorney wants a judge who is consistent and knowledgeable but also fair and who understands the pressures a lawyer faces everyday in maintaining a practice.

An added pleasure is the opportunity to meet and work with young lawyers beginning their practices, some of whom I have the privilege of mentoring.

I have the ability to relate and get along with most people. I seek to do likewise in a judicial capacity when dealing with litigants, jurors, and witnesses as well as their trial counsel.

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)*

Without question, a memorable example in my experience is the case of Hill v. Hall as discussed in my response to Question 9 above. In that case, the court concluded that an adopted child should be returned to the birth parents, who married by the time the case went to trial. The critical fact was that although the unmarried birth mother properly relinquished her rights to the child in the surrender to the court, the birth father had not. Therefore the court returned the child to the birth father, who by then was married to the birth mother, despite the fact that the child was being removed from the home of the only family the child had ever known.

The court ruled correctly under the law. It was difficult to accept because I represented the child's best interests, and the expert testimony highly recommended against returning the child. However, I respected and assisted the court with the return of the child. The case was not appealed.

In another case, Robinson v. LeCorps, the cause of action was dismissed because the plaintiff's expert witness did not comply with the locality rule. I disagree with this rule of law because specialized doctors receive extensive training and take national boards. However, this was the state of the law at the time. I upheld the law and the case was dismissed. The case was appealed to the Tennessee Supreme Court and I was affirmed. Just recently, in Shipley, the court has changed this rule of law.

REFERENCES

41. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Commission or someone on its behalf may contact these persons regarding your application.

A. Judge Walter Kurtz, Senior Judge, TN Senior Judge Program, 1 Public Square, Suite 708, Nashville, TN 37201. Telephone: 615-880-2710; Email: walterkurtz@jis.nashville.org

B. William L. Harbison, Attorney, Sherrard & Roe, 424 Church Street, Suite 2000, Nashville, TN 37219; Telephone: 615-742-4524; Email: bharbison@sherrardroe.com

C. Gail Vaughn Ashworth, Attorney, Wiseman Ashworth Law Group, PLC, 511 Union Street, Suite 720, Nashville, TN 37219-1733; Telephone: 615-254-1877; Email: gail@wisemanashworth.com

D. Bill Hance, Assistant Vice Chancellor, News and Communications, Vanderbilt University Medical Center, 1161 21st Avenue South, Medical Center North, D-3237, Nashville, TN 37232-2390; Telephone 615-322-4417, 615-473-1413; Email: bill.hance@Vanderbilt.edu

E. The Rev. Becca Stevens, Chaplain, St. Augustine Episcopal Church at Vanderbilt University and Founding Director of Magdalene House, Box 6330B Nashville, TN 37235 Telephone 615-322-4783.

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 Third Circuit Court of Davidson County, 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 28, 2011

s/ Mary Ashley Nichols

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

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information which concerns me, including 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, and I hereby authorize a representative of the Tennessee Judicial Nominating Commission to request and receive any such information.

Mary Ashley Nichols
Name

s/ Mary Ashley Nichols
Signature

October 28, 2011

13362 BPR #