

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

9/8/20

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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 Microsoft Word format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Commission requests that applicants obtain the Microsoft Word 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 by the noon deadline date an 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 ceesha.lofton@tncourts.gov, or via another digital storage device such as a flash drive. See section 1(g) of the application instructions for additional information related to hand-delivery of application packages.

THIS APPLICATION IS OPEN TO PUBLIC INSPECTION AFTER YOU SUBMIT IT.
PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Self employed attorney-at-law in private practice.

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

1977 BPR# 005681

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, 1977, BPR# 005681

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).

September, 1977 to October, 1977—associate attorney at Thomas, Welles & Thomas in Dresden, Weakley County, Tennessee. November 1, 1977 began as an associate attorney at Maddox, Lassiter, Jones & Logan in Huntingdon, Carroll County, Tennessee. Became a partner in 1980. Firm dissolved in 1982. Continued to practice in Carroll County from 1982 to present either solo or with one or two other lawyers as associates or in partnership.

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.

My present law practice is 70% insurance defense, handling first-party and third-party insurance claims and litigation, mainly in personal lines coverage, but more recently in commercial lines coverage. Typical fact patterns raise legal issues arising from the insurance application, intentional act, post-loss fraud, coverage, duty of cooperation and judicial estoppel. At the District Attorney's request, I interact with that office, especially where there is criminal conduct subject to prosecution, and, of course, cooperate with law enforcement pursuant to statute. 10% of my practice is devoted to general matters in a noninsurance context. I have handled such things as a contract dispute between a homeowner and vendors over the installation of windows in a remodeled house, adoption law, particularly where a Tennessee resident sought adoption records from another State for purposes of health care decisions, and matters involving the law of fiduciaries and confidential relationships in the context of intra-family litigation over entitlement to assets of a decedent's estate. It includes my work as an arbiter hired by private attorneys representing adverse parties to a contract dispute. I have served as a Guardian ad Litem. I have defended a civil matter involving intentional tort, compensatory and punitive damages, where there was no insurance coverage. Over the years this part of my practice has included cases where my client came before the Court disadvantaged, and someone needed to level the playing field. 10% of my practice involves representation of the Town of Trezevant, Tennessee. The final 10% of my practice involves service as the City Judge for the City of McKenzie, Tennessee.

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. Transactional Matters.

Early in my career, from 1977 through the late-1980's, I represented clients in real estate matters. The clients were typically commercial banks or federally chartered farm credit entities in rural West Tennessee. In the beginning the transactions were loans. My personal involvement and activities in those matters included doing a title search, including in those days UCC filings for fixtures, preparing an opinion of title, preparing the necessary documents to establish the debtor-creditor relationship (deed, note, deed of trust), clearing the title as necessary to establish the client's lien position, conveying the property to the purchaser and recording the documents necessary to establish the secured status of the creditor. I handled the document preparation, loan closing, attended to the execution and recordation of all documents and to the deposit and disbursement of loan proceeds from my trust account. In my opinion, and although it's been a few years since I practiced real estate law on a regular basis, knowing one's way around a real estate transaction, the loaning and borrowing of money and the local Register's Office is useful in just about any legal endeavor one undertakes. I was fortunate during these years to receive such an education.

During this period I represented a client in the sale of his franchised automobile dealership. By the late-1980s, the local economy was in decline, especially the agricultural sector. With

permission of my client who sold his automobile dealership, I represented the former purchaser in liquidating it. When loans, agricultural or otherwise, defaulted, or threatened to, I handled the drafting and execution of restructuring and work-out agreements in cases where those were viable options. More often, I handled foreclosures and bankruptcies. My personal involvement and activities in handling foreclosures included updating the title search, preparing the foreclosure notice and running it in the newspaper, giving notice to intervening creditors, usually the IRS, but also the Government for liens created by fines in federal criminal cases, conducting the sale, bidding, preparation of the trustee's deed and conveying title.

I prepared a few simple wills during this time and one joint and mutual will.

From the 1980s until the early 2000s I represented a garment manufacturer based here in Carroll County. My personal involvement and activities included investigating race and sex discrimination claims and handling litigation. It included assisting management in investigating employee theft. I also oversaw the worker's compensation defense files being handled by an associate, later a partner, in my office. I helped management negotiate leases for shopping center space.

From the early 2000s through the present I have represented the Town of Trezevant, here in Carroll County. My personal involvement and activities have included assisting counsel retained by our liability carrier in GTLA cases, enforcing the Town's blighted property ordinances, both in Chancery Court and through negotiation, representing the Town in employer-employee matters such as sexual harassment claims, in violation of the pursuit policy by the police department and in employee retention matters in the police department. I helped the Town Recorder and Mayor pursue the private act legislation to change the Town Charter from "weak mayor/strong council" to "strong mayor/weak council" form of government. I helped in updating the Town's building codes. At the direction of the Mayor and Board, I worked with TDOT and CSX in addressing the ever complicated, occasionally frustrating, but very satisfying when things work out, relationship that exists between a small town and those entities whenever streets, cars, trains, railroad tracks, drainage pipes, bureaucracy, politics and personalities converge.

I recently handled a simple real estate closing for an old friend and colleague who bought some land in Carroll County adjacent to a well-known fishing spot, and I do occasional durable POAs for financial and healthcare decisions, oftentimes at the request of former clients.

II. Court Experience

Court work has been the major aspect of my practice from the beginning. I believe the proper transfer of a case from a trial court to an appellate court is a critical step in reaching a just result in any matter.

A. General Sessions Court

I was most active in my General Sessions Court practice from 1977 when I was licensed until the late-1980s. I began practicing in General Sessions Courts when the Judges were not necessarily lawyers.

I represented criminal clients in General Sessions Court, both appointed and retained. The

representation usually involved preliminary hearings. My personal involvement and activities included meeting with the client, fact gathering, investigating, contacting and meeting with witnesses, consultation with the client about whether to present a defense at preliminary hearing, raising 4th and 5th Amendment issues, ultimately participating in the hearing itself through examination of witnesses and making arguments.

I also represented clients in civil matters in General Sessions Court. I've done landlord-tenant cases. Although I handled matters ranging from disputes between neighbors over the destruction of a flower bed to both sides of sworn account collection work to discovery proceedings in aid of enforcement of a judgment, the majority of my civil experience in General Sessions Court has been insurance subrogation and first party coverage disputes. In every instance, my personal involvement and activities included meeting with the client, investigation and fact gathering, obtaining reports and records, contacting and meeting with witnesses, visiting the scene of whatever happened, usually an automobile accident, measuring whatever needed to be measured at the scene, developing a theory of the case, preparing any warrants, motions or other papers, trying the case as plaintiff, defendant or counterclaim plaintiff, making arguments, and, if necessary, perfecting an appeal.

B. Circuit Court.

When I took the job in Huntingdon, a criminal case (homicide) handled by two (2) of the three (3) partners was headed to the Tennessee Supreme Court, along with several others consolidated for consideration of duty to retreat or stand and use deadly force. The Court was the one on which Justice Joe Henry served. I attended oral argument in Jackson and remember his colorful participation in the back-and-forth with counsel. Unfortunately, Justice Henry died while the Court had the case under consideration. Later, our firm was hired in another case by the victim's family to special prosecute the kidnapping of a young woman here in Carroll County. The three (3) active partners were involved in handling the matter, particularly the sentencing phase which involved an interpretation of a statute on whether the defendants would be eligible for parole. I had the opportunity on both occasions to watch and learn from these excellent lawyers and legendary judges about all the stuff they don't teach you in law school, both the substance of the law and how it works in real life.

So against that background I represented criminal clients in Circuit Court, both appointed and retained. I represented criminal clients in Circuit Court, primarily in Benton, Carroll and Henry Counties from 1977 when I was licensed until the late-1980s. My representation included crimes against the person such as murder, attempted murder, accessory to murder, aggravated rape, simple rape, aggravated assault and simple assault. There were DWIs (as it was called then) and property crimes such as theft, burglary of an automobile, burglary of a business, grand larceny, petit larceny and receiving and concealing stolen property. A couple of sitting Circuit Judges now, not to mention a recently retired Court of Criminal Appeals Judge, were assistant DAs then and tried some of those cases.

Working with my partner, we successfully presented an insanity defense in an attempted murder prosecution using expert evidence offered through a psychiatrist. We defended a client charged with first-degree murder and accessory to murder which was ultimately plea-bargained. With my partner, I served as a special prosecutor (again hired by the victim's family) in a first degree murder case where my role was to cross-examine the defense psychiatrist to successfully defeat

an insanity defense.

I acted as a special prosecutor in a case involving fraudulent disposition of collateral subject to a security interest. I handled the occasional bootlegging case, contraband in the jail, and as mentioned above, DUIs.

My personal involvement and activities in cases I defended alone or with another lawyer included taking the case from indictment by the Grand Jury, handling arraignment, operating under a scheduling order, working with the client on investigating and fact-gathering, developing defense witnesses, including an expert, developing a defense theory, handling discovery, preparing and arguing motions appropriate to the case, plea bargaining, if appropriate, and, if not, trying the case to a jury. I handled the appeal from beginning to end, including writing the brief.

My personal involvement and activities in cases I special prosecuted which were always with others in the firm included developing factual and legal research and preparing from that work a presentation about the accused's physical and mental condition to defeat his insanity defense.

I began representing clients in civil matters in Circuit Court shortly after I was licensed and continue doing so today. Initially, in Carroll County, I represented a farmer against a herbicide manufacturer on a claim for damages to a soybean crop. I represented another farmer on a claim for damages arising from a trespass by his neighbor's hogs into my client's unharvested corn field. My partner and I represented the Co-op in a revocation of acceptance claim against a dealership involving a new grain truck. Although most domestic relations cases were handled in Chancery Court, I handled an occasional domestic relations matter involving divorce, child custody, support modification or termination of parental rights that found its way into Circuit Court. I did collection and recovery of personal property work seeking money judgments and repossession of collateral on behalf of commercial banks and agriculture business clients arising from default on secured obligations, deficiencies after foreclosure and from unpaid accounts. A partner and I represented the plaintiff in an open meetings/Sunshine Law case against a school board. I was co-counsel for the plaintiff against a municipality in a personal injury case arising from a defective sidewalk. I handled a will contest which resolved through mediation.

As the years passed, my Circuit Court practice became primarily representation of the insureds in third-party tort litigation, and the insurer on first-party contractual and extra-contractual claims. I handled uninsured motorist litigation, defending sometimes in the name of the carrier, and sometimes in the name of the uninsured motorist. In jury trials I have defended premises liability cases, and every kind of vehicular personal injury from whiplash to catastrophic injury to wrongful death. I was also retained by individuals to defend them in tort matters, usually in an excess situation or where there was no liability insurance in the traditional sense.

My Circuit Court practice has included declaratory judgment actions establishing the rights, status and other legal relations of the parties in matters presenting a justiciable case or controversy, usually in an insurance context. I have done interpleader cases, as well.

I have handled these type cases over the years not only in Carroll County, but also Bedford, Benton, Chester, Crockett, Decatur, Dyer, Dickson, Fayette, Gibson, Hardeman, Hardin, Henderson, Henry, Houston, Humphreys, Gibson, Lake, Lauderdale, Madison, Montgomery, Obion, Stewart and Tipton Counties. I am handling active files in these areas of practice in one

or more of these counties at the present time.

My personal involvement and activities included, and still include, first the recognition in many cases that as the out-of-town lawyer, I needed to know the ground, how that particular Circuit Court, especially the Clerk, did business and acclimate myself to the process accordingly. I always obtain a copy of the Local Rules. After that, I personally met with the client, the witnesses, obtained documents, records and information by subpoena and by agreement, developed the case theory, sought and employed experts, drafted and filed pleadings, propounded, answered and supplemented discovery, took and defended depositions, drafted, filed and argued dispositive and non-dispositive motions, participated where appropriate in ADR, participated where appropriate in settlement negotiations, tried the lawsuit, both jury and non-jury, prepared any necessary releases or judgments, prepared, filed and argued post-trial motions and perfected any appeal. Before the appellate court, I briefed and argued the matter.

Through the years both at trial and on appeal, whether with associate, partner or outside lawyer associated in the case, I've been fortunate to have input and collaboration of knowledgeable and capable colleagues.

C. Chancery Court/Probate Court

I also began representing clients in civil matters in Chancery Court shortly after I was licensed and continue doing so today. I represented the plaintiff landowner against a clay company over the interpretation of a clay lease which determined the amount of royalties paid. I tried a boundary line lawsuit to a jury. I represented the insurer in first party contractual and extracontractual litigation commenced in Chancery Court. I have handled domestic relations matters, including adoptions and all the issues arising from a divorce, including entitlement to a divorce, property categorization, valuation and distribution, spousal support, child support, and child custody. I represented a bank on a fidelity bond claim arising out of employee embezzlement. I represented a bank director of a failed bank against the FDIC, litigating over a forged endorsement on a cashier's check and using a handwriting expert. I represented an institutional conservator who sued for disgorgement of an unethical fee charged by the previous conservator's attorney. I litigated the proper circumstances for appointment of an administrator ad litem for purposes of service of process on a deceased tortfeasor. I have handled post-divorce issues as the children grew up and support obligations expired. I tried an intrafamily dispute over whether one (1) of five (5) children exercised undue influence over her father, and whether he intended his money to pass according to his will, or according to designations on certificates of deposit. I served in a Weakley County conservatorship proceeding and a Henry County probate proceeding as the Guardian ad Litem of a man in his early 50's who functioned on the level of a 6 year old.

I have handled declaratory judgment and interpleader work in Chancery Court.

I have probated wills in both common form and in solemn form. The solemn form probate involved as I recall 27 heirs, most of whom disliked my client the Executor.

I have practiced in Chancery Court in all the counties of the 24th Judicial District, and in Cannon County, Davidson County, Fayette County, Henderson County, Humphreys County, Madison County, Maury County, McNairy County, Obion County, Rutherford County, Tipton County and Weakley County.

My personal involvement and activities included and still include the recognition and adjustment to being the out-of-town lawyer and then following the routine outlined above I follow in Circuit Court. Again, during the years I practiced in a firm, with an associate or partner or with outside counsel, excellent lawyers were always there to lend a hand or word of advice.

D. Court of Criminal Appeals and Court of Appeals

During the time from 1977 to the mid-1980s when I practiced criminal law, I handled several appeals in criminal cases. I never could get the Court of Criminal Appeals to absolve my client after a jury verdict of guilt, although the late Judge Jerry Scott graciously made you feel like your brief was the most persuasive he'd ever seen and your client had the finest, most zealous legal representation at trial and on appeal that could be found anywhere. Judge Scott set an excellent example of judicial temperament for a (then) young lawyer, and one I want to aspire to if selected to this position. I encountered him years later after his retirement in the role of opposing counsel in a divorce case in Rutherford County. Off the Bench he was still the consummate professional and the kind of civil, courteous adversary we should all aspire to be in those circumstances.

My experience before the appellate courts has by far been in the Court of Appeals, primarily the Western Section, but also one in the Middle Section. The first ruling I got in a case before the Western Section was dated February 2, 1979. The latest was November 29, 2012, there are many in between flowing from my experience in the trial court.

My personal involvement and activities in those cases begin with perfecting the appeal from and after the disposition of any post-trial motions. This would include preparing and timely filing the notice of appeal, securing the costs, if necessary, arranging for a stay of execution by agreement or bonding the judgment, designating and abridging the record, preparing and filing any motions, preparing and filing the brief and participating in oral argument. In a 2012 matter before the Court of Appeals, I was fortunate to have the help of a respected colleague in preparation of brief and oral argument.

E. Supreme Court

I have been to the Supreme Court twice, both times as the appellee. And both times the Supreme Court reversed the Court of Appeals. The first time was in 1992, the second in 2009. I tried both cases and handled the appeals including writing the briefs. In the 1992 case, the trial court and the Court of Appeals agreed with me, but the Supreme Court saw the matter differently. In the 2009 case, the trial court saw the matter differently from my client's position, but the Court of Appeals reversed. The Supreme Court, however, agreed with the trial court and reversed the Court of Appeals.

The 1992 case involved the proper circumstances for appointment of an administrator ad litem for service of process on a deceased tortfeasor. The 2009 case involved contract and statutory construction in a first-party insurance case.

My personal involvement and activities in those cases included the trial, the appeal process in the intermediate appellate court, responding to the Rule 11 application and ultimately briefing and oral argument in the Supreme Court.

F. United States Bankruptcy Court

I filed a Chapter 7 proceeding for a debtor in 1977 under the old Bankruptcy Act. From and after 1978 when the Bankruptcy Code came into existence, I represented secured and unsecured creditors through the late-1980s in Chapter 7, 11 and 13 proceedings. My clients were commercial banks, federally chartered farm credit lenders and agricultural businesses. I practiced in the Western District of Tennessee, both Eastern and Western Divisions.

My personal involvement and activities in those cases included preparation and filing proofs of claim, preparation, filing and arguing motions to lift the stay, obtaining abandonment and disclaimers of property from the Chapter 7 Trustee, preparation, filing and arguing objections to discharge and dischargeability, preparation, filing and arguing motions for adequate protection and use of cash collateral, preparation, filing and litigating adversary proceedings such as priority disputes between secured creditors, reviewing disclosure statements, litigating over market rates of interest and voting on Chapter 11 plans of reorganization.

G. United States District Court

I defended a products liability case originating in federal court in 1980 and involving failed insulation in an industrial plant in Carroll County. (W.D. Tenn. #80-1110). I handled a remand matter in another case originally filed in Chancery Court, but removed to Federal court. I prepared and argued the motion to remand in the Federal court and was successful because joinder of a Tennessee resident defeated diversity. The case was ultimately tried in Chancery Court in Carroll County and is a reported Tennessee appellate decision. In another case removal was unsuccessful because my client waited too long to seek it, but the case later settled in state court in Henry County. 703 F. Supp. 51 (W.D. Tenn. 1989). I defended a party to a malicious prosecution suit brought in Federal court after the plaintiff was unsuccessfully prosecuted in Henry County for worker's compensation fraud in state court. (W.D. Tenn. #95-1054). Although I do not recall the name of the plaintiff, during my representation of the garment manufacturer here in Carroll County, my associate and I defended a race discrimination case and a sex discrimination case in the United State District Court for the Western District of Tennessee. Summary judgment was granted in the race discrimination case. Plaintiff took a nonsuit in the sex discrimination case.

My personal involvement and activities in those cases, as appropriate, included fact gathering, investigation, interviews, development of a case theory, preparation and filing of pleadings, propounding and answering discovery and preparation and filing of motions, including supporting affidavits. The race discrimination case is remarkable because it predated computers. Another lawyer in our office spent many tedious hours reviewing paper time cards to determine how vacation time was allocated among a 6 person crew over many months, and this was the factual foundation for our success at the summary judgment stage of the litigation.

During my representation of a federally chartered farm credit institution, I participated in an age discrimination case tried in Memphis to a jury and appealed to the 6th Circuit. 861 F.2d 884 (6th Cir. 1988). My personal involvement and activities in that case included working with my client to find a practitioner more experienced than I in federal litigation in general, and in litigation under the Age Discrimination in Employment Act in particular. After that, I collaborated in the preparation of our pleadings, in the taking of discovery, motions and trial strategy, the trial itself and post-trial motions, basically working second chair behind a more experienced,

knowledgeable lawyer who was also an excellent teacher and remained a resource for advice on the law for years after that until his passing.

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

These are the cases of special note to me:

1. Carroll v. Tennessee Farmers Mutual Ins. Co, 592 S.W.2d 894 (Tenn. App. 1979). I represented the insurer in this case involving construction of an insurance contract. Adverse decision in the trial court reversed on appeal. The case represents the first trial and appeal I handled alone and taught me about the interplay between the trial and appellate processes. It went up before the effective date of the (then) new Tennessee Rules of Appellate Procedure.

2. Bank of Huntingdon v. Smothers 626 S.W.2d 267 (Tenn. App. 1981). My partner and I represented the Plaintiff in this case involving interpretation of a banker's blanket fidelity bond in the context of fraud by a longtime, trusted banker in the community. I was exposed to excellent lawyering on both sides and wrote the appellate brief myself.

3. Bynum v. Hollowel 656 S.W.2d 400 (Tenn App. 1983). I represented the Plaintiff in this boundary line dispute. I successfully tried it in Chancery Court to a jury. Boundary disagreements between neighbors or adjoining landowners are a common type dispute in the rural parts of Tennessee, like the 24th Judicial District.

4. Hyatt v. Sanders 1986 WL 3436 (Tenn App. 1986) This vehicular tort case I defended involved substantial damages for personal injury and was tried twice to a jury. A focus of the appeal was the trial court's application of the thirteenth juror rule. It went on to demonstrate the wisdom of the adage, "Watch what you ask for, you may get it."

5. Neese v. Paris Special School Dist. 813 S.W.2d 432 (Tenn. App. 1990). Our office represented the Plaintiff in this Public Meetings Act case demonstrating how the statute is supposed to work in maintaining transparency in government.

6. Estate of Russell v. Snow 829 S.W.2d 136 (Tenn. 1992). I urged on behalf of the Defendant/Appellee successfully in the trial court and the intermediate appellate court a statutory construction which precluded appointment of an administrator ad litem to receive service of process for a deceased tortfeasor after his estate was closed. The Supreme Court reversed in a split decision.

7. Alexander v. Tennessee Farmers Mut. Ins. Co. 905 S.W.2d 177 (Tenn App. 1995). I represented the insurer in this case asserting the defense of arson against a claim under a fire insurance policy. It is a primer on the use of out-of-court statements at trial and proof of motive as an element of the arson defense.

8. Wall v. City of Paris 1998 WL 411309 (Tenn. App. 1998). I was co-counsel for the Plaintiff. Even with bad sidewalks, a Governmental Tort Liability Act claim against a municipality is tough to prove.

9. Tennessee Farmers Mut. Ins. Co. v. Bradford 1999 WL 528835 (Tenn. App. 1999). I represented the Plaintiff in this case which discusses the use of a declaratory judgment action to determine the rights, status and legal relations of parties to an insurance contract, particularly fiduciaries appointed by the insured to act on her behalf.

10. Elam v. Elam 1999 WL 669847 (Tenn. App. 1999). This divorce case involved complex family, step-parent/adult step-child and property relationships in a long-term second marriage. I represented the husband.

11. Paquette, Successor Trustee v. Rigsby, Carroll Circuit #3948. Approximately 1999. I was hired by California lawyers initially to domesticate a foreign judgment, but the matter developed into a conversion claim against a commercial bank and an asset-tracing endeavor looking for money embezzled by the defalcating original California trustee who moved to Tennessee and used a bankruptcy proceeding to cover her fraud. A significant amount was traced to and recovered from the trust account of the Chapter 7 Trustee. The conversion claim against the bank settled.

12. Tennessee Farmers Mut. Ins. Co. v. Hostetler 2000 WL 1051852 (Tenn. App. 2000). I represented the insurer in coverage declaratory judgment case arising from the fatal attack on a woman by a Rottweiler dog. I was successful in the trial court, but unsuccessful on appeal. The case teaches the effect of ambiguity and the importance of clarity and specificity in contract language.

13. In re: Bowdon, Henry Probate #99520 and Bowden v. Bowden, Henry Chancery #18242. Approximately 2001. Wife established a conservatorship in another state to administer a large worker's compensation award in favor of her severely injured husband. Upon moving to Tennessee and hiring counsel for the conservatorship estate, wife dissipated the assets and engaged the estate attorney to sue husband for divorce. Wife was removed as conservator and replaced by an institutional conservator. I represented husband in the divorce and litigated whether the award was separate or marital property. I also sued the former estate lawyer and recovered certain improper fees.

14. Approximately 2002 Carrico v. Carrico Henry Chancery #19050. I represented the husband in this divorce case which, among other things, involved a high earning spouse such that trusts were required for funding the future education of the then minor children of the marriage. Later I dealt with support modification issues raised by the wife as the children reached the age of majority.

15. Approximately 2002-2003 Chappell v. Chappell Henry Chancery #19247. I represented the wife in this divorce case which, among other things, involved a marriage of long duration and the husband at the end of his working years. I located and offered at trial a vocational rehabilitation expert to assist the Court in fashioning an award of spousal support.

16. U.S. Bank, N.A. v. Tennessee Farmers Mut. Ins. Co. 277 S.W.3d 381 (Tenn. 2009). I represented the insurer in this case of first impression on contract and statutory interpretation as to the rights and obligations of a bank to an insurance company at the commencement of foreclosure. I was unsuccessful before the trial court and successful before the intermediate appellate court, before the Supreme Court reversed in deciding this new issue.

17. Tuturea v. Tennessee Farmers Mut. Ins. Co. 2010 WL 2593627 (Tenn. App. 2010). This coverage case in which I represented the insurer involved claims for fire coverage under three (3) different insurance policies in three (3) names. It deals with the idea of household in an unusual factual context. It treats the idea of an intentional act and mental status in the context of a suicide attempt, and it deals with the innocent spouse doctrine.

18. Approximately 2011. Grady v. Gearin Obion Chancery#29063. This was in intrafamily dispute among five (5) children of a testator. The issue was whether his money passed according to the terms of his will and codicil, or according to payable-on-death designations on certificates of deposit. Critical in that determination was whether one child had exercised undue influence over the testator during his lifetime. I successfully represented the adult child asserting the efficacy of the will and codicil by establishing undue influence against her adult sibling advocating for the payable-on-death designations. The Chancellor applied the Common Fund Doctrine and permitted my client to recover attorney fees.

19. Approximately 2012. In the Matter of the Estate of John David McNatt, Sr. Deceased. Henry Probate #21524 and In the Matter of the Conservatorship of John David McNatt, Jr. Ward, Weakley Chancery #20997. I served as a Guardian ad Litem of McNatt, Jr. concerned primarily with locating and identifying the assets of a testamentary trust created by the will of his father, and later, after McNatt, Jr. passed away, properly terminating the trust and distributing the assets to residuary beneficiaries.

20. U.S. Bank N.A. v. Tennessee Farmers Mut. Ins. Co. 2012 WL 5985097 (Tenn. App. 2012). Represented Defendant. This was the Tennessee Consumer Protection Act and statutory bad faith claims unresolved by the Supreme Court's 2009 decision referenced in item 16 above. It is not only a primer on post-trial motion practice in relation to perfecting an appeal, but also that litigants have the right to put on their case, and the trial court has the obligation to judge it with fresh eyes and never with hindsight.

21. 2013. Lessard v. Tennessee Farmers Mut. Ins. Co. Henry Circuit #3547. Represented Defendant. Breach of contract case involving insurance coverage and damages arising from a fire loss. Involved summary judgment practice in both claims and counterclaims.

22. 2013-2015. Wuensch v. Brown. Montgomery Circuit #MCCCCVOD13-1480. Personal injury to a minor as the result of a dog bite. Unliquidated damages. Compensatory and punitive. Represented Defendants. Involved application of work product doctrine in connection with investigatory statements and the use of those materials in connection with depositions. Settled at mediation.

23. 2014. Jaco v. Tennessee Farmers Mut. Ins. Co. McNairy Circuit #14-CV-41. Breach of contract case involving insurance coverage and damages arising from a fire loss. Represented Defendant. Involved resolution of issue of whether counsel for one side could depose counsel for the other side in a pending lawsuit.

24. 2015. Hodges Blvd. Presbyterian Church v. Keul, Individually and as Personal Representative. Carroll Chancery #2015 CV 108. Domestication and collection of a foreign

money judgment on behalf of the Church arising from fraud by a fiduciary. The Church had been the beneficiary of a decedent's estate until an individual in a fiduciary relationship with the decedent prior to her death breached her fiduciary duty.

25. 2017. Estate of Glenda Bell Carroll Chancery/Probate #2017-PE-125. Probated a will in solemn form involving numerous heirs and the expectation of another will than the one offered by the Executor.

26. 2019. Elrod v. Deere and Tennessee Farmer Mut. Ins. Co. Henderson Circuit #27337. Breach of contract involving insurance coverage and damages arising from a fire loss. Represented Defendant. Involved Rule 12.02(6) motion practice as to the propriety of proceeding by complaint for breach of contract or declaratory judgment.

27. 2020. State v. Jason Mark Mills. Carroll Circuit #20CR248/Estate of Ryan Elizabeth Bennett Mills, Deceased. Carroll Circuit #2020-PA-43. Alleged homicide of one spouse by the other with intentional burning of the marital residence during ongoing domestic relations case. Two (2) minor children survived. Criminal case pending. Represented the property & casualty insurer and worked with counsel for the life insurance carrier. The facts presented issues of criminal law, particularly the rights of the accused and the use of evidence by the State, insurance coverage law, probate law and the best interests of children. Negotiated a resolution of these issues while protecting the rights of the accused, causing no prejudice to the State's prosecution and guarding the best interests of the children, including their financial interests, and reduced it all to writing with all parties represented by counsel at every stage. These matters illustrate the importance in recognizing the connectational nature of different areas of the law.

28. 2020-2021. Six (6) cases in Madison Circuit involving an entity named P&G Construction Consultants, LLC and various individual insureds as Plaintiffs vs. Tennessee Farmers Mut. Ins. Co. Madison Circuit #s C-20-125, C-20-273, C-20-257, C-20-259; Two (2) cases with individual insureds as Plaintiffs and P&G indirectly involved, although not a named party vs. Tennessee Farmers Mut. Ins. Co. Madison Circuit #C-21-85 and Henderson Circuit #21005-2. Represent Defendant. Involve substantive issues of insurance contract interpretation, coverage and damages on claims and counterclaims as well as procedural issues of consolidation and evidentiary issues of admissibility of expert evidence.

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

I participated in 2021 as a panel speaker at the Tennessee Advisory Committee on Arson annual conference in Franklin, Tennessee. We presented to a large group of law enforcement and insurance professionals. Along with an insurance fraud investigator, a cause & origin investigator from a private firm, another lawyer, an ATF agent and an Assistant District Attorney, we discussed interviewing techniques in both the civil and criminal context and the use of information obtained through those inquiries in civil and criminal litigation.

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

Submitted an Application for Nomination to Judicial Office on January 10, 2014. The occasion was the death of Chancellor Ron Harmon, and I submitted an application to fill that vacancy as Chancellor for the 24th Judicial District.

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.

University of Tennessee-Knoxville. 1970-1974. B.A. English. University of Tennessee College of Law, J.D. 1977.

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1952.

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

I have lived continuously in the State of Tennessee since August, 1968.

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

I have lived continuously in Carroll County, Tennessee since August, 1977.

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

Carroll County, Tennessee.

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.

None.

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, except for a speeding ticket in Madison County in the 1980s, one in Humphreys County and Hickman County, respectively, in the early 2000s. In each I paid a fine and/or attended driving school.

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. You may wish to request a report from the appropriate supervisory authority (or authorities) for a complete history.

Not applicable. See **Attachment A**.

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.

Yes, as follows:

1. Trotter v. Trotter. Carroll Chancery #9347. Filed 9/23/83. Irreconcilable differences divorce granted from first wife. Subsequent matters arising in 1989 relative to former spouse moving out-of-state with minor child, visitation and modification of support resolved by agreement.
2. Trotter v. Woods. Carroll General Sessions #7702. I sued a former client to collect his share of my fee in a matter I handled successfully before the Court of Appeals. Judgement rendered 10/23/84 for Plaintiff.
3. During the late 1980s, probably 1988 or 1989, a Tennessee Wildlife Resources Agency officer cited me to federal court for allegedly shooting in Henry County before lawful shooting hours during duck season. I put the Government to its proof, and an Asst. U.S. Attorney prosecuted the case before the United States Magistrate in Jackson, Tennessee. Verdict was not guilty.
4. Trotter v. Trotter. Carroll Chancery #91-DR-262. Filed 9/16/91. Contested divorce with second wife Edith Trotter involving issues of divorce, contempt, spousal support, child support, visitation and property distribution. One child of the marriage. Case was tried. Judgment entered. No appeals. Numerous post-divorce issues raised by former spouse. I responded over time to allegations of child abuse, modification of spousal and child support, modification of custody and visitation. When it was all said and done, everything remained as ordered originally by the Chancellor in his final judgment.
5. Ruis v. Trotter. Carroll General Sessions #93CV-114. Filed 4/6/93. Suit over distribution of fees between lawyers at the end of an employment relationship. Settled.
6. State of Tennessee v. Charles L. Trotter, Jr. Carroll General Sessions #95-CR-375; State of Tennessee v. Edith Trotter Carroll General Sessions #95-CR-379 and State of Tennessee v. Edith Trotter Carroll General Sessions #95-CR-380. These three (3) criminal cases arose from an altercation at my apartment on the evening of 2/8/95 during an uninvited visit by my former wife Edith and one of her friends while I was exercising mid-week visitation with our daughter. The cases were consolidated and tried in Huntingdon. I was acquitted. My ex-wife was convicted of assault and placed on 11 months and 29 days probation. I long ago at the request of the District Attorney's Office signed the papers for her record to be expunged. The trial was, however, covered extensively by both newspapers in Carroll County.

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.

University of Tennessee Alumni Association

University of Tennessee Extension Master Gardener, Madison County, Tennessee Chapter

Trezevant United Methodist Church.

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.

1. American Bar Association 1978-2013
2. Tennessee Bar Association 1977-present
3. Tennessee Bar Association House of Delegates, Fall, 2001 to present. Secretary, Deputy Speaker, then Speaker of the House, and by virtue of that office, a member of the TBA Board of Governors 2012-2014.
4. Tennessee Bar Association Standing Committee on Ethics and Professional Responsibility and its predecessor TBA Committee for the Study of Standards of Professional Conduct 1995-present.
5. Board of Professional Responsibility Hearing Committee Member 1988-1994.
6. Tennessee Commission on Continuing Legal Education and Specialization Certificate in Civil Trial Advocacy and Civil Pretrial Advocacy, respectively, 1995, 2012 to present.
7. Supreme Court Rule 31 Mediator in the field of General Civil Mediation 1998 to 3/31/20.
8. Carroll County Bar Association 1977 to present.
9. Tennessee Municipal Attorneys Association 2003 to present. West Tennessee Director 9/10/20 to present.
10. Defense Research Institute 1986 to 2/28/14.
11. Master of the Bench Member in Good Standing of The Howell Edmunds Jackson American Inn of Court since 2019.

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.

Martindale-Hubbell AV rating

Tennessee Bar Foundation, Class of 2014.

Tennessee Advisory Committee on Arson/Fire Investigation School, May, 2009 Certificate of Merit.

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.

I have been the Town Attorney for the Town of Trezevant, Tennessee since 6/1/03. It is an appointed position. I have been the City Judge for the City of McKenzie, Tennessee since 7/1/2020. It is an appointed position.

ESSAYS/PERSONAL STATEMENTS

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

The 24th Judicial District has been my home since 1977, and I've been in the private practice of law here soon to be 44 years. I want to look from the other side of the bench through the lens of personal and professional experience, insights gained and lessons learned, over those years in many contexts. Now seems like the time.

I am seeking the position because I believe the people in this rural part of Tennessee and the lawyers who represent them deserve a trial court which functions promptly, collaboratively and ably as one cohesive unit, across the wide range of court business, instead of a loose aggregation of silos organized by judge or subject matter, too often with little or no cross-ventilation. That approach I believe will improve the perception of fairness in lawyers and litigants and better position the trial court to weather upheavals which come with inevitable change.

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 to be Circuit Court Judge of the 24th Judicial District, Part I. The Circuit Court is a trial court of general jurisdiction for Benton, Carroll, Decatur, Hardin and Henry Counties. There are 3 trial judges – 2 Circuit Judges and 1 Chancellor. The impact of my selection would be advocating with my colleagues for a more proactive application of Tenn. Code Ann § 16-2-502 and Tenn. Sup. Ct. R. 11 § III. to eliminate the silos in which the judging functions in the

District reside. Case sequestration by judge and subject matter over the years has kept the District from adequately reacting when health issues or vacancy remove a trial judge from the bench. Moreover, the practice tends to promote the appearance of favoritism from within and complaints of "homecooking" from without. I would like to see all the trial judges rotating through all the trial dockets in the courts of record.

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)

Absolutely. A Circuit Court Judge takes an oath to uphold the federal and state Constitutions. Every constitutional statute and rule must be upheld. I also believe firmly in the doctrines of stare decisis, legislative primacy and textualism. As a lawyer I've argued both sides of a matter. For example, I personally disagree with the public policy reasoning embodied in Tenn. R. Evid. 803(1.2)(D), but the Court of Appeals applied the Rule in Dailey v. Bateman 937 S.W.2d 927 (Tenn. App. 1996), and if confronted with that same evidentiary question, I would, too. I really cannot think of anything so objectionable, or so devoid of guidance from a higher court of competent jurisdiction, that I would be willing to violate my oath of office and refuse to apply the law on account of personal bias. I believe Tenn. Sup. Ct. R. 10, Canon 2 would obligate me to hear and decide according to my oath the matter assigned me, or disqualify myself.

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. Julie Bowling, General Counsel, Tennessee Farm Bureau Federation and Tennessee Farmers Insurance Companies, [redacted] Columbia, Tennessee 38402. [redacted] Fax: 1-931-840-8640. Email: [redacted]
- B. Robert T. Keeton, Jr., Keeton Law Office, [redacted] Huntingdon, Tennessee 38344; [redacted] Email: [redacted]
- C. Jill Holland, Mayor, City of McKenzie, [redacted] McKenzie, Tennessee 38201; Office: [redacted] Fax: 1-731-352-2259; Email [redacted]
- D. John D. Baumgardner, Senior Vice-President, Carroll Bank & Trust [redacted] McKenzie, Tennessee 38201; Office [redacted] Email [redacted]

[REDACTED]
E. Walter Butler, President, Bethel University, [REDACTED] McKenzie, Tennessee 38201;
[REDACTED]

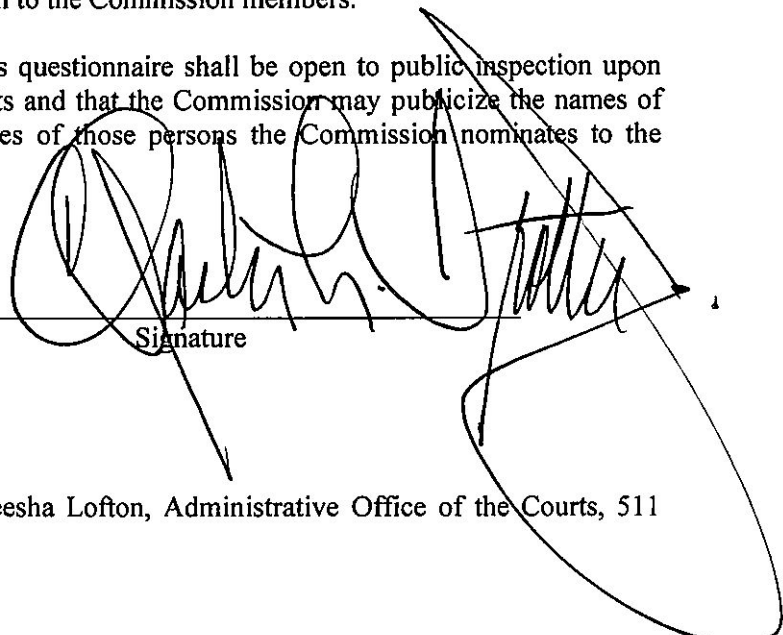
AFFIRMATION CONCERNING APPLICATION

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] Circuit Court of Tennessee for the 24th 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: 22 June, 2021.


Signature

When completed, return this questionnaire to Ceesha Lofton, 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.

Charles L. Trotter, Jr.

Type or Print Name

Signature

Date

BPR #

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



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

SANDY L. GARRETT
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EILEEN BURKHALTER SMITH
DISCIPLINARY COUNSEL

June 16, 2021

Mr. Charles Lawrence Trotter, Jr.
PO Box 399
Huntingdon, TN 38344-0399

Re: Charles Lawrence Trotter, Jr.
BPR #005681

TO WHOM IT MAY CONCERN:

On December 18, 1975, the Tennessee Supreme Court established the Board of Professional Responsibility of the Supreme Court of Tennessee to supervise the conduct of attorneys licensed to practice law in this state.

The records of the Board of Professional Responsibility indicate that the attorney referenced above was licensed in Tennessee to practice law and sworn in on 9/17/1977. The attorney's license is currently Active and is in good standing.

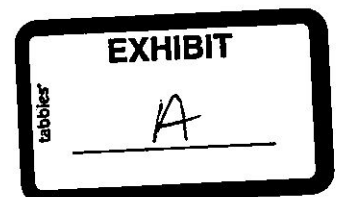
Enclosed for your review is a report generated from our case management system. A blank report indicates that our office has never opened an investigative file on this attorney.

Sincerely,

Mary McKnight
Registration Manager

MLM/lw

Enclosure



Disciplinary History Report

Trotter, Charles Lawrence

005681

Filed	Closed	Complainant	Status	Sub Status
3084-7				
4/25/1984	5/29/1984	Bynum, Leo	Closed	Dismissed by Investigations
M-1327				
10/3/1980	11/5/1980	Hamrick, Louis	Closed	Dismissed by Investigations
10343-7(9)				
12/21/1992	6/14/1993	Krueger, Katherine	Closed	Dismissed by Investigations
22316-7-sg				
4/6/2000	8/21/2000	Tuttle, Dale H	Closed	Dismissed by Investigations