

Tennessee Trial Court Vacancy Commission

Application for Nomination to Judicial Office

1/17/23

Name: William James Whalen, Sr.

Office Address: See Home below _____
(including county)

Office Phone: See Cellular below ____ Facsimile: _____

Email Address: [REDACTED]

Home Address: [REDACTED]
(including county)

Hendersonville, TN 37075 Sumner County _____

Home Phone: _____ Cellular Phone: [REDACTED]

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. Your complete application, including both the original and digital copies, must be received by the Administrative Office of the Courts on or before the deadline prescribed in the Notice of Vacancy. 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.

After 40 years of legal practice, I am now semi-retired following my campaign for General Sessions judge in 2022. I am actively engaged in pro bono and charity work.

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

September 20, 2006. TBPR number 025215.

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.

Michigan	P35230	Licensure May 31, 1983.	Active
California	165598	Licensure July 29, 1993.	Active
Tennessee	025215	Licensure September 20, 2006	Active

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any State? If so, explain. (This applies even if the denial was temporary).

No.

I voluntarily went on temporary inactive status in California to benefit from a reduced bar fee. I returned to active status in California in 2021.

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

After graduating law school in December 1982, I started my legal career at General Motors in January 1983. I have been active in the practice of law ever since. During this span, I was a litigator (GM & Nissan), corporate in-house lawyer (GM, Nissan, Diocese), adjunct professor (Vanderbilt Law & University of Michigan), and finance, sales, and operations executive (Infiniti Division, NNA and Diocese of Nashville).

Prior to law school, I worked in various non-legal roles, including owning and operating a gas station, teaching math in high school, and coaching track and field and cross country. I was a member of the faculty at the University of Detroit (teaching accounting and finance), and I held a leadership position at a not-for-profit management consulting company, Accounting Aid Society. We also provided income tax preparation services for low income individuals and I testified on the VITA program to a congressional subcommittee. I earned my CPA and CMA certificates.

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.

Following my campaign for Sumner County General Sessions judge, I have been semi-retired for the past 18 months. Formerly, my practice involved litigation/trials (60% to 20%), contracts/transactional (20% to 50%), and client counseling (15% to 30%)—each varying on an annual basis. Presently, I provide transactional advice and contract drafting assistance on a pro bono basis.

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.

My legal career started at General Motors Corporation Legal Department with a staff of around 500 people. We handled the legal affairs for GM worldwide. I started in the Appellate Group assisting with briefs. Then I rotated to writing contracts and warranties. Next, I asked to join the newly formed Trials Group where I was part of a three attorney team. We tried cases across the country in federal court and responded to government investigations. In essence, I was the associate of two more seasoned attorneys. Cases involved contract disputes, fraud, dealer relations, environmental inquiries, and other matters. While in the group, I tried a contract dispute with a supplier. The company appealed to the 6th Circuit Court of Appeals where I received a favorable ruling from the bench. Steve Y.C. Ho, et al v. General Motors Corporation, et al. 661 F. Supp 618 (E.D. Mich 1987 but later de-published).

Next, I moved to the Litigation Group and handled Breach of Warranty cases in Michigan and Texas. I was counsel of record in lower Michigan and supervised outside counsel for the cases in Texas. I appeared in court for motions, discovery disputes, and trials. I became an expert in Automotive Dealer Manufacturer statutes (similar to franchise law). My cases were across the USA, most often in Texas, Florida, and California. One of my first bench trials was in Macomb County, Michigan (Ed Rinke Chevrolet Company vs General Motors, et al. .) The Dealer cases were often before ALJs attached to Motor Vehicle Boards. Cases would last from a week to a month with expert witnesses. I likely have over 200 trial days. I was fortunate to prevail in each case where I was trial counsel or co-counsel, sometimes setting state law precedent.

In 1991, I was recruited by Nissan North America. Initially I managed the marketing group

which included dealer relations, advertising, warranty, trademark, and related litigation. We provided the client its legal advice and litigation defense, either directly or through outside counsel. Later, I managed all non-personal injury litigation to include employment, antitrust, class actions, and multi-district litigation. I directed or reviewed all decisions on strategy and briefing. In some instances, I was co-counsel. I supervised 5 to 8 other attorneys and their caseloads. When head of legal for Nissan Canada, I was involved in a Canadian trademark court case over the letter "M".

At the Diocese of Nashville, I provided advice on contracts, employment, and other topics. Litigation was done through outside counsel with whom I worked closely.

I have appeared in trial courts in MI, CA, WI, TX, and TN and before Administrative bodies (ALJs) in CA, FL and TX, among others. I have lobbied for and drafted changes to legislation in OR, TX, and CA. I have prepared legal responses to various regulatory inquiries and provided input to the Department of Justice when examining the merger of companies offering services to the automotive industry. I have personally drafted or reviewed hundreds of contracts for purchase of goods, real property, use of trademarks, copyright, advertising, warranties, and services.

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

(A) I was in house counsel for Diocese of Nashville in Mich. Catholic Conf. et al. v. Burwell et al. challenging the HHS secretary requiring employers to cover abortions in their medical insurance coverage. I assisted in case strategy and briefing. I also worked with trial counsel on the subsequent settlement with DOJ favoring the plaintiffs.

(B) Several notable trial results, including

- a. Representing my client in multi-district and class action litigation.
- b. Receiving a decision from the bench in the 6th Circuit.
- c. Achieving favorable decisions of first impression in several venues.
- d. Coordinating with Creditors counsel on behalf of 30 entities (IOI bankruptcy) who filed claims in the bankruptcy cases.

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

On a pro bono basis, I have represented incarcerated individuals, assisted individuals with appealing denial of medical insurance coverage, represented persons charged with DUI, possession and sale of drugs, and advised people on contracts.

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

I have not applied for a state or federal judicial position previously. I previously ran for General Sessions judge in Sumner County in 2022.

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 Detroit with majors in Mathematics, Accounting, Physics, and Education. August 1970 – December 1973 (finished in 3.5 years). Honors Program – Cum Laude. Beta Alpha Psi Accounting Honor Society. Pi Mu Epsilon Mathematics Honor Society, Alpha Sigma Nu Honor Society. Formed the Liberal Arts Student Council.
- Leland Stanford Junior University (“Stanford”). MBA with one year of PhD studies. Concentrations in Finance and Accounting. September 1974 – June 1976.
- Catholic University of America Columbus School of Law. August 1980 – December 1982 (finished in 2.5 years). Am Jur awards in Bankruptcy and Professional Responsibility. At the time of my graduation there were no academic distinctions. I am told by today’s protocol, my performance would be designated “Cum Laude”.

PERSONAL INFORMATION

12. State your date of birth.

██████████ 1952

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

17 years, 9 months Since June 2006

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

16 years, 11 months Since May 2007

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

Sumner County

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.

I did not serve in the military.

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

No

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

No

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint. You may wish to request a report from the appropriate supervisory authority (or authorities) for a complete history.

None

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

No

21. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC,

corporation, or other business organization)?

No.

I represented companies involved in bankruptcy proceedings (see reply to question 8.B.d).

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. I was the Plaintiff with my son in a lost baggage claim against Northwest Airlines. The case was filed in California and settled. I do not have a case citation. It was over 30 years ago.

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.

Republican Party of Sumner County

Republican Party of Tennessee

Gallatin Chamber of Commerce

Aquinas College, Board Member

Ex-Officio member of several boards of diocesan entities:

Pope John Paul II Preparatory School, Father Ryan High School, St. Michael Academy, Mary Queen of Angles, St. Mary Villa, and Villa Marina Manor.

Our Lady of the Lake Catholic Church

Knights of Columbus Council 9132

Equestrian Order of the Holy Sepulchre of Jerusalem

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

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.

Sumner County Bar Association 2021-Present. Member of scholarship committee – 2024.
TN Bar Association 2008 – Present (estimated duration).

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.

Elevated from Counsel to Senior Counsel while at GM
Elevated from Managing Counsel to Assistant General Counsel while at Nissan North America
Bene Merenti papal medal for service to the Diocese of Nashville

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.

Ran for General Sessions Judge Sumner County in March 2022, an elected position.
Sought appointment as General Sessions Judge in Sumner County in August 2022.

ESSAYS/PERSONAL STATEMENTS

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

My life's calling has been in service of the law. I love the law and have served it as counselor, litigator, and educator. As judge, these roles come together. My forty-year career has imbued me with a range and depth of experiences that will both complement and reflect the skills of the present justices in our Sumner County courts.

I have developed patience, sensibility, and a commitment to justice. My approach to cases will thoughtfully focus on ascertaining the facts, examining the law, and adhering to precedent. I have honed my analytic discipline and am confident in my ability to reach an unbiased, just, and legally prudent decision. My professional and civic career reflects my tireless work ethic, my faith in mankind, and my commitment to service to others. I have the time, energy, dedication, and passion to continue my career as the second circuit court judge of Sumner County.

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)*)

The executive branch approved an additional Circuit Court Judge for the 18th judicial district, Sumner County. The 18th District presently has one judge each for Circuit, Criminal, and Chancellor. There are three county General Sessions judges. This position is nominally the second Circuit Court judge but is expected to assist with caseloads for all the state court judges, both civil and criminal dockets. I can immediately ease the civil case load and begin to handle criminal cases, where I have some (admittedly, not a lot of) experience. I believe I can work collaboratively with all of the judges and promote the court's presence in the community.

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)*

The role of the judge is to apply the law to the facts in an unbiased manner. My personal views or opinion of the substance of the law can have no bearing on the matter at hand. The integrity of the court is paramount, and the decision rendered by the court must be strictly determined by the applicable law and facts presented. I have practiced with this philosophy throughout my forty year career and do not have an example where it did not apply.

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. Christopher T. Callaghan, PhD. Consultant [REDACTED] Sumner County resident and has known me for 50 years)

B. Representative Johnny C. Garrett, esquire. Tennessee House of Representatives District 45, House Majority Whip [REDACTED]

C. Honorable Maurice Sanchez. Associate Justice of the Fourth District Court of Appeal, Division Three, California. [REDACTED] (litigation colleague)

D. Most Reverend J. Mark Spalding. Bishop, Diocese of Nashville. [REDACTED]

E. Honorable Joe H. Thompson. Judge, Circuit Court, 18th District of Tennessee. [REDACTED]

AFFIRMATION CONCERNING APPLICATION

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

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the 18th District Circuit Court 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: April 16, 2024.

William James Whalen, Sr.
Signature

When completed, return this questionnaire to John Jefferson at the 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.

William James Whalen, sr
Type or Print Name

William James Whalen sr
Signature

April 16, 2024
Date

025215
BPR #

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

Michigan Law License P35230

California Law License # 1665598

Colorado CPA License Certificate # 5653 (inactive)

National Association of Accountants CMA Certificate

1198 (inactive)

