

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

10/30/18

Name: David Michael Anthony

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(including county)

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**INTRODUCTION**

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website [www.tncourts.gov](http://www.tncourts.gov)). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) **Review the separate instruction sheet prior to completing this document. Submit 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](mailto:ceesha.lofton@tncourts.gov), or via another digital storage device such as flash drive or CD.

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

**PROFESSIONAL BACKGROUND AND WORK EXPERIENCE**

1. State your present employment.

Lawyer; Member. Bone McAllester Norton, PLLC, in Nashville, Tennessee.

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

1999. BPR No. 019951.

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

Tennessee. BPR No. 019951. November 2, 1999; active.

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

No.

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

Member. Bone McAllester Norton, PLLC. Nashville, Tennessee. January 1, 2008 to present.  
Member of Board of Directors, 2015 to present.

Associate Attorney. Smythe and Puryear, an Association of Attorneys. Nashville, Tennessee.  
May 1, 2002 to December 31, 2007.

Associate Attorney. Williams and Prochaska, P.C. Nashville, Tennessee. March 1, 2002 to April 30, 2002.

Associate Attorney. Law Office of David Smythe. Nashville, Tennessee. November 1, 1999 to February 28, 2002.

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.

The focus of my practice is commercial litigation. While the specific percentages may vary from year to year, my recent emphasis has been in the following areas of law: banking and creditor rights (35%); corporate litigation (25%); bankruptcy (20%); construction (10%); and real property (10%). Additionally, a portion of my practice has always included advice in commercial transactions, contract drafting, and loan documentation.

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.

Since my admission to the bar in 1999, I have represented clients in civil matters in state and federal courts throughout Middle Tennessee.

Most of my cases have been filed in chancery court, and I estimate that I have handled over 250 matters in the Tennessee chancery courts. Of those matters, the Davidson County Chancery Court has been my most frequent forum, and the Davidson County Clerk and Master's online database shows that I have been counsel of record in 183 cases.

I started my career with a solo practitioner in Nashville, where I had primary responsibility for the firm's active creditor bankruptcy practice (consumer and commercial) and managed a large creditor and construction caseload in the general sessions courts in Middle Tennessee. This work also included frequent appearances in the circuit and chancery courts throughout the state on behalf of creditors, mechanic lien claimants, and businesses in commercial disputes.

At that firm, I was given broad and immediate responsibility on client files and, within two months of my admission to the bar, I conducted my first trial in Rutherford Chancery Court. As my experience grew, so did the firm's client base, and my practice expanded to include more complex litigation and larger commercial bankruptcy matters, including representation of unsecured creditors committees and litigants in a number of the "mega-bankruptcy" cases that were filed in Nashville in the mid-2000s.

This growth in my commercial bankruptcy and complex creditor practice closely tracked the economic recession, and, in 2008, I transitioned my practice to a larger law firm, Bone McAllester Norton, PLLC, which further expanded the reach and scope of my practice.

At Bone, I have primary responsibility for the firm's bankruptcy, banking, and real property litigation, in whatever forum those matters have arisen. This has been most frequently in Tennessee chancery courts, where I have handled real property litigation, tax lien disputes, creditor-debtor litigation, mechanic lien lawsuits, and business disputes. This has also included commercial litigation in the United States District Courts throughout Tennessee.

In the past few years, I have litigated a number of complex matters, and, when such judgments

have been challenged, I have successfully defended all of those decisions on appeal, including an appeal that ultimately reached the United States Supreme Court, where certiorari was denied.

Throughout my career, my clients have also looked to me for transactional advice, recognizing that my experience in litigation gives me unique insight on the drafting, execution, and negotiation of commercial transactions. While this represents a relatively small part of my practice, I take pride in this work, both because I enjoy the challenge and because it injects an interesting diversity into my practice. In the past year, I've worked on some of Nashville's largest real estate development projects, prepared sponsorship agreements for an NCAA college conference's nation-wide marketing campaign, and prepared loan documents for a transaction with a globally known music performer.

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

I have been fortunate to work on a number of challenging and fulfilling matters. For purposes of illustration, the following matters are representative of my work.

*GreenBank v. Sterling Ventures, L.L.C.*, No. M2012-01312-COA-R3CV, 2012 WL 6115015 (Tenn. Ct. App. Dec. 7, 2012). In this post-foreclosure deficiency lawsuit against a property developer, my bank client was awarded a judgment by Chancellor Timothy Easter in the Williamson County Chancery Court, where the defendants asserted a defense under the (then) newly enacted foreclosure deficiency statute, Tenn. Code Ann. § 35-5-118. I successfully defended the verdict on appeal, which was the first appellate opinion construing the text of this statute.

*Watson v. Cartee*, 2015 WL 728578 (M.D. Tenn. Feb. 19, 2015), *aff'd* 817 F.3d 299 (6th Cir. 2016), *cert. denied sub nom. Day-Cartee v. Regions Bank*, 137 S. Ct. 570 (2016). This real property dispute spawned litigation in a number of our local courts, including Davidson County General Sessions Court, Circuit Court, Chancery Court, the United States District Court, and, then, on appeal from Judge Aleta Trauger's ruling, the Sixth Circuit Court of Appeals and the United States Supreme Court. I represented the prevailing buyer in post-foreclosure eviction proceedings (said to be the largest residential eviction ever conducted by the Davidson County Sheriff), and the matter included contemporaneous litigation in the Chancery Court and, after removal by the Internal Revenue Service, in District Court. The matter required extensive briefing on byzantine legal issues related to title and property law, as well as foreclosure and lien issues.

In early 2018, I obtained a judgment in the Marion County Chancery Court in a dispute over ownership of declarant rights for a large residential property development at Nickajack Lake, which involved a contested interpretation of Tennessee statutes and case law on this developing area of Tennessee property law. This matter is currently on appeal to the Tennessee Court of Appeals.

Also, in early 2018, I represented a corporate buyer of all dealership assets from the eight



separate bankruptcy estates of a regional used car dealership in the Bankruptcy Courts for the Middle District of Tennessee. While this engagement obviously required an in-depth knowledge of bankruptcy law, the engagement grew to require substantive analysis of many areas of law, including landlord-tenant, property law, intellectual property, and UCC transactions, as well as participation in litigation in Bankruptcy Court and Davidson County Chancery Court.

Finally, one of my most satisfying recent victories has been on behalf of an individual, in defense of a debt collection claim. At the time of my engagement in May 2018, the judgment creditor had just seized more than \$17,000.00 of this small business owner's funds on a seven year old judgment. After analysis of the procedural record of the case and Tennessee statutes on service of process, I presented argument to the General Sessions Court—and later the Circuit Court—demonstrating that the judgment creditor failed to comply with the technical requirements for valid service of process. As a result, I was able to set aside the judgment and obtain a dismissal of the collection action. This matter is currently on appeal to the Tennessee Court of Appeals.

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

In addition to my legal work on behalf of clients, I regularly teach legal education seminars to lawyers and other professionals (such as real estate agents and accountants). Since 2002, I have presented over 60 CLE topics related to trial practice, law firm management, ethics, and specific areas of law. In the past twelve months, I have taught and developed the curriculum for the following presentations: *Collection After Death* (Probate) for the 2017 Estate Planning Series of the Memphis Bar Association; *Social Media and the Evidentiary Role of Technology* for the 2017 Family Law Conference (Tenn. Attorney's Memo); *Preferences and Dischargeability Issues in Bankruptcy* and *Litigating Stay Violations* for the 2018 Creditors Practice Annual Forum (Tenn. Bar. Assoc.); and *Ethical Online Marketing* for the 2018 Law Conference for Tennessee Practitioners (Tenn. Attorney's Memo).

Additionally, since July 2010, I have maintained and updated *Creditors Rights 101*, a legal blog focusing on issues in commercial litigation, debtor-creditor law, and analysis of relevant Tennessee case law, at [www.creditorrights101.com](http://www.creditorrights101.com), as well as the corresponding twitter feed at [www.twitter.com/creditorlaw](https://twitter.com/creditorlaw).

Finally, I am a passionate advocate for equal access to justice for low income and disadvantaged citizens. To that end, I routinely provide pro legal services by accepting referrals from the Legal Aid Society of the Middle Tennessee and The Cumberland, and, in addition to my own service, I help organize lawyer volunteers for Legal Aid's weekend legal clinics. The Tennessee Supreme Court recognized this work by awarding me its *Attorney for Justice* Pro Bono Service Award in 2016 and 2018.

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

In August 2015, I submitted an Application to the Sixth Circuit Judicial Council for consideration for an appointment to serve as a Judge for the United States Bankruptcy Court, Middle District of Tennessee, at Nashville.

### 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 College of Law. Attended from August 1996 to August 1999. Graduated in August 1999, with *cum laude* honors. Participated in the 1999 James Baker Hughes Writing Competition of the *Houston Journal of International Law*. Recipient of Matthews-Jeter Academic Scholarship, the Extraordinary Achievement Award, Law and Medicine Seminar, and named to Dean's List (High Honors).

University of Memphis School of Law. Attended during the 1997-1998 Academic Year (Visiting Student, due to family illness). Participated on the 1998 Jessup International Law Moot Court Team (Best Respondent's Brief), and the 1997 Invitational Mock Trial Competition.

University of Memphis, College of Arts and Science. Attended from August 1992 to May 1996. Graduated in May 1996, with *summa cum laude* honors. Volunteer work in Academic Support Program (tutor), at Memphis Humane Society, and at Make-A-Wish Foundation. Recipient of Academic Excellence Scholarship, Proctor and Associates Scholarship, and named to Golden Key Honor Society, Sigma Tau Delta English Honor Society, and Presidential Dean's List.

### PERSONAL INFORMATION

12. State your date of birth.

1974.

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

Forty-four years.

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

Approximately 12 years.

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

Davidson 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.

Not applicable.

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.

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. In 2006, I was plaintiff in an uncontested divorce proceeding, *David Anthony v. Christy Anthony*, in Williamson County Chancery Court, Docket No. 32159. A *Final Decree of Divorce* was entered on December 5, 2006.

In July 2005, I disputed a medical billing error in the amount of \$150.00, which resulted in a Williamson County General Sessions lawsuit (*Desa Haase, CCC SLP v. David Anthony*, Docket No. 15912A) for that amount, which was instantly resolved (upon payment of \$75.00).

During my career, I have frequently served as a trustee under deeds of trust and, as contemplated by the question, I have been named as a nominal party in occasional lawsuits. The only pending action is *Joe Jackson, Jr. v. Regions Bank, et. al.*, Shelby County Chancery Court Docket No. CH-17-0815-1, a pro se post-foreclosure action that names me in my capacity as a trustee.

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.

Member, The Village Chapel, Nashville, Tennessee, 2009 to present.

Member, University of Memphis Alumni Club (Nashville Chapter), 2000 to present.

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

- a. If so, list such organizations and describe the basis of the membership limitation.
- b. If it is not your intention to resign from such organization(s) and withdraw



from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No.

**ACHIEVEMENTS**

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

Nashville Bar Association, November 1999 to present. Member, Bankruptcy Court Committee, 2000 to present.

Tennessee Bar Association, November 1999 to present. Member, Creditors Practice Executive Council, September 2018 to present.

American Bankruptcy Institute, October 2007 to present.

Turnaround Management Association, March 2018 to present.

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.

Awarded the *Attorney for Justice* Pro Bono Service Award, 2018 and 2017, Tennessee Supreme Court.

AV Preeminent Peer Review Rating by Martindale Hubbell.

Named as a *Mid-South Super Lawyer*, 2018, 2017, 2016, and 2015.

Named as a *Mid-South Lawyers Rising Star*, 2014 and 2013.

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.

Not applicable.

ESSAYS/PERSONAL STATEMENTS

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

I am motivated by the excellent judges who have shaped me as a lawyer and exemplified the qualities that I value: Judge Lundin's razor sharp knowledge; Judge Paine's sense of humor; Chancellor McCoy's tact; and Chancellor Kilcrease's fairness. These judges made me a better lawyer and inspired me to follow in their steps.

Currently, I have a thriving practice, a diverse client base, and have enjoyed great success advocating for my individual clients' interests. Nevertheless, this position represents an opportunity to serve a greater purpose, in service to the profession, the bar, and the people of Davidson County. I believe service as a judge is the highest form of participation in the justice system. I am confident that my broad legal experience, exceptional knowledge of the law, and judicial temperament would allow me to benefit our community and our profession.

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 am seeking appointment as a Chancellor in the Chancery Court for the 20th Judicial District of Tennessee, which serves Davidson County. This is a busy court, with four judicial positions. The Chancery Court is a court of equity that hears a diverse range of commercial disputes, including issues arising under constitutional law, contract disputes, employment law, litigation related to construction and real property, and it also provides appellate review of the decisions of a number of statewide administrative agencies.

During my career, I've been counsel of record in over 250 matters in chancery courts across Tennessee, with 183 of those matters in Davidson County. My vast experience before this Court uniquely qualifies me to serve as Chancellor. In particular, my thorough understanding of issues impacting mechanic liens, tax sales, and real property disputes would provide an easy transition from Chancellor Bonnyman, who frequently heard such matters in Part I.

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)*

Upon taking the oath of office, a judge has a duty to apply the law, without regard to whether he or she agrees with that law. A trial court judge must apply the law as it is written. It is the legislature's role to determine whether a law should be changed.

I can't recall an instance where my personal opinions or professional interests impaired my ability to zealously serve a client. Recently, citing clear statutory text, I argued a position on behalf of a client that has resulted in unprecedented scrutiny of service of process by some of our local courts. Prior to making these arguments, I anticipated that my position could create difficult

precedent for my future cases, but I also knew that I was bound by the clear statutory text and my duty as an attorney to proceed. Ultimately, the trial judge agreed and dismissed the action.

I have always followed the law in my advocacy for my clients. As a judge, I would continue to respect and adhere to this duty to follow the law, without regard to personal, financial, or implicit bias.

**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. Charles Robert Bone. Chief Executive Officer, Bone McAllester Norton, PLLC. 511 Union Street, Suite 1600; Nashville, Tennessee 37219. [REDACTED]

B. Glen Watson. Lawyer, Watson Law Group, PLLC. P.O. Box 121950; Nashville, Tennessee 37212. [REDACTED]

C. Daniel H. Puryear. Lawyer, Puryear Law Group. 104 Woodmont Boulevard, Woodmont Centre, Suite 201; Nashville, Tennessee 37205. [REDACTED]  
[REDACTED]

D. Michael D. Griffith. Executive Vice President, Security Federal Savings Bank. 306 West Main Street, P.O. Box 7027; McMinnville, Tennessee 37111. [REDACTED]  
[REDACTED]

E. Sharon Emersyn-Greaves [REDACTED] Nashville, Tennessee 37206. [REDACTED]  
[REDACTED]

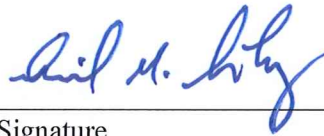
**AFFIRMATION CONCERNING APPLICATION**

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 Chancery Court for the 20th Judicial District of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

Dated: November 7, 2018.



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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.

David Michael Anthony  
Type or Print Name

  
Signature

November 7, 2018  
Date

019951  
BPR #

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