

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

04/15/16

Name: Michael W. Mitchell \_\_\_\_\_

Office Address: 5100 Poplar #2008, Memphis, Shelby County, TN 38137-2008  
(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 original (unbound) completed application (with ink signature) to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to [debra.hayes@tncourts.gov](mailto:debra.hayes@tncourts.gov), or via another digital storage device such as flash drive or CD.

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

**PROFESSIONAL BACKGROUND AND WORK EXPERIENCE**

1. State your present employment.

Member, Gentry Arnold & Mitchell, PLLC

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

1988, 013350

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.

TN, November 3, 1988, active

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

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).

Associate, Petkoff and Lancaster, 1989-1990

Partner, Weissman, Ostrow and Mitchell, 1991-2012

Member, Gentry Arnold & Mitchell, PLLC, 2013-present

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.

Consumer and debtor bankruptcy , 20%

Domestic Relations, Custody and Support, 20%

Criminal, mostly misdemeanor defense, 10%

Probate (estates, conservatorships) , 10%

Civil including contracts, construction disputes, personal injury, FED and foreclosure disputes, debt negotiation-40%

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.

Initially at Petkoff and Lancaster, my work was in insurance defense (mostly accident cases, but some worker's compensation and GTLA defense) as well as subrogation work of behalf of insurance companies.

While at Weissman, Ostrow & Mitchell, I worked on about every type of case imaginable. I did both some misdemeanor and felony defense work until around 1996, when the civil case load became more demanding. I handled matters in all Civil courts, probably 40% in general sessions, with quite a bit in Circuit and Chancery. In Circuit the work was 2/3 divorce and post divorce litigation, with 1/3 being Circuit trial work, largely collection or contract cases above General Sessions' jurisdictional limit. There were also Chancery domestic matters handled exactly the same. There were some administrative matters as well, either unemployment appeals or Social Security disability matters.

I have excellent organizational skills and if anything, am a bit compulsive in making sure all things are properly calendared and done in a diligent manner. Communication with clients and opposing counsel paramount. Always very professional and willing to compromise when available for expediency.

At my current firm, the practice is a little less varied simply because of the larger amount of bankruptcy cases. My experience has been that the civil judges have very, very limited knowledge of the bankruptcy code and how it affects civil litigation, particularly after the 2005 code amendments which render the stay of the bankruptcy court virtually meaningless in domestic support issues.

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

I do involuntary commitments for the mental health patients. I was able to get two people released this year. (There have only been a handful ever released. One of the ones I was able to release was a practicing corporate attorney.)

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

I have served as a Special Judge in General Sessions Civil Courts in Shelby County, Tennessee, easily a hundred times over the last 20 years. Additionally, I have been either an Executor or an Administrator of at least 6 estates over the last 20 years.

Adjunct Professor, paralegal studies, Southwest TN Community College, 1994-2009

Adjunct Professor, paralegal studies, University of Memphis, 1994-1996

Instructor, LSAT prep class. 1996-1998

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

Not applicable

### 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.

Associate of Science, Motlow State Community College, Tullahoma, TN 1984

(Honors Award, Economics)

Bachelor of Science, Middle TN State University, Murfreesboro, TN 1985 (top 10%)

Juris Doctorate, Memphis State University, 1988 (top 20%)

**PERSONAL INFORMATION**

12. State your date of birth.

1/28/1962

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

53 years

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

31 years

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

Shelby

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.

Guilty reckless driving, 1/88

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.

2 complaints, one dismissed. One pending that, according to the BPR, will be dismissed. It involves a divorce client that entered into both a MDA and Parenting Plan after two separate mediation sessions, and then reneged on both agreements "alleging he did not understand what he was agreeing to".

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

No

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

No

22. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

No

23. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices which you have held in such organizations.

None

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.

Memphis Bar Association, 1995-present

2016, Current Chairman, bankruptcy section-responsible for 10 1-hour CLE's during year and annual seminar in October (6 hours). Also raise money to support University of Memphis Duberstein Moot Court Team.

2015, Vice chair of MBA Bankruptcy Section

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.

Certificate of Appreciation, Memphis Chapter of Nation Association of Legal Secretaries, 2008

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)*

My sincere hope is to continue to be a positive influence in Memphis and Shelby County and to continue to assist those that interact with our legal system. As a Judge I have an even greater opportunity to make a difference. With greater opportunity comes greater responsibility. I am up to this challenge. I have been an active member of the legal community in Shelby County ever since law school. My history shows I have a diverse and extensive background on just about any kind of case imaginable. Almost thirty years of experience has caused me to interact with every Judge and most of the attorneys here. My reputation is one of diligence, promptness and professionalism. In addition to my professional experience, I have a history of community service which indicates my desire and my willingness to work very hard to make Memphis and Shelby County a better place.

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)*

Circuit Court Division VII seat being vacated by the Honorable Donna M. Fields. This is one of nine Circuit Court seats in Shelby County, Tennessee. It is the second tier of civil trial courts in Tennessee, handling civil matters with no theoretical monetary limit. I believe my selection would be a very positive impact on the court. I have a stellar reputation for integrity, promptness, and being well prepared. I am also even-tempered and not prone to make knee-jerk decisions. I understand and appreciate that whether the case is an appeal from General Sessions over a \$500 claim, or a personal injury case with injured plaintiffs with the potential for a large monetary award, both situations are equally as important to the litigants involved. I would like to think making clear, concise and well-thought-out rulings would result in the fair and efficient application of the law to all litigants that would appear in front of me.

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)*

Certainly. One of the great things about our legal system is the concept of Stare Decisis. While the law does change over time and occasionally there are big changes (McIntyre v. Balentine as an example), predictability and the uniform application of the law are absolute requirements. Judges, especially at the trial level, should be very reluctant to change the law. That is the prerogative of our legislative body and not the judiciary. As an attorney often times my sense of compassion conflicts with what the law explicitly requires. Once or twice a year I am faced with a situation where I am evicting a tenant from an apartment or a former homeowner that has lost his home in foreclosure. The law very clearly gives the occupant ten days from the date of the judgment to vacate, before the possibility of a writ being issued and their belongings placed on



the curb. In the past I have had defendants who have been in a property for years and who are either aged or infirm and they plead it is impossible to be out in ten days. As uncomfortable as I am with what the law says, it is not within my prerogative to extend more time to the defendant without the express consent of my client. I do see circumstances in the future where Judges will be faced with complicated decisions that might result in rulings that conflict with current laws. The US Supreme Court's ruling in Obergefell vs Hodges has placed the domestic relations law of many states into a state of uncertainty and turmoil. Some of the current laws on the books in Tennessee and many other jurisdictions are not consistent with the principles behind the Obergefell decision and it may take several years for all this to get ironed out. It will force some Judges to make some very difficult rulings. While I say I have no problem applying the law, that doesn't necessarily mean I have to agree with what it requires.

**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. Larry A. Weissman, Atty.,
B. Roger Stone, Attorney,
C. William. Timothy Hill, Attorney,
D. Honorable Phyllis B. Gardner, Judge, Shelby County General Sessions Court, Division 2,
E. Aaron Ivey, Principal, Enterprise Property Management, Inc.,

**AFFIRMATION CONCERNING APPLICATION**

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

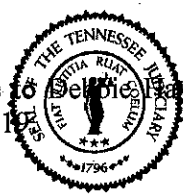
I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Circuit Court for the Thirtieth Judicial District of Tennessee, and if appointed 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: 7/7, 2016.

Michael J Mitchell  
Signature



When completed, return this questionnaire to Self, 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.

Michael J Mitchell

Type or Print Name

Michael J Mitchell

Signature

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

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Date 7/7/2016

TW 13350  
BPR #