

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

10/30/18

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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). 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, 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.

Partner, Barrett Johnston Martin & Garrison, LLC

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

2008; BPR No. 027592

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. 027592

October 31, 2008; 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).

October 2010 to present: Barrett, Johnston, Martin & Garrison, LLC

As a partner at Barrett, Johnston, Martin & Garrison, I primarily represent individuals in employment litigation and constitutional litigation. In both state and federal court, I regularly represent individuals in non-compete lawsuits, in wage disputes, on medical leave protections, and on constitutional protections, including voting rights and First Amendment rights.

September 2008 to October 2010: Bass Berry & Sims, PLLC

At Bass, Berry & Sims, I represented businesses in a wide array of litigation, ranging from

contract disputes, to real estate matters, to securities litigation, and to challenges brought under the Financial Industry Regulatory Authority (FINRA).

2004 to 2005: Office of President William Jefferson Clinton

As a scheduler for former President Bill Clinton, I assisted with reviewing all invitations and with setting and executing Mr. Clinton's schedule.

2003 to 2004: Presidential Campaign of Howard Dean

In advance of the 2004 presidential primaries, I worked as a field organizer in New Hampshire and Iowa for Howard Dean's presidential campaign.

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.

Employment / Labor: 70 %

Non-Employment Constitutional Cases: 20 %

Other: 10 %

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 have actively litigated cases for my entire tenure as a lawyer. In both state and federal court, I have tried numerous cases from inception through trial, including jury trials and bench trials. Along the way, I have argued (and drafted filings for) many pretrial motions, dispositive motions, discovery motions, and motions seeking injunctive relief. My litigation experience has spanned multiple Chancery and Circuit Courts around the State of Tennessee, and federal district courts in all three Grand Divisions, as well as other federal district courts. In addition, I have arbitrated cases before FMCS and AAA arbitrators, and cases brought under FINRA.

On the appellate level, I have argued appeals before the Tennessee Court of Appeals and the Sixth Circuit Court of Appeals.

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

In approximately 2010, I attended a monthly free clinic hosted by the Legal Aid Society. During the course of that evening, I met a hardworking, low-wage individual who had carefully saved up funds to enclose an open portico on the side of her house, who had completed the construction,

and whose neighbor had then claimed that the construction violated the applicable zoning codes and should be removed. The individual I met that night could not afford an attorney, and I agreed to represent her on a *pro bono* basis. Over the course of the next several years, I represented this individual through a Chancery Court bench trial, which we won; through an appeal to the Tennessee Court of Appeals, which affirmed the trial court; and through the Tennessee Supreme Court, which denied certiorari.

This case was far from the biggest case I have handled; was just one of many cases where my clients have prevailed; was not a particularly unique case; and was not a case that led to any sort of accolades or public recognition. I highlight this case, however, because it remains a strong reminder to me of the fundamental work we all strive to perform as lawyers to help our clients move through difficult times. Whenever my legal career gets too hectic or stressful, I think back to this case and remember that in every case we handle as lawyers, no matter how unremarkable, we hold the awesome responsibility of using our skills to help our clients.

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

Not applicable.

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

No prior applications.

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.

Vanderbilt University Law School: 2005 to 2008; J.D.; Order of the Coif; Moot Court Board Member; Legal Aid Society President.

Columbia University: 1999 to 2003; B.A.; *summa cum laude*; Phi Beta Kappa.

PERSONAL INFORMATION

12. State your date of birth.

██████ 1980.

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

13 years, since August 2005.

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

13 years, since August 2005.

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

Davidson 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.

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.

In the Spring of 2017, the Clerk of the federal district court for the Middle District of Tennessee contacted our law firm to inquire whether we would agree to accept a *pro bono* matter representing an individual who has filed numerous federal lawsuits against her former employer, the U.S. Department of Defense. The Clerk inquired whether we would represent this individual on one of her cases, which had survived summary judgment and was ripe for trial. Our firm regularly represents individuals in *pro bono* matters, and we willingly agreed to accept this appointment and to represent this individual through trial.

From March 2017 through the September 2017 trial, we spent over 700 hours preparing for and litigating the three-day jury trial. Ultimately, the jury found for the defendant. Our client was unhappy with the result, and within days of the verdict she began filing documents with the Court attacking “our corrupt judicial system,” accusing the District Judge of “personal bias,” and accusing the District Judge of colluding with our law firm to ensure that her trial was unsuccessful.

In September 2018, this former client filed a legal malpractice lawsuit (*Hobson v. Barrett Johnston Martin & Garrison, LLC* (M.D. Tenn. Case No. 3:18-cv-00838), in which she accuses our law firm, the associate with whom I tried the case, and me of deliberately losing the case. The Magistrate Judge assigned to this action entered a show cause order requiring the plaintiff to show cause why the matter should not be dismissed and relieving our firm of any obligation to respond to the Complaint. The Magistrate Judge has since entered a Report & Recommendation to the District Judge recommending that the matter be dismissed. The filings in this matter state that the former client also contacted the Board of Professional Responsibility, but I have never been contacted concerning any such action.

This is the only malpractice claim that has ever been asserted against me, and as far as I am aware, it is the only malpractice claim that has ever been asserted against our firm, which has been in existence for approximately 65 years. In the meantime, our firm has continued to take civil appointments from the Clerk and will continue to do so because we believe it is a valuable service both to underrepresented parties and to the judiciary.

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.

See Response to Question 19, above. Other than the action described therein, 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.

Conexión Américas: Board Member - 2011 to present; Board President - 2015-2018; Board Vice President - 2015.

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.

2008 to present: Nashville Bar Association

2011 to present: Tennessee Bar Association

2011 to present: American Bar Association

2017 to present: Lawyers' Association for Women - Marion Griffin Chapter

2010 to 2012: Harry Phillips American Inn of Court

2015 to present: National Employment Lawyers Association

2010 to present: Lawyers' Coordinating Committee, AFL-CIO

2008 to present: American Constitution Society; President of Nashville Chapter (2009 to 2011)

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.

Not applicable.

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.

Candidate for Chancery Court, Twentieth Judicial District, Part II: May 1, 2018 primary election.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking an appointment to the Chancery Court, Twentieth Judicial District, because I have a great respect for the rule of law, because I particularly enjoy the process of applying our legal precedents to the unique fact patterns that arise in litigation, and because I have long been drawn to public service. I am confident that my passion for the law and for public service, along with my strong work ethic, will combine to ensure that the citizens of Nashville and the State of

Tennessee continue to be served efficiently, diligently, and competently in the Chancery Court.

I am specifically seeking an appointment to Chancery Court because the jurisdiction of the Chancery Court overlaps significantly with the experience I have developed over my career, as a civil litigator handling contract cases, employment law, constitutional cases, and other matters.

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 Chancery Court, Twentieth Judicial District, encompasses all of Davidson County, and consists of four Chancellors. The Chancery Court hears a wide range of civil matters, including contract disputes, real estate litigation, employment disputes, state and local tax questions, appeals of agency decisions within the Nashville and State of Tennessee governments, and constitutional challenges to Tennessee statutes.

Nashville and the State of Tennessee have benefitted for many years from diligent, hard-working, competent Chancery Court judges. If selected, I would continue this tradition. My private practice closely aligns with the subject matter of the Chancery Court, and I have litigated nearly every type of case that the Chancery Court regularly hears, including agency appeals, contract disputes, employment disputes, tax cases, real estate cases, and constitutional cases. In addition, I will bring a work ethic to the Court, if selected, that will ensure that matters are resolved efficiently, through prompt, well-supported decisions.

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)**

If selected to serve as a Chancery Court Judge, I categorially and unequivocally pledge always to uphold the law as it is written, regardless of any personal belief. Our legal system rests on the bedrock principle that our courts are impartial forums, where all parties can rely on the fact that their disputes will be adjudicated by an impartial judge, based only on the facts presented and the applicable law. This unique legal system has played a pivotal role in the success of our nation since its inception. If selected, my guiding light for every day in office will be to uphold and apply all of our laws, regardless of any personal beliefs I may have concerning any specific law.

Tennessee Rule of Professional Conduct 1.8(e) provides an example from my practice of my following a Rule that I believe could be amended. Rule 1.8(e) prevents lawyers from providing financial assistance to clients other than payment of litigation expenses in certain circumstances. While this Rule serves the important goal of not “encourage[ing] clients to pursue lawsuits that might not otherwise be brought,” this Rule also has the effect of preventing lawyers from providing modest humanitarian assistance (*i.e.*, a holiday meal, a gift card to purchase school supplies, bus fare, etc.) to destitute clients. I believe this Rule could be rewritten to allow for modest humanitarian assistance without undermining the Rule’s important goal, but I have

always strictly followed Rule 1.8(e) when faced with such situations.

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. H. Lee Barfield, III; Retired, Bass Berry & Sims, PLLC; [REDACTED]

B. Liz Allen Fey; Member, Lead. Think. Do.; [REDACTED]

C. Bill Harbison; Partner, Sherrard Roe Voigt & Harbison, PLC; [REDACTED]

D. Joey Hatch; Retired, EVP – GM, Skanska USA Building, Inc.; [REDACTED]

E. Jerry Martin; Partner, Barrett Johnston Martin & Garrison, LLC; [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 of Tennessee, Twentieth Judicial District, 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 13, 2018.



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.

Scott P. Tift

Type or Print Name

Scott P. Tift

Signature

11-13-18

Date

027592

BPR #

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