

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: Thomas M. (Tom) Horne

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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 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.

Partner, Luther-Anderson, PLLP, Chattanooga, TN

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

1989; BPR No. 013833

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. 013833, 1989, 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).

Butler & Phillips, Associate Attorney; Nashville, Tennessee (1989-1992)

Mitch Grissim & Associates, Associate Attorney; Nashville, Tennessee (1992-1997)

Luther-Anderson, PLLP, Associate Atty (1997-2000), Partner (2000-Present); Chattanooga, TN

School Teacher, El Centro, California School District (1977-1979)

Business Owner, Retail Book and Music Sales, El Centro, California (1979-1984)

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.

Civil trial and appellate practice in state (95%) and federal (5%) courts ; Substantially all of my current practice involves personal injury, products, construction defect and premises liability defense, and workers compensation and employment law defense. I am a certified Tennessee Rule 31 civil mediator.

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 am a trial and appellate lawyer. My initial practice was a general trial practice as an Associate Attorney, handling plaintiff personal injury, divorce and criminal matters in trial courts in several counties in middle Tennessee as well as in the U.S. District Court, Middle District of Tennessee. Over time my practice while in Nashville began to involve only representing plaintiffs in personal injury and workers compensation cases. During the first eight years of my practice in middle Tennessee I tried approximately 15 jury trials in state and federal court and approximately 25 bench trials in state court (workers compensation or divorce cases). In 1997 I joined Luther-Anderson, PLLP in Chattanooga. My practice since 1997 has involved handling substantially all personal injury, property and casualty, insurance coverage, employment law and workers compensation cases representing defendants in several counties in East Tennessee. Since 1997 I have tried approximately 25 jury trials and approximately 30 bench trials representing defendants. During my career I have written appellate briefs for and/or argued nine cases in the Tennessee Court of Appeals or Tennessee Supreme Court. Reported appellate cases are *Barnett v Earthworks Unlimited, Inc.*, 197 S.W.3d 716 (Tenn. 2006) and *Estate of French v. Stratford House*, 333 S.W.3d 546 (Tenn. 2011). Of recent note, I wrote Appellee's brief on behalf of the defendant in a case where plaintiff's claim against defendant was dismissed for lack of personal jurisdiction. Dismissal was affirmed by the Court of Appeals. *Turner v Howe, et al*, No. M2015-02386-COA-R3-CV (December 20, 2016). I wrote Appellee's brief and argued on plaintiff's appeal of Summary Judgment granted for the defendant Appellee on the basis of the exclusive remedy provision of the Tennessee Workers Compensation Act. Dismissal was affirmed by the Court of Appeals. *Williams v Buraczynski*, E2016-01605-COA-R3-CV (July 19, 2017)

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

I have tried cases in state courts in thirty counties in Tennessee and handled or tried cases in both Middle and Eastern Districts of the U.S. District Courts in Tennessee.

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

None

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.

Occidental College, Los Angeles, California, Music, 1973-1977

Westminster College, Salt Lake City, Utah, 1975, transferred back to Occidental after one semester

Nashville School of Law, Nashville, Tennessee, 1985-1989, Cooper's Inn Honor Society

PERSONAL INFORMATION

12. State your date of birth.

June 12, 1955

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

33 years

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

20 years

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

Hamilton

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.

One, which was dismissed.

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. My wife and I were plaintiffs in a lawsuit filed against the Hamilton County School Board as a result of The School Board's refusal to allow an inscription honoring our daughter to be placed on a brick paver at our daughter's elementary school. Thomas M. Horne, et al v. Hamilton County Board of Education, et al, U.S.D.C, Eastern District at Chattanooga, (Docket No. is unknown), 2001. The case was settled shortly after it was filed.

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.

New City Fellowship East Lake Presbyterian Church, Chattanooga, Tennessee

Elder (2014-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 (1989-1997)

Nashville Trial Lawyers Association (1995-1997)

Tennessee Bar Association (1989 – Present)

Chattanooga Bar Association (1997-Present); Fee Dispute Committee (2007)

Defense Research Institute (2014-Present)

Tennessee Defense Lawyers Association (2016-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.

Luther-Anderson, PLLP, Managing Partner, 2009-2016; Managed all administrative facets of 8-10 attorney law firm in Chattanooga, Tennessee

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)*

The State of Tennessee, and particularly the 11th Judicial District, has been privileged to have highly competent trial court judges who were first experienced trial attorneys and who, because of their trial experience, became excellent judges. It has been my privilege to practice before these judges for 28 years and it would be an honor to carry on their tradition of excellence, born of years of trial experience. Having been a trial attorney for most of three decades, during which time I have tried dozens of jury and bench trials throughout Middle and East Tennessee I understand the value of having a judge in this position who has the experience and competence gained “in the trenches,” and the temperament and character necessary to give every litigant and every attorney practicing before me a fair and impartial hearing. I believe I have those qualities and have the desire to put them into practice on the bench.

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 11th Judicial District (Hamilton County). There are four Circuit Courts in this District. Circuit Court Division IV is one of the busiest trial courts of record in Southeast Tennessee. This court hears a variety of civil matters, including personal injury, products liability, health care liability and business tort claims, as well as family law matters and orders of protection. My selection would represent a continuation of the long tradition of fair-minded, experienced jurists who have presided until now. Parties and attorneys who come before this court rightfully expect fair and impartial application of the rules of procedure and evidence, and reasoned application of the law to the facts. That is what they will receive if I am selected to this judgeship.

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)*

Yes. Supreme Court Justice Felix Frankfurter once wrote, “*If one man can be allowed to determine for himself what is law, every man can. That means first chaos, then tyranny.*” As a practicing attorney I frequently confront laws, as well as procedural or evidentiary rulings with which I do not agree. As an attorney I have an ethical obligation to represent clients zealously within the confines of those laws and rulings. I have sought to do so in my practice always.

As an example, one of the current issues facing trial attorneys handling, and courts hearing, personal injury cases is the question of whether a jury should be allowed to hear evidence of discounted or undiscounted medical expenses incurred by an injured plaintiff (*See Dedmon v Steelman*, No. W2015–01462–COA–R9–CV, October 2016). The defense bar argues for admissibility of medical expenses as discounted by a third party payor such as a health insurance company. I favor that argument and have filed motions in several courts asking for a ruling to that

effect. The plaintiff bar argues that this violates the Collateral Source Rule. The Court of Appeals in *Dedmon* ruled that evidence of discounted medical expenses was not admissible. This case is currently on appeal before the Tennessee Supreme Court. Regardless of how the Supreme Court Rules, I will enforce the law as decided by the Court with respect to this issue.

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. Chris Clem
B. G. Brent Burks
C. H. Richard "Rick" Marcus
D. Lurone Jennings
E. Dennis Blanton

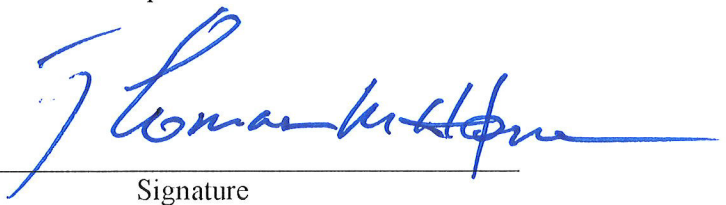
AFFIRMATION CONCERNING APPLICATION

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 Division IV of the Circuit Court of Hamilton County, 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: July 27, 2017.


Signature

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511

Union Street, Suite 600, Nashville, TN 37219.



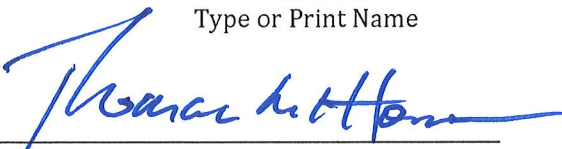
TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS
511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

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.

_____Thomas M. Horne_____
Type or Print Name



Signature

_____July 27, 2017_____
Date

_____013833_____
BPR #

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