

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

9/8/20

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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 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. 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 a flash drive. 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.

Frantz, McConnell, & Seymour, LLP; 550 West Main Street, Suite 500, Knoxville, TN 37902.

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

2007; TN BPR no. 26267.

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.

Not licensed in any other state; licensed in TN in 2007 (BPR no. 26267, 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).

- A. Occupation/Profession (other than the practice of law): My first job (part-time throughout high school) was at the local grocery store in my hometown of Cherryville, NC (Harris Teeter) from approximately 1995-1997. From approximately 1997-1999, I worked during the summer (full-time) at a children's day camp operating by the City of Cherryville, NC (my hometown).

During my time as both an undergraduate and graduate student at North Carolina State University (1997-2002), I worked part-time as an intramural sports official (the majority of which was flag football and basketball). In approximately 2000, I began refereeing middle school and high school basketball as well, first in the Raleigh, NC area while attending N.C. State and later in the Gastonia, NC area (2002-2004) while working full-time as a CPA.

Following graduation from N.C. State in 2002 with a Master's degree in accounting, I began my first professional full-time employment as a CPA with a local firm in Gastonia, NC, Butler & Stowe CPA's (2002-2004); I resigned from Butler & Stowe in July of 2004 to attend law school at the University of Tennessee in the fall of 2004. I continued to work as a middle school and high school basketball official from approximately 2004-2009 in the Knoxville, TN area both during and following graduation from law school at the University of Tennessee.

B. Professional Experience since the completion of my legal education:

Frantz, McConnell, & Seymour, LLP – Associate Attorney (2007-2016)

Frantz, McConnell, & Seymour, LLP – Partner (2017-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.

My current practice consists of both civil litigation and transactional work in a variety of practice areas including probate, estate planning, real estate, and small business, with an approximate percentage break down as follows:

35% - Probate and estate planning

25% - Real Estate

25% - Small Business

15% - "Other/Miscellaneous"*

*I refer to the "other/miscellaneous" category to account for "teamwork-type" cases where I have worked with my law partners and associate attorneys (using both my legal and accounting backgrounds). Some examples of these types of cases (many of which were in Chancery Courts across East Tennessee), which do not fit into a traditional area of practice (or are "traditional" areas of practice but not one of my regular practice areas), include:

- (1) "Salary" suits (Tenn. Code Ann. §8-20-101, *et. seq.*) representing Sheriffs and a Clerk & Master seeking additional funding for their respective offices and/or salary increases for their respective staffs;
- (2) Multiple adversary proceedings in U.S. Bankruptcy Court (one of my law partners regularly represents bankruptcy Trustees, and in one very large case in particular, many lawyers in our firm, including myself, were called upon to assist in the multiple adversary proceedings filed by the Trustee); and
- (3) Larger federal court cases necessitating more than one attorney (many of which I was asked to assist on based on my dual legal/accounting background, and most of which I would characterize as business litigation).
- (4) One of the benefits of working in a law firm setting with other attorneys is the ability to help out other attorneys in the firm, which I routinely do, in cases outside of what I consider my normal practice areas—some examples of which include:
 - Family law (I've worked with multiple partners on issues in their divorce cases);
 - Personal Injury (usually with probate, accounting, and/or tax issues that arise);
 - Employment law (accounting and/or tax issues); and/or
 - Administrative law and/or zoning (including property tax appeals).

I have certainly enjoyed the same benefit via assistance from fellow partners and associates on cases of my own. In my 13 year career, I have found the cases in which I am working with co-counsel, as a team, to be some of the most enjoyable experiences of my legal career thusfar.

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.

During my career at Frantz, McConnell, & Seymour, I have represented both Plaintiffs and Defendants in nearly every trial court in Knox County (from General Sessions to Circuit & Chancery and some work in federal court) and most surrounding counties on a wide variety of civil cases. One of my early (solo) trials was a divorce case involving a minor child in Knox County Chancery Court (no. 183971-1). My client in that case was happy with the result (my client's spouse was not awarded the full custody she sought), and to this day he still reminds me how thankful he was for my representation. To date, my only jury trial was a 2014 case in Knox County Chancery Court (docket no. 182286-2) where I successfully represented an insurance company by convincing a jury that the defendant (the former owner/manager of a title agency) had committed actual fraud by transferring real estate assets to avoid a prior judgment in my client's favor. I have also represented clients in a wide variety of civil bench trials in the past decade involving real estate litigation (boundary line disputes, easement disputes, and quiet title actions to name a few), estate/trust accounting litigation, probate litigation, breach of contract (collections, declaratory judgment actions, specific performance actions, etc.), and small business litigation (dissolution of businesses, collection actions, etc.).

I have also represented clients in the Tennessee Court of Appeals although my most recent experience there in 2019 did not end well. My partner, Arthur G. Seymour Jr., and I successfully represented our clients in a real estate dispute in Loudon County Chancery Court (docket no. 2016-81, consolidated with 2016-133 for trial); we tried the case in October of 2017 and Chancellor Williams ruled in our clients' favor on the access rights to the roadway/driveway at issue. Unfortunately, the Court of Appeals reversed the Chancellor's decision (docket no. E2018-01082-COA-R3-CV). In a prior trip to the Court of Appeals in 2018 (docket no. E2018-00611-COA-R3-CV), I successfully represented another client in a real estate dispute over easement rights (the trial court had granted my opponent's motion for summary judgment in Knox County Chancery Court no. 192055-3, but we were successful at the Court of Appeals level—they overturned that decision and remanded the case back to the trial court where it is still pending).

I have also represented clients in many real estate, business, and estate planning transactional matters where I routinely draft Wills, Trusts, and other estate planning documents, prepare operating agreements and contracts for small businesses, and regularly prepare deeds, leases, and other real estate documentation for many individual and small business clients.

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

courts, and administrative bodies.

Two interesting cases come to mind:

1. The Estate of Robert W. Rankin (Knox County Chancery Court, Probate Division, no. 74182-3). I was appointed as the Administrator Ad Litem for this probate estate in February of 2014 by Knox County Chancery Court Clerk & Master Howard Hogan. This probate estate had limited non-liquid assets (the main assets were partial ownership interests in 2 billboard structures), and the decedent had failed to file federal income tax returns for many years prior to his death, which left the estate in a very tough spot. I felt that I was a good fit as both an attorney and CPA, so I accepted the appointment. During my appointment, I was tasked with gathering what limited records were available (in a twist of irony, the decedent's ex-wife was a huge help in that process), preparing/filing unfiled income tax returns, and working to liquidate the billboard assets for the benefit of the creditors of the insolvent estate. After filing the required income tax returns to ensure no federal income tax liability, I was nearly forced to file a lawsuit to sell the entirety of the billboards (the Estate only owned a 25% interest in each of 2 structures) but was able to work out a global settlement amongst all creditors relative to the sale of the partial interests in the billboard structures and distribution of the net proceeds, which saved the Estate both time and money. In 2019, the Estate was finally closed, and the creditors received a partial distribution on their claims.
2. United States vs. Kenneth Devore, U.S. District Court case no. 2:17-CR-13. This is the only criminal case in which I have appeared during my legal career, but it was not as an advocate. After receiving a recommendation from a U.S. Attorney (whom I met via my service to the tennis community on the Greater Knoxville Tennis Association Board), I was retained by the prosecution to serve as an expert witness in this criminal case whereby the defendant was accused of taking advantage of a veteran of the U.S. military and defrauding him for financial gain (by inserting his name into the Veteran's Last Will & Testament). I served as the prosecution's expert witness on the process of executing a Will in the State of Tennessee. Following a six-day trial in 2018, the defendant was convicted of wire fraud, mail fraud, financial conflict of interest, theft of public money, and making false statements, and Judge Reeves later sentenced him to prison. I admittedly only played a small part in this case, but this was without a doubt one of the most satisfying experiences of my legal career.

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

As part of my service on the Board of Directors of the Children's Center of Knoxville, Inc. ("CCK"), I had the opportunity to use my advocacy skills in an administrative law setting. In early 2016, Tennessee's Department of Human Services (DHS) began enforcing a regulation that threatened CCK's 3-star rating (the top rating for a childcare center); the regulation at issue, in its most basic form, required CCK's lead teachers to have earned a high school diploma or

equivalent approved by the Department of Education in order to achieve the 3-star rating. This posed a serious threat to CCK's 3-star rating because 2 of CCK's best and most experienced teachers did not have a high school diploma or GED. We began informal negotiations with DHS in early 2016 in an attempt to resolve the matter amicably given these 2 teachers had been working at CCK for over 30 years each, and during that time, CCK had always received a 3-star rating (apparently, the regulation was never enforced until 2016). Those informal negotiation efforts failed, and on March 24, 2016, on behalf of CCK I filed a Petition for Review of this administrative decision with the Tennessee Department of Human Services Child Care Licensing Board (no. 620965816 000). A few months after filing that Petition, we reached an amicable settlement with DHS whereby an "honorary" high school equivalency was awarded to 2 of CCK's teachers by Dr. Jane Qualls from the University of Tennessee (who drafted an excellent expert report attached as Exhibit "1" to CCK's Petition and who would have testified as CCK's expert witness if this matter proceeded to a full administrative hearing). I understand the intent behind the regulation was not to hurt experienced teachers who did not finish high school and am proud of the resolution reached with the Tennessee DHS on behalf of CCK.

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

This is my first application for any judicial position.

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.

North Carolina State University (1997-2001), Bachelor of Science in Accounting, *Summa Cum Laude*

North Carolina State University (2001-2002), Master of Accounting degree

University of Tennessee College of Law (2004-2007), J.D., *Cum Laude*

PERSONAL INFORMATION

12. State your date of birth.

1979

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

16 years (August 2004-present).

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

16 years (August 2004-present).

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

Knox 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.

None.

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.

I am aware of only one complaint filed by a former client (Mr. Carl Kirby) with the Tennessee Board of Professional Responsibility, identified in the letters I received as BPR #52365-2-ES; the BPR declined to take any action and/or dismissed the complaint earlier this year (2020).

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.

Children's Center of Knoxville, Inc. Board of Directors (Board of Directors member and co-legal counsel, 2013-present).

Greater Knoxville Tennis Association Board of Directors (former member of the Board—

presently, I serve only as legal counsel).

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.

Knoxville Bar Association (2007-present)

Tennessee Bar Association (2007-present)

Hamilton Burnett American Inns of Court (approximately 2013-2015)

Knoxville Estate Planning Council (approximately 2014-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.

Volunteer Income Tax Assistance (thru UT Pro Bono Program; during law school).

Selected by Knoxville's CITYVIEW Magazine in 2019/2020 as a top attorney for Contract Law, Business Law, Taxation, and Wills/Probate.

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.

None.

ESSAYS/PERSONAL STATEMENTS

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

I seek this position because my unique background (law & accounting) and my 13 years of diverse practical experience will allow me to serve the public and Chancery Court well. It would be nearly impossible to find an applicant experienced in every type of case a Chancellor could be asked to decide in Tennessee, but my unique background and experience in Chancery Courts across East Tennessee will serve me well here. I feel all Judges owe it to the individuals before their Court to do their best to explain both the factual and legal basis behind their decisions, especially to pro se parties who may not understand the "why" behind a decision. I would do my best to make sure every individual in Chancery Court, even if they disagree with a ruling, understands the basis (both factual & legal) for my decisions.

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 seek the appointment as Chancellor of Division 3 of Knox County Chancery Court which handles a wide variety of cases (family law, probate, conservatorship/guardianships, business litigation, contract cases, real estate, etc.), and I have experience in the majority of these areas (some more than others). Knox County has 3 Chancellors, and I have spoken recently with two (and the 3rd has agreed to talk with me soon) about efforts to work together, the general breakdown of caseloads, and what it takes to be successful. These conversations give me confidence that Knox County's Chancellors would mentor the newest member of the bench, so regardless of who is appointed, I recommend they immediately reach out to their fellow Chancellors. As far as impacting the Court, I would strive to ensure Chancery Court was an experience each individual understood, even if they disagree with the decisions and/or procedures.

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. One example would be the three (3) salary lawsuits whereby I assisted my law partner in representing 2 local Sheriffs and a County Clerk & Master. I disagree with the substance of the statute providing for this remedy (and personally feel that the legislative branch of government, the county commission, should face the voters and be judged at the ballot box for inadequate funding of these offices). But despite my disagreement with the statute (Tenn. Code Ann. §8-20-101, *et. seq.*) I, along with my law partner, have represented our clients under the law to the best

of our abilities to achieve the results our clients needed to ensure their offices could continue to be operated at the highest level.

A second example would be my experience with the DHS regulation outlined in my prior response to Question no. 9. My personal view is that any parent would not prefer a random 18 year-old high school graduate to care for their infant child or toddler over one of CCK's teachers with 30+ years' experience but lacking a formal high school diploma. But if called upon to rule on this regulation (or a similar regulation or law) from the bench, I would follow the regulation or law as written, even if it conflicts with my personal views or if the result did not seem "fair".

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. Kay Armstrong, Greene County Clerk & Master, Greene County Courthouse, [REDACTED]
St. Suite 104, Greeneville, TN 37743; [REDACTED]

B. Steve Oberman, Attorney, Oberman & Rice; [REDACTED] Knoxville, TN
37902; [REDACTED]

C. Reggie Keaton, Attorney, Frantz, McConnell, & Seymour, LLP; [REDACTED] Suite
500, Knoxville, TN 37902; [REDACTED]

D. Tracy Chain, LRIS Administrator, Knoxville Bar Association, [REDACTED]
Knoxville, TN 37902; [REDACTED]

E. Brittney Carroll, Executive Director, Children's Center of Knoxville, Inc., [REDACTED]
Knoxville, TN 37919; [REDACTED]

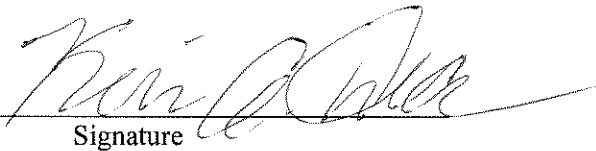
AFFIRMATION CONCERNING APPLICATION

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 Knox 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: September 28, 2020.


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.

Kevin A. Dean
Type or Print Name

[Signature]
Signature

9-28-20
Date

26267
BPR #

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

Tennessee Certified Public Accountant (license no. 20348, active)

North Carolina Certified Public Accountant (license no. 30216, inactive—I transferred my CPA license to TN when I relocated to Knoxville in 2004)