SIXTEENTH CIRCUIT JUDICIAL COMMISSION
APPLICATION FOR CIRCUIT JUDGE
JACKSON COUNTY, MISSOURI

PLEASE NOTE: RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE APPLICANT IS SELECTED AS ONE OF THE NOMINEES FOR THE VACANCY.

1. State your full name. Charles Harris McKenzie

2. State your date and location of birth.

   April 17, 1963, Indianapolis, Indiana

3. State your present principal occupation, place of work, and job title.

   Attorney (Shareholder) – The Accurso Law Firm

4. Identify the Division of the Sixteenth Judicial Circuit for which you are applying:

   (a) Division Five only _____

   (b) Division Thirteen only _____

   (c) Divisions Five and Thirteen __X__

5. Provide the following information concerning your eligibility for the office of Circuit Judge:

   (a) Are you at least thirty years of age? Yes

   (b) Are you licensed to practice law in Missouri? Yes

   (c) Have you been a citizen of the United States for at least ten years? Yes

   (d) Have you been a resident of Jackson County for at least one year? Yes

6. State the year of your admission to the Missouri Bar and whether your license is and always has been in good standing. If not, please explain.

   1988. My license is and always has been in good standing.

7. List any other states, courts, or agencies in which you have been licensed as an attorney, and state whether your license is and always has been in good standing.

State of Kansas (1993). My license is and always has been in good standing.

U.S. Federal District Court for the Western District of Missouri (1988). My license is and always has been in good standing.

U.S. Federal District Court of Kansas (1994). My license is and always has been in good standing.

U.S. Court of Appeals for the Eighth Circuit (2009). My license is and always has been in good standing.

8. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of a Circuit Judge, including the ability to preside over trials, conduct legal research and analysis, attend court anywhere in the State of Missouri, communicate clearly and effectively both orally and in writing, and expeditiously decide issues coming before the court. Yes.

9. Provide the following information for all colleges or universities, other than law schools, you have attended:

(a) Name and location of institution

(b) Dates attended and degrees received

(c) Significant activities, achievements, honors, and awards

(a) Cardinal Newman College, St. Louis, Missouri

(b) August 1981 – December 1984, Bachelor of Arts in Business Administration.

(c)
- Jimmy Johnston Scholarship Award for excellence in scholastics and athletics.
- Varsity Basketball – 4 years
- Varsity Soccer – 2 years
- Head basketball coach for Mount Providence Boarding School
- Singing Chorale
- Philosophy Club
- Business Club
- Resident Assistant

(a) Loras College, Dubuque, Iowa.

(b) January 1985 – May 1985. (Visiting Student)

10. Provide the following information for all law schools you have attended:

(a) Name and location of law school

(b) Dates attended and degrees received

(c) Significant activities, achievements, honors, and awards

(a) University of Missouri-Kansas City
(b) August 1985 - May 1988, Juris Doctor
(c) President-Student Bar Association
Associate Justice-Honor Court
ABA/SBA Student Liason

11. State whether you have ever been suspended or expelled as a student from any school or educational institution. If so, please explain. No.

12. List; in chronological order, all non-legal and legal employment you have held post-high school. Include the name and location of each employer, job title, dates of employment, and reason for termination of employment.

Non-legal Employment: 1979-1985

Marriott Hotels and Resorts – St. Louis Airport Marriott, 10700 Pear Tree Lane, St. Louis, Missouri 63134. 1979 – 1985 – dishwasher, busboy, telephone operator, cashier, waiter. I resigned to move to Kansas City, Missouri to attend law school in 1985.

Pantera's Pizza – Florissant, Missouri. Delivery Driver and Cook December 1985 and January 1986. Temporary job between my first and second semester of law school.

Legal Employment

Jackson County Counselor's Office, 415 E. 12th Street, 2nd Floor, Kansas City, Missouri 64106. Law Clerk, June 1986 – June 1987. I resigned to work for Morris and Foust.

Morris and Foust, Commerce Tower, Kansas City, Missouri 64106. Law Clerk, June 1987 – August 1987. I resigned to work for the Jackson County Prosecutor's Office.

Jackson County Prosecuting Attorney's Office, 415 E. 12th Street, Floor 7M, Kansas City, Missouri 64106. Rule 13 Certified Law Intern, August 1987-October 1988. My

internship ended when I passed the bar examination. I accepted a position as an Assistant Prosecutor in that office.

Jackson County Prosecuting Attorney's Office, 415 E. 12th Street, Floor 7M, Kansas City, Missouri 64106. Assistant Prosecuting Attorney – Trial Attorney: 1988-1993. I resigned in 1993 to enter private practice with The Accurso Law Firm.

The Accurso Law Firm (Attorney/Shareholder) 4646 Roanoke Parkway, Kansas City, Missouri 64112: 1993- present

13. Describe the nature and extent of your experience as a practicing attorney in the trial and appellate courts, and explain how such experience demonstrates the quality of your legal work.

Supreme Court Rule 13 Intern – Jackson County Prosecutor's Office

From August 1987 through October 1988, (during and just following my third year in law school) I served as a Rule 13 Certified Law Intern at the Jackson County, Missouri Prosecuting Attorney's Office. It was in that capacity that I first had a chance to work in the courtroom. I served in any capacity and did any job that was asked of me. This work included drafting pleadings, appearing in Court for hearings, and even participating in jury trials. Most of that time was spent in the Drug Unit which, at that time, consisted of two attorneys, an investigator, and me.

Jackson County Prosecutor's Office – Assistant Prosecuting Attorney – Trial Attorney: 1988-1991

In October of 1988, I served as part of a General Crimes trial team under the supervision of Larry Schrader. A few months later there was an opening in the Sex Crimes Unit, supervised by Donna Fischgrund. I had always been impressed by the tremendous work that was done in the Sex Crimes unit not only because of the incredibly challenging cases that were prosecuted, but also the good work that the Unit did on behalf of defenseless victims. Accordingly, I applied for the opening, was accepted and spent the remainder of my career at the Prosecutor's Office in the Sex Crimes Unit. During that time, however, I did prosecute cases that were not considered sex crime cases.

The focus of the Sex Crimes trial team was to review and prosecute cases of sexual assault, sexual abuse, as well as cases in which children were abused or died under suspicious circumstances. My duties included reviewing and making determinations as to whether charges would be filed against suspects. Charged cases were then made a part of my docket and assigned to me until their conclusion through a guilty plea, trial, or other disposition. In this capacity, I first and second chaired numerous felony trials. My responsibilities also included daily contact with victims, witnesses, and police officers as well as representing the State in a variety of courtroom hearings at both the Associate and Circuit Court level.

Jackson County Prosecutor's Office – Assistant Prosecuting Attorney, Sex Crimes Trial Team Leader: 1991-1993

In July 1991 I was selected as the trial team leader for the Sex Crimes Unit. In addition to my duties as an assistant, I supervised three attorneys, support staff, and victim witness advocates. I became active in the Ad Hoc Group Against Crime, the United Way, and was a board member of MOCSA (Metropolitan Organization to Counter Sexual Assault.) Ultimately, I was appointed chairman of the Jackson County Sexual Abuse Task Force, an interdisciplinary group that included the metropolitan police departments within Jackson County and investigators in the Division of Family Services, as well as doctors, nurses, and social workers at Children's Mercy Hospital, St. Luke's Hospital and the United Way.

As Chairman of the Task Force I assisted in the drive to centralize the investigation of child physical and sexual abuse which culminated in the founding of the Jackson County Child Protection Center. This center is devoted to using a multidisciplinary approach for the investigation of physical and sexual abuse allegations. At the same time, I continued to try many felony jury trials both as a first and second chair.

Some examples of the cases I prosecuted that did not go to trial during those years include:

- State v. William McClinton. Mr. McClinton abducted and forcibly raped five young girls. He abducted these children over a six-week period while they were waiting for their school bus. After the first two abductions it was clear that a serial child rapist was on the loose in the Kansas City community. I worked closely with the Kansas City Police Department and the FBI on this case. Because he transported one of the children across a state line, he was also charged in Federal Court as well as State Court. I was cross designated as an Assistant U.S. Attorney and assisted in the prosecution of Mr. McClinton in Federal Court where he received a sentence of life without parole.

- State v. Earl Fleer. Earl Fleer was a serial child molester. He molested children whom he reportedly supervised as a Boy Scout leader in the northeast Kansas City area as well as other neighborhood children. As a result of this prosecution, Mr. Fleer was sentenced to 30 years in the Missouri Department of Corrections.

- State v. Steven McGuire. Mr. McGuire was a medical doctor who, on at least two occasions, made house calls to two of his patients. When in their home he told them he was giving them medication for illnesses. In reality he administered mind altering drugs which rendered them unconscious. Mr. McGuire then sexually assaulted the women. This is one of the first cases in which DNA evidence was used in Missouri and was also one of the first cases in Missouri in which television cameras were permitted in the courtroom. Mr. McGuire was sentenced to seven years in the Missouri Department of Corrections on each of these offenses.

The Accurso Law Firm, 4646 Roanoke Parkway, Kansas City, Missouri 64112

I have practiced law at The Accurso Law Firm since 1993. When I began with the firm, Lou Accurso was a solo practitioner. Over the years our firm has grown to include four attorneys and a total of ten employees. I became a shareholder of the firm several years ago. The Accurso Law Firm is primarily devoted to the practice of civil litigation but I also practice in the area of criminal law as a special prosecutor and I have represented criminal defendants. In addition, I represent litigants in Family Court in connection with the firm's Family Court appointments. Over the last eighteen years I have primarily represented plaintiffs in lawsuits but have had numerous opportunities to represent defendants. This representation has included representing insurance companies and their insureds.

A representative list of those insurance companies includes Houston General Insurance Company, Old Republic Insurance Company, Guarantee National Insurance Company, and Med James Insurance Company. I also served as an attorney for members of the Fraternal Order of Police (FOP), representing law enforcement officers involved in litigation matters such as criminal charges, administrative hearings, or civil lawsuits.

In addition to practicing in Missouri and Kansas, I have also practiced in Arizona, Arkansas, Louisiana, Nevada, Oklahoma and in the Tribal Court for the Prairie Band of the Pottawatomi Nation.

Examples of the civil cases which I have litigated in the last few years that did not go to trial include:

- James Roe, et al. v. XYZ Boat Company (fictitious name), et al. Along with co-counsel, I represented Mr. Roe, who was deployed and stationed at a military post. Mr. Roe lost his leg in a boating accident. The case was litigated in the Federal Court in Louisiana. There were product liability claims against the boat manufacturer and negligence claims against the operator. After extensive litigation over several years, and within a week of trial, the case settled for a confidential amount.

- ABC Insurance Company v. John Doe, et al (fictitious names). I represented John Doe. He was an employee of a local limousine company performing maintenance on a limousine that was suspended by use of a lift. The lift failed and the limousine crushed Mr. Doe. Although Mr. Doe survived the incident, he suffered permanent injury. He sued the corporate entities who manufactured the lift in State Court.

Mr. Doe became a defendant in a Federal declaratory judgment action filed by ABC Insurance Company against the lift corporations and Mr. Doe. The insurance company sought a declaration from the Court that it was not legally obligated to defend or indemnify the corporations against claims made by Mr. Doe. Mr. Doe was the only defendant who answered the Petition. The corporations had filed bankruptcy and default judgments were rendered against them in this declaratory judgment action. The insurance company and Mr. Doe filed cross motions for summary judgment. The

U.S. District Court denied ABC's motion for summary judgment but granted Mr. Doe's motion for summary judgment. While the case was on appeal Mr. Doe settled his personal injury lawsuit against the bankrupt corporations and the declaratory judgment action for a confidential amount.

•. Jason Carreno, et al. v. Capital City Oil, et al. Jason and Kelly Carreno and their unborn daughter were catastrophically injured in a propane gas explosion. I represented them in a rural Kansas venue against eight corporate defendants in an extremely complex case. After extensive litigation, the case was settled for $2,050,000.00. It is my understanding that this was the largest settlement or verdict ever recorded in Jefferson County, Kansas.

• Scott Niccum, et al. v. A.J.'s Transport, et al. I represented the Niccum family in claims against A.J.'s Transport and their driver relating to the death of Steven Niccum. Mr. Niccum struck the rear end of a flatbed tractor trailer which was attempting to make a turn on US 50 Highway near Knob Noster, Missouri. The defendants originally denied any liability, claiming that the decedent had run into the rear of the trailer unit at night when the lights for the tractor trailer were operational and the left turn signal was activated. After significant investigation into the conduct of the defendants, including their past safety record, and numerous depositions, I settled the case for the policy limits available to the defendant trucking company and its driver.

• Roderick Fugate v. Unified Government of Wyandotte County This is a civil rights case in which I represented Roderick Fugate who was wrongfully imprisoned after another individual had stolen his identity. After extensive litigation in the U.S. District Court for the District of Kansas, the case was settled for a confidential amount.

• M.L. v. H.A. This is an age and gender employment discrimination case against a local company. My clients were two women who had been terminated while men holding the same or similar positions were allowed to keep their jobs. The case settled for a confidential amount.

• Anthony Gonzales v. Hemingway Partners, Inc. I represented Mr. Gonzales in regard to his claims and the defendants' counterclaims relating to a series of complex real estate transactions involving landlord tenant law and the law relating to homes associations. The case settled prior to trial.

• State v. John Doe. I represented a police officer of a local Missouri police department who was charged in Kansas with fraudulent use of a credit device (His name is being withheld for his privacy.) He was unwavering in his profession of innocence. In my representation of him I was able to prove his innocence, have the charges dismissed and have a letter of explanation made a part of his permanent file.

I have also served and continue to accept appointments from the Jackson County Presiding Judge to serve as a Special Prosecuting Attorney.

In June of 2010 I represented the State of Missouri in State v. Larry Jones, 0616-CR04880. Mr. Jones was an accomplice in the murder of Tyrone Stamps. Mr. Jones was convicted on all counts in the case.

Other cases where I have served as a Special Prosecuting Attorney in the last five years include:

- State v. Adam L. Jones
- State of Missouri v. Michelle J. Holmes
- State of Missouri v. Darryl C. Evans

Conclusion

I have had considerable experience in both the criminal and the civil fields of litigation. I have represented the State in cases of significant complexity dealing not only with issues of law but assisting families and victims who have experienced incredible physical and emotional trauma. I have represented individuals who have been sued for alleged wrong doing and individuals who have themselves been wronged due to the negligent and intentional acts of corporations and other people. I have represented criminal defendants. I have represented insurance companies and other corporate entities who were involved in litigation.

These experiences demonstrate that I am able to litigate cases successfully in very different areas of the law and for very different types of clients. These experiences show I am a diligent and quick learner who can manage an extremely large docket of cases and think practically and efficiently. These experiences also demonstrate the quality of my legal work because they show I have compassion and empathy for the defenseless and disenfranchised of our community.

14. Provide a representative list of at least ten cases in which you served as the primary attorney at trial or an administrative hearing. The list should include the style of each case, court or administrative agency, identification of your client, and the nature and date of disposition.

- State of Missouri v. Stephen Wetzel, CR1989-3084
  Judge Jon R. Gray, Division 18
  Circuit Court of Jackson County, Missouri
  Jury Trial
  March 12, 1990 through March 16, 1990.
  Counsel for State: First Chair
  Defense Counsel: Ed Ford

I represented the State of Missouri in a case that involved two counts of rape, two counts of burglary, and two counts of armed criminal action. The victim was a woman who worked at a

local topless bar. The defendant was a patron. After the victim returned home from work, Mr. Wetzel and an unknown accomplice broke into the victim's home and raped her. This case preceded the development of DNA evidence. The defendant was convicted on three counts and acquitted on three other counts. Mr. Wetzel was sentenced to five years on each count with two counts running consecutively for a total of 10 years.

- State of Missouri v. Jack Stewart, Case No.: CR1989-5083
  Judge Thomas C. Clark
  Circuit Court of Jackson County, Missouri
  Jury Trial
  June 11th and 12th, 1990
  Counsel for the State: First Chair
  Counsel for Defendant: L.R. McGhee

I represented the State in a case that involved the sexual assault of two boys who were approximately 15 years of age. The Defendant was an adult leader in the Boy Scouts. The Defendant had the two boys come to his home on occasions to work on Boy Scout activities where he molested them. The Defendant testified and professed his innocence that he did not commit the acts alleged. The Defendant was found guilty on three counts and found not guilty on six other counts. He was sentenced to four years in prison.

- State of Missouri v. Hayward Silas, Case No.: CR90-3363
  Judge Thomas C. Clark
  Circuit Court of Jackson County, Missouri
  Jury Trial
  September 30, 1991 through October 3, 1991
  Counsel for Defendant: T. Dale Niklas

Defendant attempted to forcibly sodomize a nine year old boy. The defendant had nine prior convictions. The chief defense that the defendant attempted to assert was that the victim had made the story up to get revenge and that there was no physical evidence that implicated him. The defendant also presented alibi witnesses to claim that he was not in the area where the offenses occurred at the time that they occurred. The Defendant was found guilty and the Court sentenced the defendant to life in prison.

- State of Missouri v. Michael L. Williams, Case No.: CR91-3727
  Judge Jon R. Gray
  Circuit Court of Jackson County, Missouri
  Jury Trial
  April 21, 1992 through April 23, 1992
  Counsel for State – First Chair
  Counsel for Defendant: Kenton Hall, Thomas Shanahan

I represented the State in a case that involved two counts of rape, kidnapping, and three counts of armed criminal action. The victim was an elderly woman who was walking in the area near 55th and Michigan which was under construction and later became a part of Bruce Watkins Highway.

Mr. Williams and an unknown accomplice abducted the victim, and each of them raped her. The case was tried twice. The first case was declared a mistrial by the trial judge after the jury had returned with a guilty verdict. Mr. Williams was tried a second time and a second jury also found him guilty. Mr. Williams was sentenced to thirty years in the Missouri Department of Corrections.

- Eric Myler v. Cass County, Missouri, Case No.: CV 193-863CC
  Judge Daniel Czmanske
  Circuit Court of Cass County, Missouri
  November 1994
  Counsel for Appellant Eric Myler: First Chair
  Counsel for Cass County: Candace Cole

I was employed by the Fraternal Order of Police to represent their member, Eric Myler, who was a deputy sheriff for Cass County, Missouri. He was terminated by the Sheriff's Department. The Cass County Personnel Appeals Board upheld the determination. Mr. Myler appealed that decision. Because of conflicts of interest for the Judges sitting in Cass County, Judge Daniel Czmanske from Platte County was appointed to preside over this case. In a bench trial the decision of the Appeals Board was reversed. The Judge awarded attorney's fees and back pay to Eric Myler.

- Desmond J. Young and Warren Martin v. Pedro Fernandez, Case No.: CV 96 025 722
  Judge Ronald R. Holliger
  Circuit Court of Jackson County, Missouri
  Jury Trial
  November 17, 1997 through November 20, 1997
  Counsel for Defendant: First Chair
  Counsel for Plaintiffs Martin Ballman and Don McCartney

I represented defendant Pedro Fernandez. The case involved an automobile collision that occurred at an intersection controlled by traffic lights. The defendant was a Mexican national who spoke very little English. The plaintiff was a medical student at UMKC Medical School. The plaintiff and a third party eyewitness testified that the defendant had run the red light. Mr. Fernandez insisted that the plaintiff had run the red light. The insurance company that employed me to represent Mr. Fernandez offered the plaintiff significant sums to settle the case prior to trial which were not accepted. The jury returned a defendant's verdict. Judge Holliger sustained the plaintiff's motion for new trial ruling that the verdict was against the weight of the evidence. The case ultimately settled for a small sum.

- Villages of Sunnybrook, LLC v. Reese & Nichols Realtors, Inc., Kathy Koehler and The Koehler Team v. Third Party Defendant Heritage Development et al
  Case No.: 04CV1013
  Judge Allen Slater - Bench Trial
  District Court of Johnson County, Kansas
  March 18, 2004 and March 22, 2004
  Counsel for Defendant/Third Party Plaintiff Kathy Koehler and The Koehler Team - First Chair
  Counsel for PlaintifffThird Party Defendant: Ron Boddinson, Jason Pepe: Shook Hardy

& Bacon, 2555 Grand Blvd., Kansas City, Missouri 641 OS.

I represented Defendant/Third Party Plaintiff Kathy Koehler in a bench trial on a request for a permanent injunction relating to real estate transactions at a subdivision in Olathe, Kansas. The plaintiff sought an injunction to preclude Kathy Koehler and Reece Nichols Realtors from continuing to serve as the agents for the sale of those properties. After extensive testimony, pleading, and argument, the Court granted the injunction. In addition to the injunction issue, the case involved claims for Breach of Contract and Fraud against my clients and counterclaims of Breach of Contract and Quantum Meruit brought against the Plaintiff and the Third Party Defendant. These claims were also litigated and the case ultimately settled on confidential terms.

- Gary L. Romano v. Richard Shankland, et al.
  Case No: 02CV00475
  Judge Charles Atwell, Division 10
  Special Master: James Foland
  Circuit Court of Jackson County, Missouri
  Binding Arbitration before Hollis Hanover and Vincent F. Igoe, Jr.
  April 18, 2005
  Counsel for Gary Romano - First Chair
  Defense counsel: Richard Modin, James Sanders, Martin Montemore, Donald Herron, and Kenneth Holms
  Counsel for other plaintiffs: Kent Emison, Bob Kingsland, Bill Pickett, James Thompson, Stephen Shanker

My client Gary L. Romano's vehicle was struck by a pickup truck operated by one of the defendants and occupied by numerous other individuals. It was alleged that the pickup truck was being chased by several other vehicles at the time of the collision. As a result of the collision, Mr. Romano and his passenger were severely injured. Two occupants of the pickup truck were killed, another was rendered a quadriplegic, and others were severely injured. It was alleged that the plaintiff was intoxicated at the time of the collision. Lawsuits were filed separately for all the other injured persons or the survivors of the decedents. After an enormous amount of litigation and discovery, the case went to binding arbitration for determinations of fault, judgment on damages, and the amount each party was to receive. The arbitrators awarded my client the largest amount of any of the plaintiffs, except for the quadriplegic plaintiff who was represented by Kent Emison.

- Doris Kesler-Ferguson, et al. v. Hy-Vee, Inc. Case
  No.: 04CV233741
  Judge Marco Roldan, Division 16
  Circuit Court of Jackson County, Missouri
  Jury Trial
  June 26, 2006 through June 29, 2006
  Counsel for plaintiff - First Chair
  Defense counsel: Michael E. Callahan, Joshua M. Ellwanger- Husch, Blackwell, Sanders, et al., 4801 Main Street, Suite 1000, Kansas City, Missouri 64112.

In February, 2003, Mrs. Kesler-Ferguson fell at a Hy-Vee in Belton, MO fracturing her hip. Her medical bills totaled $38,000.00. The Defendant offered $5,000.00 prior to trial. The jury

returned a verdict in favor of plaintiff Doris Kesler-Ferguson for $340,000.00. The jury determined that Hy-Vee was 60% at fault and Mrs. Kesler-Ferguson was 40% at fault therefore reducing the award to $212,400.00. The Western District Court of Appeals affirmed the Court's judgment. The defendant's motion for transfer to the Missouri Supreme Court was granted. The Supreme Court affirmed the Trial Court's Judgment.

- State of Missouri v. Larry Jones, Case No.: 0616-CR04880-01
  Judge Jay Daugherty – Bench Trial
  Circuit Court of Jackson County, Missouri
  June 21, 2010 through June 24, 2010
  Counsel for State: First Chair
  Counsel for Defendant Robert Calbi

I represented the State as a Special Prosecutor in a case that was scheduled to go to jury trial on June 21, 2010. The morning of trial the defendant waived the jury and the case was tried to Judge Daugherty over the span of four days. The evidence in the case was that defendant Larry Jones was an accomplice with Joseph Jones in the murder of Tyrone Stamps and the shooting of a young girl. My co-counsel and I called 24 witnesses including six experts. Defendant Larry Jones attempted to coerce and bribe one of the witnesses not to testify or to testify untruthfully. The Defendant was found guilty. The Court sentenced Larry Jones to 25 years on each count to run concurrently. The case is presently on appeal.

15. If you have appellate experience, provide a representative list of cases in which you served as the primary attorney on appeal. The list should include the style of each case, appellate court or administrative agency, identification of your client, and the nature and date of disposition.

Safeco Insurance Company of America v. Terry V. Allen, et al.
941 P.2d 1365, 262 Kan 811
Kansas Supreme Court
Counsel for Respondents- Terry V. Allen, et al.
Counsel for Appellant - Paul Hasty

I prepared the brief with co-counsel and argued the case. The main issues in this case were whether a Missouri insurance contract would be interpreted under Missouri or Kansas law and whether the insurance company had the right to recover its payments for medical expenses from a personal injury settlement. The trial court had ruled that Missouri law applied and that the insurance company could only recover a portion of its payment to my client. The Supreme Court affirmed the trial court's decision.

Dean Denis, et al. v. Med James Insurance
39 S.W. 3d 105 (Mo.App 1999)
Missouri Court of Appeals for the Western District WD 56442
Counsel for Respondent Med James Insurance
Counsel for Appellant: Kent Deselle

I prepared the brief and argued the case before the Western District Court of Appeals. My client prevailed when the Court affirmed the trial court's decision in a per curiam opinion.

Dwayne C. Barber, et al. v. Prairie Band of the Potawatomie Nation, et al.
Court of Appeal Case No. 02-08-01 (Appellate Court of the Prairie Band of the Potawatomie Nation)
Counsel for Appellants: Dwayne C. Barber and Julia Barber
Counsel for Respondent: Mark Blongewicz, Tulsa, Oklahoma.
Date: October 7, 2003

I prepared the brief with co-counsel and argued the case. My clients appealed the dismissal by the trial court of Defendant Prairie Band of the Potawatomie Nation from the case based upon sovereign immunity. The Appellate Court affirmed the trial court's decision.

Dwayne C. Barber, et al v. Kansas Propane
Court of Appeals Case No. 2006-01 (Appellate Court of the Prairie Band of the Potawatomie Nation.)
Counsel for Appellant Dwayne C. Barber and Julia Barber
Counsel for Respondent: Edward Murphy, Chicago, Illinois
Date: November 10, 2006

I prepared the brief with co-counsel and argued the case to the Court of Appeals. The trial court's decision was reversed in part and reversed and remanded in part for further hearing. The main issues on this appeal were whether statutory damage caps of Kansas would apply in the case. The sovereign nation of the Prairie Band of the Potawatomie Nation is completely surrounded by Kansas but is a separate and autonomous court system. The Appellate Court reversed the trial court findings and determined no caps would apply. The Court also remanded the matter to the trial court to determine which laws would apply in their Court system, a system with few laws or regulations regarding civil procedure and jury trials. The trial court held hearings with the Tribal elders concerning centuries of their traditions and practices in order to gain insight into what laws would apply in their modern court proceedings based upon the ways of their ancestors. During the course of those proceedings, the case settled for a confidential amount.

Doris Kesler-Ferguson, et al. v. Hy-Vee, Inc.
271 SW3d 556 (Missouri Supreme Court 2008)
Case No. WD67361 (Western District Court of Appeals, 2008)
Counsel for Respondent: Doris Kesler-Ferguson
Counsel for Appellant: Mark Arnold, Michael Callahan, Joshua Ellwanger, Husch, Blackwell, Sanders, LLP.

This case was previously mentioned in response to Question No. 14. The main issue on appeal related to jury selection. Ms. Kesler Ferguson objected to Hy-Vee using all of its peremptory jury strikes to strike African Americans from the jury panel. The Trial Court sustained Plaintiff's objection as it related to one of the strikes and required Hy-Vee to strike a different venireman. The Circuit Court's judgment was affirmed by the Western District Court of Appeals and transfer to the Missouri Supreme Court was granted. The Supreme Court also affirmed the Circuit

Court's judgment. I wrote the briefs with co-counsel and argued the case to the Western District Court of Appeals and the Missouri Supreme Court.

Cynthia A. Baer, et al. (Respondent) v. State Farm Mutual Automobile Insurance Company (Appellant) - SW3d - WL 5517059 (Eastern District Court of Appeals, 2010)
Counsel for Respondents Cynthia Baer, et al.
Counsel for Appellant: Gary P. Paul, Scott C. Harper, Nathan Steimel, Brinker & Doyen, LLP.

The St. Louis City Circuit Court granted a motion for summary judgment on behalf of the plaintiff Cynthia Baer and her two adult sons regarding the death of their husband/father. The Baers had three Kansas policies of underinsured motorist coverage that afforded insurance on three separate vehicles at the time of the death of Randolph Baer in the City of St. Louis. The Baers lived in Johnson County, Kansas. The Circuit Court granted the Baer's motion for summary judgment regarding the issue of whether the three policies of underinsured motorist coverage could be stacked. The Court found ambiguity in the policies which permitted the stacking of this coverage. The Eastern District Court of Appeals affirmed the Circuit Court's judgment in a per curium opinion. I wrote the briefs with co-counsel and argued the case to the Eastern District Court of Appeals.

16. If you are serving or have served in a judicial capacity, describe the nature and extent of your judicial responsibilities, the types of dockets handled, and any special expertise developed. Not applicable.

17. If you are serving or have served in a judicial capacity, provide a representative list of at least ten cases over which you have presided to completion. The list should include the style of each case and the nature and date of disposition. Not applicable.

18. If you do not have significant experience in litigation or in a judicial capacity, describe any other legal experience or accomplishments in the legal profession that may qualify you to serve in the office of Circuit Judge. Not applicable.

19. List all bar associations and other professional societies of which you are or have been a member, with any offices held and dates of membership.

Missouri Bar Association

Kansas Bar Association

Kansas City, Missouri Metropolitan Bar Association

Inns of Court-UMKC: Master Attorney (2005-present)

Child Protection Center Community Advisory Counsel (1994-present)

Member: Kansas City Bar Association Torts Committee (2001-present)

-Vice Chairman: Kansas City Bar Association Tort Law Committee (2004)

-Chairman: Kansas City Bar Association Tort Law Committee (2005 - 2006)

Member: Kansas City Bar Association Civil Courts Committee

Member: Jackson County Child Sexual Abuse Task Force (1989-1994), Chairman (1991-1993)

Member: Sexual Assault Committee, St. Luke's Hospital, KCMO (1989-1993)

Board Member: Metropolitan Organization to Counter Sexual Assault (MOCSA) (1991-1993)

Court Appointed Special Advocate (CASA) volunteer attorney (1994-2002)

Member: Association of Justice of America

Member: Missouri Association of Trial Attorneys

Member: Kansas Trial Lawyers Association

Member: Missouri Association of Prosecuting Attorneys

Member: National Association of District Attorneys

Member: International Association of Arson Investigators – Member

20. List any published articles or books you have authored and any significant programs or events for which you served as a primary speaker.

Co-author of the Missouri Bar's Comparative Fault Chapter of "Missouri Tort Law", 3rd edition, and the 2006 and 2010 supplement

- Author – "My Turn" – "Cuts in Child Protection Funding Puts Children in Peril", April 11, 2005 edition of the Kansas City Star Editorial Page

CLE and Seminar Presentations in the last 7 years include:

1. Propane Gas Litigation - Speaker
   2004 ATLA Convention, Boston, MA

2. Crossing State Lines: Tort Lawyers Beware - Speaker
June 2004, KCMBA Headquarters

3. Interaction Between the Medical and Legal Professions – Moderator and Speaker
1997-2004. Conducted on behalf of the 2nd year residents of UMKC School of Medicine.

4. Torts and Insurance Issues: Practical Considerations relating to Insurance Coverage and Bad Faith – Moderator June 2006 KCMBA Headquarters

5. Tort Reform Two Years Later: Conflict of Laws/Choice of Laws Issue – Moderator and Speaker
June 2007 KCMBA Headquarters

6. Bad Faith Litigation - Speaker
2007 MATA Convention-Lodge of the Four Seasons

7. Anatomy of a Civil Lawsuit - Speaker
October 2006 UMKC School of Law, Inns of UMKC Justice Oliver Hayes Inn

8. Litigating a Civil Lawsuit from Beginning through Trial - Speaker
October 2007 Inns of UMKC Justice Oliver Hayes Inn

9. Introduction to the Courtrooms of Jackson County - Speaker
March 2008 UMKC School of Law, Inns of UMKC Justice Oliver Hayes Inn

10. Introduction to the Law – Speaker, March 2009, UMKC School of law Inns of UMKC – Justice Oliver Hayes Inn.

11. National Business Institute Seminar – Litigating Insurance Coverage Claims From Start to Finish, Speaker February 2011.

21. Do you now or have you ever held any elective or appointive public office or position? If so, please explain.

Child Abuse and Neglect Review Board – Attorney. 2010 to present. I was appointed by Governor Jay Nixon. The Child Abuse and Neglect Review Board is a statutorily created board that provides an independent review of child abuse and neglect determinations by the Department of Social Services in which an alleged perpetrator claims he/she was aggrieved by the decision of the Children's Division. The Board provides an administrative review of the Department of Social Services determinations.

Special Prosecuting Attorney – Appointed by the Presiding Judge of Jackson County, Missouri on several occasions over the past ten years.

22. Provide the branches and dates of any military service or other public service not otherwise covered in this application. If discharged from the military, state whether the discharge was other than honorable. Not applicable.

23. Describe your community and volunteer service activities, including any organizations (outside the legal profession) with which you are affiliated and any offices held.

Restart Center – Volunteer at the Emergency Shelter, 2001 to 2010
YMCA – Coach, 1999 – 2008.
Great American Basketball League Coach, 2008
St. Thomas More Catholic Church-Member - 1993-present
Men of St. Thomas More – Coordinator - 1999 - present
St. Thomas More Recovery Team – Member 2001-2002
St. Thomas More Athletics Council- Member - 2004-2007
St. Thomas More Athletics Council- President – 2006 & 2007
St. Thomas More Basketball- Coach – 1999-present
St. Thomas More Soccer – Coach – 1998 – 2009
3&2 Baseball League- Coach 2008 and 2009.
St. Thomas More Basketball Coordinator – 2007 to present.
St. Thomas More Assistant Football Coach – 2009
St. Thomas More Head Football Coach – 2010.
Glen Arbor Estates Homes Association President – 1998-2001
Glen Arbor Estates Homes Association Treasurer – 1996-2001
Member – St. Matthews Apostle Catholic Church Member – 1989-1993
Teacher – 8th Grade Sunday School
Lector

24. List any significant honors, awards, or recognition you have received that otherwise have not been covered in this application.

- Honored by the legal publication Martindale Hubbell with a Peer Review Rating of "AV" ® (10 years)
  (A - Legal ability is "very high to preeminent)
  (V - General ethical standard is "very high")

- Named a "Kansas and Missouri Super Lawyer" in the 2005 through 2010 editions of Super Lawyers Magazine.

- Named as one of the "Best of the Bar" by the Kansas City Business Journal 2008

25. Are you delinquent in the payment of any federal, state, county or city taxes? If so, please explain. No.

26. Have you ever been convicted of a misdemeanor or felony or received a suspended imposition of sentence in any federal, state, or military court? If so, please explain and provide the style of the case (including case number), the court, the date of the conviction, and the sentence or fine imposed. No.

27. Have you ever been held in contempt of court? If so, please explain. No.

28. Have you ever been sued by a client or been a party to any litigation, other than as a guardian ad litem, plaintiff ad litem, or defendant ad litem? If so, please explain and provide the style of each case, the court, your role as plaintiff or defendant, and the nature and date of disposition.

No. I have never been sued by a client. I have been a defendant in the following two matters:

Clinton v. McKenzie, 86C-8913, Johnson County, Kansas. On August 23, 1985, I struck the rear-end of a vehicle that was at a stop light in Mission, Kansas. The accident was completely my fault. Ms. Clinton sued me for soft tissue injuries to her neck. My insurance company had complete control of the litigation. The case went to trial when the plaintiff and my insurance company could not agree on a settlement amount. The jury returned a verdict of $578.87 for the plaintiff.

Radley v. McKenzie, et al., 94-CV-314, U.S. Dist. Ct., West. Dist. Ct. of Mo at Kansas City. I was sued in this case by a defendant in a criminal case that I prosecuted. It is classified as a civil rights case. The allegations were that I had violated Mr. Radley's civil rights by prosecuting him for criminal charges relating to an abduction and rape of a woman. Mr. Radley was ultimately convicted and sentenced to over 100 years for this crime. The case was dismissed by Judge Fernando J. Gaitan, Jr.

29. Have you ever been disciplined or cited for breach of ethics or professional conduct by a court or by any bar association or committee thereof? If so, please explain. No.

30. If you are or were a member of the judiciary of the State of Missouri, please state:

(a) Whether an order of reprimand, removal, retirement, suspension or other disciplinary action has ever been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct? If so, explain the details of such breach and the date, nature, and duration of the discipline imposed.

(b) Whether a reprimand or admonishment has ever been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified

in Rule 12.07 of the Supreme Court Rules Governing the Judiciary. If so, explain the details of such cause and the date and nature of the discipline imposed.

(c) Whether, to your knowledge, you are the subject of a complaint that is currently under investigation by the Commission on Retirement, Removal and Discipline. If so, explain that nature of such complaint and the status of the investigation.

Not applicable.

31. Provide any additional information that you consider relevant to your qualifications for the office of Circuit Judge.

Within my responses to Question Nos. 13, 14, and 15 I have provided a description of my experiences as an attorney involved in litigation both in the trial and the appellate courts. Those experiences have afforded me an opportunity to learn many aspects of the law. I have had the privilege of spending my entire twenty-two year career as an attorney working in the field of litigation. From my first experience as a law intern handling probation violations to my latest opportunity to represent clients in extremely complex insurance litigation or product liability cases, I have fully embraced this profession and all of the challenges that go with it. I am also deeply devoted to my family and my community.

It is with those life and career experiences that I have concluded that I have the passion, the intellect, and the temperament to serve the people of Jackson County well as a Circuit Court Judge.

PASSION. The opportunity to serve this profession and my clients is a wonderful gift. I realize the importance of the obligations presented to a trial attorney in the representation of litigants in lawsuits. I understand that it takes extremely long hours of hard work and preparation of those litigant's cases in an effort to represent them well. It doesn't matter whether the case is big or small relative to other cases. I appreciate and I understand that to a client/litigant there is no small case. I take great satisfaction and find great joy in being a part of the greatest justice system civilization has ever known.

If permitted to serve, I would bring the same passion and commitment as a trial judge in Jackson County. I will appreciate and understand the importance of each case to each litigant and the attorneys. As a Circuit Judge I will bring the same work ethic and devotion to our justice system that I have exhibited throughout my entire career.

INTELLECT. As I have stated previously, I have had the privilege of serving the State of Missouri and clients from all walks of life. I have also made the effort to exhibit the intellectual capacity to take on a wide variety of cases. Some of the cases can be extremely complex, whether that be due to the parties involved, the legal theories asserted, or other matters which need to be addressed. I have enjoyed the opportunity to learn new things. Each case brings different challenges, whether it be the prosecution or defense in criminal cases, or the representation of defendants, plaintiffs, corporations, or individuals in civil cases. I have

litigated cases relating to personal injury, insurance, civil rights, employment, real estate, contracts, and a wide variety of other matters. Throughout my career I have studied and learned the elements of those cases and the intricacies within those various elements in order to represent those clients with excellence.

If allowed to serve as a judge, I would bring those same qualities to the bench. I appreciate and understand that the Circuit Court of Jackson County is a court of general jurisdiction which requires that the judges handle a wide variety of cases. Cases which are relatively small and those which are extremely complex, from criminal to civil, to domestic. I have a broad breadth of experience in some of these areas. I understand that experience is only a part of the process. Coupled with experience is the ability and desire to learn new areas of the law, read, research, watch, and ask questions. It is the same methodology I have used as a practicing attorney when I take on a new case in a field to which I am not familiar.

TEMPERAMENT. The justice system, and specifically litigation, can be stressful and filled with emotion. I believe I have the reputation among my fellow attorneys, judges and their staff, and all litigants, as being cordial and professional. I strive to be a zealous advocate for my clients while exhibiting the demeanor and qualities of a gentleman.

It is my belief that the best judges are those who listen. They listen to the spoken word but also listen by reading the written words of the litigants. A good judge becomes fully informed and then makes a decision. When a judge exhibits those qualities, the parties and the attorneys can draw the conclusion that they were given a fair opportunity to be heard completely before a decision was rendered.

I have made a concerted effort to listen, whether it be to clients, victims, witnesses, opposing counsel, or co-workers. I learned the importance of this as an attorney very early in my career. It was by listening and making observations that I drew a conclusion that there had to be a better way to investigate child sexual and physical abuse. As a result of the work of many dedicated people, the Child Protection Center was created. I have carried that methodology forward throughout my career in the representation of clients and I still conduct myself accordingly today.

If permitted to be a Judge I would continue in the same manner. I would be cordial and professional and I would listen and be considerate to everyone.

I have been married to my wonderful wife, Jenny McKenzie, for 19 years and have four beautiful children, John 18, Anne 15, Megan 13, and Mitchell 10. We belong to St. Thomas More Catholic Church in South Kansas City, Missouri. I am actively involved in the parish school and the church in a variety of ways. I have been active in civic capacities serving our Homes Association as President and Treasurer and I have also been active with my entire family in volunteering at Re-Start, an emergency homeless shelter in making dinners and serving the dinner to the residents. I am very active in the athletic program at my children's school both in coaching their teams in which they are participants and other teams which simply needed a coach. I have also served on various boards implementing policies and addressing complex matters at the Parish as well as raising money for the financial needs of others. I also serve as the coordinator of my church's Men's Group which attempts to serve the spiritual needs of the

men of our church, as well as helping them to be better spouses and fathers.

CONCLUSION I believe that this additional information demonstrates the quality of my legal work as an attorney but also provides some of the aspects of who I am as a person and how I practice in this honored profession. It is this balance between my family, my personal convictions, my faith, and my professional life which make me believe that I would serve the people of Jackson County well as a Circuit Court Judge.

32. List the names and contact information (title, mailing address, telephone, and email address) of the **five** persons whom you have requested to provide letters of reference regarding your character and judicial qualifications. Do not list as a reference any judge who currently sits in the Sixteenth Judicial Circuit.

1. Jay Daugherty
   911 Main Street, Suite 2000
   Kansas City, Missouri 64105

2. Julie Donelon, MSW
   Executive Director
   Child Protection Center
   3100 Main Street, Suite 202
   Kansas City, Missouri 64111

3. Father Don Farnan
   11822 Holmes Road
   Kansas City, Missouri 64131

4. Patrick McInerney
   4801 Main Street, Suite 1000
   Kansas City, Missouri 64112

5. James Morrow
   Executive Hills East Building A
   10401 Holmes Road, Suite 300
   Kansas City, Missouri 64131

CERTIFICATION OF ACCURACY AND AUTHORIZATION FOR RELEASE OF INFORMATION

By my signature to this form, I certify that all statements made in my application for the office of Circuit Judge and attachments thereto are truthful and correct. I further certify that if I am nominated by the Sixteenth Circuit Judicial Commission and appointed to the office of Circuit Judge, I will accept the appointment and perform the duties of that office as provided by law.

By my signature to this form, I authorize: (1) the Commission, through its Chairperson, to obtain relevant information, including but not limited to documents, records, and files, with respect to my medical, law enforcement, or disciplinary records; and (2) the Commission and its members to obtain additional relevant information regarding my qualifications, as well as the accuracy of my responses to the questions on this application. It is my understanding that the information obtained pursuant to this authorization shall be made available only to the members of the Sixteenth Circuit Judicial Commission and their staff as necessary to perform their duties.

Notwithstanding the above, in accordance with Supreme Court Rule 10.28 (e), if I am one of the three nominees listed on the certificate of nomination sent to the Governor, I authorize the Commission to send a complete copy of this application to the Governor and publicly release a copy of the application with personal and confidential information redacted as identified on the cover page of this application.

This certification and authorization shall remain in full force and effect until revoked by me in writing.

Signature of Applicant

2/24/11
Date

Charles H. McKenzie
Printed Full Name of Applicant