

APPLICATION OF Margaret Ellis Holden [Name]
FOR CIRCUIT JUDGE
31st CIRCUIT JUDICIAL COMMISSION
GREENE COUNTY, MISSOURI (as adopted June 8, 2009)

RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE APPLICANT IS NOMINATED.

NOTE – Please submit one (1) paper copy, with attachments, to each of the five (5) Commission members by mail.

1. Present principal occupation and title:
Chief Administrative Law Judge
Springfield Adjudication Office
Missouri Division of Workers' Compensation
2. What is your age? 53
3. (a) How many years have you been a citizen of the United States? 53
(b) How long have you been a Greene County resident? 48 years
(c) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri? 35 years
4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail.

I was admitted October 18, 1988. My license is in good standing.
5. List any other states, courts, or agencies in which you are licensed as an attorney.

United States District Court, Western District of Missouri, inactive since 1992.
6. (a) State the name and address of all colleges and universities attended, other than law school, together with the dates and degrees received.

Missouri State University
901 South National
Springfield, Missouri 65897
January 1980-December 1984: Bachelor of Arts, History Major.
Fall 2005 – Graduate Level History Class

(b) List/describe any college or university activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

Student/Faculty Judicial Board
Phi Alpha Delta
History Department Scholarship

(c) Attach a certified copy of college, university and law school transcripts here, or have the institutions send transcripts direct to the contact person.

See attached.

7. (a) State the name and address of all law schools attended together with the dates and degrees received.

University of Missouri-Columbia
203 Hulston Hall
Columbia, Missouri 65211-4190
August 1985 – May 1988, Juris Doctor.

(b) List/describe any law school activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

Women's Law Caucus
Intern, Boone County Prosecutor's Office

8. State, in chronological order (starting with the earliest employment)(a) significant non-law-related employment prior to law school and (b) all employment from the beginning of law school to the present. To the extent reasonably available to you, include the name and address of each employer and the dates of employment, and, for legal employment, describe the positions you have held, e.g., associate, partner, law clerk, general counsel.

(a) Significant employment prior to law school:

1983-1985
Woolsey, Fisher, Whiteaker & McDonald
300 South Jefferson
Springfield, Missouri 65806
Investigator and Runner – 1983-1985

(b) Employment from the beginning of law school to the present:

Summer 1986
Office of the Missouri Attorney General
149 Park Central Square, Suite 1017
Springfield, Missouri 65806
Law Clerk

Summer 1987

Woolsey, Fisher, Whiteaker & McDonald
300 South Jefferson
Springfield, Missouri 65806
Law Clerk

1986-1988

Office of the Missouri Attorney General
Supreme Court Building
207 West High Street
Jefferson City, Missouri 65101
Part-time Law Clerk in Mental Health Division

Approximately 1987-1988

I held a part-time job at a telephone reference service for restaurants and retail establishments in Columbia, Missouri. I do not recall the name of the business.

May 1988-December 1989

Schroff, Glass & Newberry
2135 E. Sunshine, Suite 203
Springfield, Missouri 65804
Associate Attorney

January 1990-January 1994

Office of the Greene County Prosecuting Attorney
940 North Boonville
Springfield, Missouri 65802
Assistant Prosecutor

1990-1991

Phillips College
625 North Benton
Springfield, Missouri 65806
Instructor in the paralegal program

January 1994-present

Missouri Division of Worker's Compensation
1736 E. Sunshine, Suite 610
Springfield, Missouri 65804
Chief Administrative Law Judge – January 1994 to January 2006
Administrative Law Judge – January 2006 to July 2009
Chief Administrative Law Judge – July 2009 to present

9. If you were a student at any school from which you were suspended, placed on probation, or expelled by school authorities, for any reason, describe the circumstances.

Not applicable

10. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work. (*You either may take as much space as you need here or attach your response on separate sheets.*) Include in your response:

a) **Appellate Experience:** Please include a representative list of cases you have briefed and/or argued (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court and, if published, the citation; identify the client(s) you represented and opposing counsel; give a one-paragraph description of the case and your role.

- *State v. Gist*, 800 S.W.2d 94 (Mo.App. S.D. 1990)

I represented the State of Missouri as an Assistant Prosecutor for Greene County, Missouri. Jeff Marquardt was opposing counsel. Defendant was found guilty of driving while intoxicated after he pleaded guilty and had a hearing on the record. Defendant appealed his guilty plea. Defendant argued that a breathalyzer test should not have been received into evidence. The Court of Appeals found that there was no error and affirmed the judgment on the record.

- *Genetti v. Kesterson*, 775 S.W.2d 536 (Mo.App. S.D. 1989)

I represented the plaintiff-appellant. John W. Sims represented the defendant-respondent. This case involved a partition of land by the Circuit Court of Webster County, Missouri. Each of the parties owned a one-half interest in the land. The commission, appointed by the court, made a division in kind. The appellant took exception to the allocation. The court upheld the partition. I drafted the brief and argued the case before the court.

- Also as an associate attorney at Schroff, Glass & Newberry, I assisted John G. Newberry in drafting several other appellate briefs that do not include my name listed as part of the official record. I do not have access to those case names or citations.

b) **Trial-Level Experience:** Please include a representative list of cases and/or administrative hearings you have handled (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court; identify who you represented and opposing counsel; state whether the case was disposed of following a jury trial, bench trial or at what other stage; give a one-paragraph description of the case and your role.

- While at Schroff, Glass & Newberry, I assisted John G. Newberry and second chaired jury trials in Circuit Court. I also assisted him in trying several hearings before Judge Jim Wesley at the Division of Workers' Compensation. I do not have access to those case names or citations.
- During my four-year tenure as a Greene County Assistant Prosecuting Attorney, I was a member of the felony trial team. I regularly appeared in both Associate Circuit and Circuit Court for dockets, pleas, sentencing, preliminary hearings, motions, as well as bench and jury trials. I do not have available the names and captions of these cases. I do not have access to citations or sufficient information to name the opposing attorneys. To the best of my recollection, I do recall the following:

State of Missouri v. David Pestle, Second Degree Murder. I represented the State of Missouri and opposing counsel was Dee Wampler. This was a jury trial involving an altercation in a bar resulting in the death of one of the participants. The defendant was found not guilty.

State of Missouri v. Richard Gilleland, Second Degree Burglary. I represented the State of Missouri and opposing counsel was Don Cooley. This was a jury trial involving numerous counts of Second Degree Burglary. The defendant and an accomplice burglarized many houses in a single day. The defendant was found guilty.

The following cases are additional jury trials I tried as an assistant prosecutor, but unfortunately I do not have sufficient information available to me to give the names of opposing counsel or more details.

State of Missouri v. Onie Jackson Sims, Unlawful use of a weapon.

State of Missouri v. Denzil Fisher, Unlawful use of a weapon.

State of Missouri v. George Thomas Donahue, Possession of a short-barreled shotgun.

State of Missouri v. Damon Anderson Cooper, Receiving stolen property.

State of Missouri v. James M. Zager, First-degree property damage.

State of Missouri v. Kenneth Burnett Mourning, DWI, fourth.

State of Missouri v. Rene John Metras, Forgery.

State of Missouri v. Ron Artes, Forgery.

State of Missouri v. Charles Michael Penberthy, Stealing.

State of Missouri v. Lonnie Fleisher, Receiving stolen property.

- c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, please describe the nature and extent of your judicial responsibilities, including the dates you have served as a judge at each level, the types of dockets you have handled, and any special expertise you have developed that you believe is relevant to your qualifications for the position for which you are applying.

For over 21 years, I have served as an Administrative Law Judge in the Springfield Adjudication office for the Missouri Division of Workers' Compensation. During this time I have held over 800 bench trials, thousands of docket settings and mediations, and approved thousands of settlements.

Workers' Compensation is the exclusive remedy for work-related injuries and applies to employers and employees, with few exceptions. All cases must be adjudicated through the Division of Workers' Compensation, as part of the Department of Labor. I am also the judge assigned and responsible for adjudicating contested Tort Victims Compensation cases and Crime Victims Compensation cases for the entire southwest Missouri area.

Each month I typically hold 150 -300 docket settings. This includes a variety of types of settings; conferences with pro se claimants, pre-hearings, mediations, and settlement conferences. I conduct large mixed dockets with an average of 30 – 50 cases set per hour, with both pro se and attorney represented parties. My courtroom experience has enabled me to move these cases quickly and efficiently without the benefit of a clerk or bailiff.

Additionally, I also conduct formal hearings on contested cases. Typically lay witnesses testify live and expert witnesses testify live or by deposition. These hearings are subject to the same Rules of Evidence and the Missouri Rules of Civil Procedure regarding the taking and using of depositions as in civil cases in circuit court. Following each hearing, I prepare a written award containing detailed Findings of Fact and Conclusions of Law. Appeals from my Awards are first before the Labor and Industrial Relations Commission, and then on to the Missouri Courts of Appeal and Missouri Supreme Court. The transcript of the original hearing, together with all exhibits, comprise the record used in any subsequent appeals. These exhibits typically include contracts, employment records, medical records, medical bills, and insurance policies.

Through my courtroom experience as an Administrative Law Judge, I have sharpened the skills necessary to quickly and thoroughly review technical evidence, determine factual disputes, judge credibility, determine the facts, review the evidence, apply the relevant law and ultimately resolve the issues through a formal written award.

As in civil or criminal proceedings in circuit court, cases before the Missouri Division of Workers' Compensation involve a myriad of factual and legal issues. Most of these issues stem from the claimed injury and the employment relationship. As the

fact finder, I have a statutory obligation to weigh conflicting, and often complex, evidence in order to address specific issues such as medical causation and permanent disability. I must determine a wide variety of factual and legal issues such as statutory interpretation and application, appropriate past or future medical treatment, employment status, financial responsibility, insurance coverage, subrogation and liens, and penalties including safety, drug and alcohol policies.

The following are representative of the types of cases I have presided over and have been cited as authority by the Court of Appeals:

- ***Buselle v. Wal Mart***, 37 S.W.3d 839 (Mo.App. S.D. 2001) This case dealt with the issue of statutory employment. The employer orally contracted with an individual to perform a task previously performed by an employee of the employer. I held that the claimant was a statutory employee. This decision was affirmed by the Court of Appeals and has been cited as authority for employment under these circumstances.
- ***Mayfield v. Brown Shoe Co.***, 941 S.W.2d 31 (Mo.App. S.D. 1997) This case was a case of first impression applying the term “a substantial factor” to the issue of whether the claimant’s exposure to repetitive motion for less than 90 days caused an occupational disease under the 1993 revisions to the Missouri Workers’ Compensation Law. My decision was affirmed by the Court of Appeals.
- ***Marrone v. Modine Heat and Transfer***, 918 S.W.2d 315 (Mo.App. S.D. 1996) The issue in this case was credibility, including both lay and expert opinions regarding whether claimant injured only his right hand or both hands. My award was adopted in toto by the Labor and Industrial Relations Committee and my credibility determinations were specifically discussed and affirmed by the Court of Appeals.
- ***Lingerfelt v. Elite Logistics, Inc.***, 255 S.W.3d 1 (Mo.App. S.D. 2008) One of the major issues in this case was medical causation, namely were strokes experienced by the claimant the result of the accident or a preexisting heart condition. Issues in this case included: claimant’s burden of proving a connection between the accident and his injury, the credibility of conflicting doctors’ opinions, and the liability of the Second Injury Fund. My credibility determination was affirmed and language from my award was quoted by the Court of Appeals.

11. (a) Describe any additional legal experience that you believe may be relevant to the commission’s decision, including clients by category that you have represented.

As Chief Judge I have been responsible for setting local procedures and managing the docket. This includes monitoring of dockets and management of the hearing loads of all the judges in my office. While our local office is located in Springfield, we also cover 16 counties and travel to three additional docket locations. Our docket has been as large as 22 counties at six different docket locations.

I have also served on committees charged with developing and updating rules and procedures at both the local level and division level. I have been involved in reviewing both the Division of Workers' Compensation Rules and Regulations as well as Form Revision. In addition, I have participated in the development and modification of performance standards for Administrative Law Judges, Strategic Planning, and developing a Vision and Mission Statement for the Division of Workers' Compensation.

I regularly rule on various legal and evidentiary issues both from the bench and by motion. I entertain Motions to Quash regularly. These are typically filed as a written motion and the parties are allowed to argue the motion either in person or during a conference call. Because these motions are very time sensitive, I use a conference call to expedite the process. I also rule on Motions to Compel medical evaluations, document production, and visual inspections.

I often use Scheduling Orders to manage discovery disputes. This allows the parties adequate opportunity to prepare for litigation in a timely and effective manner.

In February 2008 I received certification for both civil and family law mediation after attending Civil and Family Mediation Training co-presented by the Center for Dispute, Communication Department at Missouri State University and Washington University School of Law, Alternative Dispute Resolution Program.

Since that time, I have held longer and more extensive mediations on complex and difficult cases in our office. Our routine mediations are usually evaluative and relatively short, lasting about a half an hour. The extended mediations on the other hand are based on a civil mediation model and last several hours. While I will give opinions as guidance if necessary, these are much more facilitative, and extensive caucusing is used. I have been very successful in resolving cases through these types of mediations.

(c) Describe any non-legal experience that you believe may be relevant to the commission's decision.

In addition to my judicial responsibilities, as Chief Administrative Law Judge in charge of the Springfield Adjudication Office, I am also responsible for significant administrative duties managing both the docket as well as the office itself.

My duties regarding personnel management include hiring, training, performance review, and discipline actions when necessary. In addition, I am responsible for facility management to ensure our office is adequately supplied with furniture, equipment, and necessary supplies. During my tenure we have experienced one major move as well as several renovations.

12. List all bar associations and other professional societies of which you are a member, with any offices held and dates.

Missouri Bar Association
Missouri Bar Association Workers' Compensation Committee
Springfield Metropolitan Bar Association
Southern Missouri Women Lawyers Association

13. (a) List any professional articles or books authored by you that have been published or any special recognition or award of a professional nature you have received.

Not applicable

- (b) List any other articles, reports, letters to the editor, editorial pieces, or other material authored by you that have been published within the last five (5) years.

Not applicable

14. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations in which you have significantly participated. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or other publications.

Missouri Bar Association Workers' Compensation Committee: I have served on the organizational committee for the Missouri Bar Association Workers' Compensation Institute and I speak annually on the topic of Missouri Workers' Compensation law.

Missouri Division of Workers' Compensation: As Chief Administrative Law Judge I have served on several committees including Strategic Planning, Vision and Mission Statement for the Division of Workers' Compensation, Performance Standards for Administrative Law Judges, Revision of the Administrative Rules and Regulations, and Form Revision.

Seminars and Outreach Activities: Since becoming a judge in 1994, I regularly speak to audiences on a wide variety of medical and legal subjects relevant to the subject of Workers' Compensation. The groups I have addressed or spoken on behalf of include:

The Missouri Bar
The Springfield Metropolitan Bar Association
Cox Health Systems
Springfield Neurological and Spine Institute
The Greene County Medical Society
The Safety Council of the Ozarks
Associated Industries of Missouri
The Missouri Department of Labor and Industrial Relations
Springfield Area Human Resources Association

Missouri Chamber of Commerce
Missouri Association of Trial Attorneys
Kids' Chance Inc. of Missouri
Evans and Dixon
Home Builders Association of Greater Springfield
Missouri State Industrial Arts class
Ozarks Technical College

Saint Elizabeth Ann Seaton Catholic Church: I am currently a member and have served as a Harvest Home volunteer 2008-2012.

First and Calvary Presbyterian Church: I served as a Logos volunteer for several years from 2005-2008. These dates are approximate and to the best of my recollection.

Springfield Ballet Board of Directors: I have served on the Board of Directors during two separate occasions. I was a board member for the first time from 2003- 2005, and again from 2007 - 2013. These dates are approximate and to the best of my recollection. I have served the following committees: School and Productions, Special Events, Human Resource, and hiring committees. I have also volunteered for productions from 1998-2013.

Kid's Chance: I served on the Board of Directors between 2002 and 2004, for this organization which provides scholarships for children who have a parent killed or injured in work-related accidents. During this time I assisted and spoke at the Springfield Kids' Chance seminar. In 2011 and 2012 along with two other judges, organized and prepared a raffled dinner for eight.

Site Council Rountree Elementary School: I served from 2003 - 2009. These dates are approximate and to the best of my recollection. This council addressed issues relating to both the physical school building and the educational curriculum.

PTA Executive Board Rountree Elementary School: I served from 2001 -2009. These dates are approximate and to the best of my recollection. During this time I served in the offices of Directory, Historian and Special Events. I have also volunteered often at various events at the school.

Friends of the Library for Springfield Greene County Library: I served as a board member from approximately 1988 to 1991.

Sigma Kappa Sorority: Active member 1981-1984. During this time I served as Pledge Class President, Activities Chairman, and Historian.

15. Do you now hold or have you ever held an elective or appointive public office or position? If yes, provide details.

In 1994 I was appointed to my current position as an Administrative Law Judge. In 1994 and again in 2009 I was appointed Chief Administrative Law Judge of the Springfield Workers' Compensation Office.

16. Please list any client(s) or organization(s) for which you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organization(s).

Not applicable

17. Provide the branches and dates of (a) military service or (b) other public service not otherwise disclosed in this application. If discharged from the military, state whether the discharge was other than honorable.

Not applicable.

18. State whether you are able, with or without a reasonable accommodation, to perform the essential function of being a trial judge.

I am able to perform the essential function of being a trial judge.

19. Were you ever refused admission to the bar of Missouri or the bar of another state or the federal courts? If yes, provide details.

No.

20. Have you ever been disciplined, admonished or cited for breach of ethics or professional conduct by the Supreme Court of Missouri or by any court or bar association or committee thereof? If yes, provide details.

No

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

- a) Whether an order of discipline ever has 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 yes, provide details.

No

- b) Whether a reprimand or admonition ever has been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Supreme Court Rule 12.07. If yes, provide details.

No

22. Have you ever been held in contempt of court? If yes, provide details.

No

23. Have you ever been sued by a client or been a party to any other litigation, other than as guardian ad litem, plaintiff ad litem, or defendant ad litem?

Yes

If your answer is yes, state the style of the case, where it was filed, and explain in detail. If you are a judge and you have been sued in your judicial capacity, list only those cases where you are or were other than a nominal party.

Holden v. Holden, Case No. 04FC125172, Family Court of St. Charles, Missouri. Divorce decree entered August 19, 2004.

John King v. Margaret Holden, Case No. 1531-CC00488, Circuit Court of Greene County, Missouri. This is a Petition for Writ of Prohibition and Mandamus regarding an evidentiary order I recently entered. Although I have not yet been served with formal notice, I am aware that suit has been filed.

23. Have you ever been convicted or received a suspended imposition of sentence for a felony or misdemeanor in state, federal or military court? (*Note that this question does not require that traffic offenses or other infractions be listed.*)

No

If your answer is yes, state the style of the case, where it was filed, and explain in detail.

24. Are you delinquent in the payment of any federal, state, county or city taxes? If yes, provide details.

No

25. You must attach to this application one writing sample of your choice. The only rule, limitation or instruction is that you must indicate whether it was edited by anyone else, and if so, to what degree.

Attached are opinions issued in:

Vernon Robinette v. Advanced Systems Inc., Injury No. 12-079270. Proof read by my court reporter for spelling and grammar only.

Gary McCullough v. CVCF, Claim No 2005-0165. Proof read by my court reporter for spelling and grammar only.

Gayle Hansen v. R. Wade Mitchell, Injury No. 05-094099. Proof read by my court reporter for spelling and grammar only.

26. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above that demonstrates the quality of your work as an attorney or that you otherwise believe is relevant to the commission's decision.

I have been involved in and have participated with the National Association of Women Judges, the Southern Missouri Women Lawyers Association, the Sue Shear Institute for Women in Public Life through the Women Lawyers Association of Greater St. Louis, and the International Association of Industrial Boards and Commissions.

I have secured judges and enjoy judging debate tournaments including the Bob Bilyeu Winter Classic Debate Tournament. I have been instrumental in organizing, presiding over, and judging moot court competitions in the gifted program at Springfield Public Schools as well as area high school moot court competitions. I have spoken to Springfield Public School classes about the legal system, being a judge, and dispute resolution through the mediation process. During the last 15 years I have organized, coached, and participated in recreational sporting teams and booster clubs for soccer, baseball, band, and debate.

My husband is Vito Palmietto, an Executive Chef. We have five children. Our two oldest daughters are in graduate school, our two sons are in college, and our youngest daughter is a junior in High School.

My married name is Margaret Marie Palmietto. With the permission of the Supreme Court of Missouri, I remain registered with the Missouri Bar as Margaret Ellis Holden and continue to practice under this name.

Please list the names of *five* persons whom you will ask to provide letters of reference for you with respect to your judicial qualifications. Do **not** list as a reference a judge of the court involved. As to each of the (5) references, **please provide name, title, mailing address, telephone and e-mail address.** *Please note that it is your responsibility to contact your references* and to see that they send the requested letters in a timely manner and in accordance with the Guidelines for References.

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