

**SEVENTH CIRCUIT JUDICIAL COMMISSION  
APPLICATION FOR ASSOCIATE CIRCUIT JUDGE, DIVISION SIX  
CLAY 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. **James Anthony Fluker**
2. State your date and location of birth. **January 27, 1961, Kansas City, Missouri**
3. State your present principal occupation, place of work, and job title.  
**Attorney and Mediator, 17 West Kansas, Suite 5, Liberty, Missouri 64068**
4. Provide the following information concerning your eligibility for the office of Associate Circuit Judge:
  - (a) Are you at least twenty-five years of age? **Yes**
  - (b) Are you licensed to practice law in Missouri? **Yes**
  - (c) Are you a registered voter in Missouri? **Yes**

(d) Are you a resident of Clay County? **Yes**

5. 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. **1986 – My license is and always has been in good standing.**
6. 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. **NONE**
7. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of an Associate 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**
8. Provide the following information for all colleges or universities, other than law schools, you have attended:
  - (a) Name and location of institution - **University of Missouri-Columbia**
  - (b) Dates attended and degrees received - **Bachelor of Science in Business Administration, December 1982**
  - (c) Significant activities, achievements, honors, and awards - **Dean's Honor List; Sports Statistician for University of Missouri-Columbia athletics; Pi Kappa Alpha Social Fraternity-Secretary; InterFraternity Counsel-Publications Chairman**
9. Provide the following information for all law schools you have attended:
  - (a) Name and location of law school - **University of Missouri-Kansas City School of Law**
  - (b) Dates attended and degrees received – **August 1983 to May 1986, Juris Doctor**
  - (c) Significant activities, achievements, honors, and awards - **Graduated in Top One-Third, Dean's Honor List; *The Urban Lawyer*, Junior Staff and Assistant Editor**
10. State whether you have ever been suspended or expelled as a student from any school or educational institution. If so, please explain. **No**
11. 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.

**UNIVERSITY OF MISSOURI-COLUMBIA, Student Assistant-Statistician, Office of Sports Information, August 1979 to May 1983, graduation from university**

**CITY OF KANSAS CITY, MISSOURI, Parks and Recreation Department; Recreation Leader, I, II and III; June 1980 to August 1982 (seasonal summer employment). Did not return to Kansas City in summer of 1983 for re-employment.**

**K-MART, Columbia, Missouri, Store Associate-Cashier, January 1983 to August 1983, moved to Kansas City to attend law school.**

**KRETSINGER & KRETSINGER, Liberty, Missouri; April 1984 - October 1986 (law clerk); October 1986 - June 1988 (associate attorney) Left to join another firm.**

**CRAIN & FLUKER, Gladstone, Missouri (formerly Stephen V. Crain and Associates, prior to December, 1990); June 1988 – December, 2000 (associate/employed attorney), Left to form own practice.**

**LAW OFFICE OF JAMES A. FLUKER, Liberty, Missouri and formerly North Kansas City, Missouri, General practice with emphasis on mediation, arbitration, domestic relations, juvenile, probate and criminal; January, 2001 to present (sole practitioner).**

**CLAY COUNTY COUNSELOR'S OFFICE, Liberty, Missouri; Assistant County Counselor; January 2005 to present; Assigned to represent Public Administrator's Office and Sheriff's Department**

12. 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.

Most of my legal experience has been in the civil area. I have tried cases in small claims, associate circuit and circuit levels. I have represented both Plaintiff and Defendants in the civil area. The cases have included automobile accidents (both Plaintiff and Defendant), contract disputes, intentional tort defense (battery), real estate boundary disputes, family law cases, involving dissolution of marriage, legal separation, modification as an attorney for a party and as a guardian ad litem. I have also tried many juvenile cases involving termination of parental rights as a parent's attorney and in other cases as the CASA's attorney.

While the majority of my practice has been civil in nature, I have had numerous cases in criminal law and all of those cases on the defense side. I have tried cases involving forcible rape, deviate sexual contact, felonious assault; stalking, driving under the influence of alcohol, bad checks, burglary and drug possession.

My jury trial experience is somewhat limited because many of the jury cases I had prepared settled prior to trial. I have tried jury cases involving civil contract disputes, guardianships, mental health detentions and criminal cases involving assault and battery, arson and the first stalking case in Clay County under the then new stalking statute in October 1995.

13. 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.

Magee v. Magee, 02CV84755, Platte County, Missouri, Division 3, October 23, 2002, Represented Petitioner-Wife in action for Legal Separation, First Chair, Opposing Counsel, David Cooper. Bench Trial. Matter involved agreed to legal separation by parties. Issue involved claim for maintenance made by disabled Respondent-Husband. Husband had been disabled for 12 years and was receiving social security payments and recently received personal injury settlement on automobile accident. Court found husband had sufficient income and property to support himself and awarded no maintenance.

Wilson v. Wilson, CV102-5917DR, Clay County, Missouri, Division 3, (Hon. David Mobley, Special Judge), Trial dates: December 10 and 11, 2003 and February 26 and 27, 2004; Judgment April 15, 2004. Guardian ad Litem for 4 minor female children in action for Dissolution of Marriage, First Chair; Petitioner's Counsel, Patricia Reynolds, Respondent's Counsel, Stephen Caruso. Bench Trial. Matter involved custody litigation involving children. Severe parental alienation by Respondent/Mother against relationship with Petitioner/Father. Numerous unsubstantiated hotlines to DFS against Father. GAL called 13 witnesses including 3 DFS workers, 5 teachers and numerous records custodians to demonstrate mother's attempts to withhold parental contact with children and father. Court awarded sole legal and sole physical custody to Father.

State of Missouri v. Booth, CR194-2425M, Clay County, Division 6, October 2 and 3, 1995, Represented Defendant, Scott A. Booth, Opposing Counsel: Abram McGull, III, Clay County Asst. Prosecuting Attorney. Jury Trial. Misdemeanor Criminal Action Defendant charged with stalking under Section 558.011.1(5) that occurred on or between 10/1/94 and 12/8/94. Alleged stalking occurred in automobile on major public highways in Clay County. Defense requested Bill of Particulars as to dates involved that was denied. Defendant presented alibi evidence from employers as to work hours and dates. State presented videotape of Defendant's arrest and initial questioning in sheriff's vehicle. Significance is that it is believed to be the 1st jury case tried on the statute and the known first in Clay County. Jury instructions were approved for use 10/01/95. Definitional problems with the term serious emotional distress in instructions. Defendant was acquitted of the charge.

In Re the Marriage of Roberts and Roberts CV189 302 DR, Platte County, Division 2, December 6 and 20, 1991, Represented Respondent, James Ralph Roberts, Opposing Counsel: Don Witt, Bench Trial, Action Modification of Decree of Dissolution of Marriage Two children involved (1 boy and 1 girl) Issues: Respondent accused of sexually molesting daughter. Evidence showed physical sexual abuse of daughter. Daughter never identified perpetrator. Petitioner requested termination of Respondent's visitation rights. Respondent requested in cross motion change of custody to him. Outcome: Respondent's visitation rights to daughter were severed. At the same time, however, the Court granted Respondent's motion to change custody of the son to him. Significant because Court found that Respondent had molested his daughter and abolished visitation and in the same order found him a fit and proper person to change the custody of the parties' son from Petitioner to Respondent.

State of Missouri v. Mallinson, 0516-CR05898-01, Jackson County, Division 2, October 30 and 31, 2006, Represented Defendant, Eleanor Mallinson, Opposing Counsel: Jackson County Asst. Prosecuting Attorney. Jury Trial. Felony Arson. Defendant charged with arson for throwing burning book into victim's automobile. Alleged incident caused car to burst into flames according to eyewitness victim. State's expert witness, City Fire Examiner,

stated that no accelerants were used and that based on timeline of eyewitness the fire could not have spread that fast. Defendant was acquitted of the charge.

Missouri Department of Elementary and Secondary Education v. Wendel, HR02-056, State Board of Education, August 2003, Represented Respondent, Melissa L. Wendel, Opposing Counsel: Clayton T. Fielder, Assistant Attorney General, Administrative Hearing. Respondent's teaching certificate was subject to suspension or revocation due to plea on criminal drug charge. Alleged violation was for a "crime of moral turpitude." Plea involved SIS and no conviction was placed on Respondent's record.

Bowser v Sheriff of Clay County, 7CV105002040, Clay County, Original Trial, Division 7 on April 15, 2005, Trial de Novo- Division 2 on August 16, 2005, Represented Respondent, Sheriff of Clay County, Opposing Counsel: Kevin Jamison, Bench Trials, Matter involved sheriff's refusal to issue gun permit to Petitioner. Petitioner had plead guilty to a felony years earlier and under Section 571.121 RSMo, he was ineligible for the permit. Issue was the effect of SIS plea to felony and effect on obtaining gun permit. Court ruled in favor of Respondent, Sheriff of Clay County. Matter affirmed by the Missouri Court of Appeals, Western District.

Cavalry SPV I LLC v. Goodman, 09CY-CV01529, Clay County, Division 6, February 4, 2010, Opposing Counsel, Jasmine Armstrong, Bench Trial, Represented Defendant David Goodman. Matter involved a petition for damages for a deficiency after repossession of an automobile. Plaintiff was assignee of account from Ford Motor Credit. Defendant's counsel elected not to have defendant appear for the trial. Plaintiff was not able to get Ford's business records into evidence because of foundation and hearsay objections. At the close of Plaintiff's evidence, Defendants Motion for Directed Verdict was heard and sustained by the Court.

State of Missouri v. Sorenson, CR192 2411F, Clay County, Division 2, July 26 and 27, 1993, Opposing Counsel, Janet Sutton, Clay County Asst. Prosecuting Attorney, Jury Trial, Represented Defendant, Robert J. Sorenson, Defendant charged in two counts with burglary and assault in the 1st degree of step daughter's boyfriend at his apartment. Evidence showed that upon arrival home from work, Defendant's stepdaughter was not home and her Mother was worried. Defendant and wife went to victim's (boyfriend's) apartment where after lengthy knocking Defendant was allowed entrance. Victim was extremely intoxicated and would offer no information on stepdaughter's whereabouts. Upon search of the apartment, Defendant found a sleeping man in another room and a rifle leaning against the wall. Defendant offered testimony that victim lunged at him at which time the Defendant struck several blows to the victim's head with his fists whereupon the Defendant left the residence and continued search for step daughter. Defendant testified on his own behalf that he acted in self defense when the victim lunged at him. Defense offered a self defense instruction that was denied by the Court. Outcome: Defendant was acquitted of the burglary charge and found guilty on the charge of 1st degree assaults. Sentenced to a five (5) year sentence. Post trial Motion for New Trial taken and overruled, Appeal taken to Missouri Court of Appeals, Western District, WD48420, where judgment was affirmed. Transfer denied.

In re Hazel May, 08CY-PR00334-01, Clay County, Division 4, September 8, 2011, Opposing Counsel, Respondent pro se, Tirrell E. May, Bench Trial, Represented Successor Guardian and Conservator, Debra L. Gwin, Clay County Public Administrator. Respondent, Tirrell May, was the guardian and conservator for his mother, Hazel. He was removed from the appointment by the Court for failure to file annual settlements. After the Public Administrator was appointed, it was discovered that Respondent had never segregated the

funds of the ward from his own. He has no canceled checks or vouchers of the expenditures made on behalf of his ward and many of the transactions, according to bank records, were made for his benefit including travel, auto repairs, entertainment and electronics. His ward received \$1262.00 monthly for social security. The court entered judgment in favor of the public administrator and the estate in the sum of \$25,240.00 which was the amount of the social security received during Respondent's tenure as conservator.

14. 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.

Please see State of Missouri v. Sorenson, and Bowser v Sheriff of Clay County, above.

15. 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**
16. 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 Associate Circuit Judge.

In addition to my litigation experience, I have mediated since 1995 over 750 matters. The vast majority of the cases I have mediated have been in the area of family law involving parenting plans and child support. I have also mediated cases involving issues between probate heirs, victim restitution (juvenile), potential gang violence, parent-child issues, employment issues, worker's compensation and warranty issues.

I have also acted as an arbitrator in several dozen cases since my training in 2001. These cases involved family court actions referred to me during the 7<sup>th</sup> Judicial Circuit's Dispute Resolution Week and under a Med-Arb program set up under the 7<sup>th</sup> Judicial Circuit Office of Dispute Resolution Services involving Family Access issues. The cases involved family access and reimbursement for child's medical expenses pursuant to judgment.

17. 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.

The Missouri Bar-Family Law and ADR Sections, Member; The Missouri Bar Complaint Resolution Program, Volunteer and Facilitator; The Missouri Bar Lawyer to Lawyer Complaint Resolution Program, Volunteer and Facilitator; Clay County Bar Association-(Secretary 2001, Director 2002, Newsletter Co-Chair 2002-2003), Academy of Family Mediators- General Member; Association of Family and Conciliatory Courts (AFCC), Member; Association of Missouri Mediators- Charter Member

18. 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, "Recent Developments in Government Liability," Committee on Government Liability: Section of Urban, State and Local Government Law - American Bar Association, *The Urban Lawyer*, Vol. 17, No. 4, 1985.

**PRESENTATIONS TO PROFESSIONAL GROUPS**

<b>THE MISSOURI BAR</b>	Basic Skills of Family Law CLE, Kansas City, October 1999 (Child Support and Form 14 calculations)
<b>CLAY COUNTY FAMILY COURT SERVICES</b>	Mediating Child Support CLE, Liberty, June 2000 (Directed to Prosecutor's Staff and Mediators)
<b>ASSOCIATION OF MISSOURI MEDIATORS</b>	Ethical Issues in Mediation, Columbia, October 2000 (Non-lawyers and completing Form 14)
<b>THE CLAY COUNTY BAR ASSOCIATION</b>	Mediating with Attorneys, North Kansas City, May, 2001 (Role of attorneys and client preparation)
<b>THE MISSOURI BAR</b>	Advanced GAL Training CLE, North Kansas City, May 2002 (Step-parents)
<b>THE CLAY COUNTY BAR ASSOCIATION</b>	Law Update CLE, North Kansas City, June, 2002 (Family Law case update)
<b>THE MISSOURI BAR</b>	2010 Family Law Conference, Lake of the Ozarks, August 2010 (Step-parents)
<b>THE MISSOURI BAR</b>	2011 Family Law Conference, Lake of the Ozarks, August 2011 (Representing the Legally Disabled or Incapacitated Person in Family Law Cases)

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

Since January 2005, I have served as an Assistant County Counselor for the Clay County Counselor's Office, Liberty, Missouri. My assignments include the representation of the Public Administrator's Office and Sheriff's Department. This position is appointed by the Clay County Commission.

20. 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. **No military service.**
21. Describe your community and volunteer service activities, including any organizations (outside the legal profession) with which you are affiliated and any offices held. **Missouri Director of Revenue, Director's Advisory Group-Member; Holy Family Catholic Church-Member; Boy Scout Troop 247, Gashland Presbyterian Church, Adult Leader, Merit Badge Counselor and Assistant Troop Camp Master at H. Roe Bartle Scout Reservation; The**

**Greater Kansas City Sports Commission-Booster Club Member; Rockhurst High School Alumni Board-Past Director; Pi Kappa Alpha International Alumni Association-Charter Member; Friends of the Zoo, Kansas City-Member; Missouri State High School Activities Association (MSHSAA)- former media assistant and statistician**

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

I am an Eagle Scout from Troop 150 at St. Elizabeth's School in Kansas City. I was the 1979 recipient of the Sean Fitzgerald Scholarship at Rockhurst High School relating to school spirit. I was recognized by the Office of Dispute Resolution Services, Clay County Family Court as the Mediator of the Year. In February 2005, I received the Larry Armstrong Award in Boy Scout Troop 247 for most inspirational adult leader. This award is voted on by the scouts of the troop.

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

24. 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

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

26. 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.

**Alan Duncan v. Terrie Kerksiek, et al., Platte County, Missouri, 0698CC00049. Plaintiff, initially pro se, alleged that attorneys for wife, Terrie Kerksiek, (Stephen V. Crain and James A. Fluker) had conspired to damage he and his business in the divorce proceedings in that county. I filed a Motion to Dismiss and sent a preliminary notice letter as a prerequisite to a Motion for Sanctions pursuant to Rule 55.03. Plaintiff's counsel on behalf of Plaintiff filed a Dismissal without Prejudice in favor of Attorneys Crain and Fluker**

**Suits on attorney's fees in Clay County, Missouri**

**James Fluker v. Roger LaFollette, CV103-5033SC, settled and dismissed**  
**James Fluker v. Sergio Martinez, CV104-2222SC, judgment for plaintiff**  
**James Fluker v. Tammy Aasum, CV194-5067AC, judgment for plaintiff**  
**James Fluker v. Alice Hidy, CV197-4805SC, judgment for plaintiff**

27. 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
28. If you are or were a member of the judiciary please state: Not Applicable

- (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.
29. Provide any additional information that you consider relevant to your qualifications for the office of Associate Circuit Judge.

**Additionally, I have received numerous hours of training in mediation and arbitration:**

UNIVERSITY OF MISSOURI-ST. LOUIS AND MEDIATION AND CONFLICT MANAGEMENT SERVICES OF ST. LOUIS, June 1995, 40 hour training course on business and family mediation; MEDIATION AND CONFLICT MANAGEMENT SERVICES OF ST. LOUIS, December 1995, 16 hour advanced training course on family mediation; ADVANCED MEDIATION ISSUES WITH MARILYN MCKNIGHT, June 1996, 4 hour advanced training course on family mediation; ADVANCED TRAINING IN FAMILY DISPUTE MEDIATION, December 1996, 3 hour advanced training course on family mediation; Domestic Court Services, Johnson County, Kansas, District Court; VICTIM OFFENDER MEDIATION TRAINING, January 1998, 4 hour training, The Conciliation Center, Liberty, Missouri; MEDIATION: BEYOND THE BASICS, LIFE IN THE TRENCHES, Office of State Courts Administrator, June 1998, 8 hour advanced training course; PARENT/ADOLESCENT MEDIATION, October 1998, 26 hour training, Domestic Court Services, Johnson County, Kansas District Court; VICTIM OFFENDER MEDIATION TRAINING, October 1998, 4 hour training, Platte City, Missouri; DOMESTIC VIOLENCE AND MEDIATION SEMINAR, November 1999, 3 hour training, Johnson County Community College, Overland Park, Kansas, ADVANCED FAMILY MEDIATION TRAINING, M.A.R.C.H. Mediation, "Ethics in Mediating Domestic Violence Cases," September, 2001, Kansas City, Missouri; UNIVERSITY OF MISSOURI-COLUMBIA OFFICE FOR CONTINUING LEGAL EDUCATION, Arbitration: How to be an Effective Arbitrator, November 2001, 15 hours training, Liberty, Missouri; THE MISSOURI BAR-COMPLAINT RESOLUTION PROGRAM, "Complaint Resolution Program Volunteer Orientation and Retreat, November 2002, 8 hours training. SEVENTH JUDICIAL CIRCUIT OFFICE OF DISPUTE RESOLUTION SERVICES, Small Claims Mediation Training, October 2003, 3-hour training; SEVENTH JUDICIAL CIRCUIT OFFICE OF DISPUTE RESOLUTION SERVICES, Let's Deal with Conflict Mediation Training, February 2004, 3-hour training; SEVENTH JUDICIAL CIRCUIT OFFICE OF DISPUTE RESOLUTION SERVICES, Brainstorm Troopers: Harnessing Creativity and Innovation for Dispute Resolution, April 2004, 3-hour training; SEVENTH JUDICIAL CIRCUIT OFFICE OF DISPUTE RESOLUTION SERVICES, Opening Statements, December 2004, 3-hour training; SEVENTH JUDICIAL CIRCUIT OFFICE OF DISPUTE RESOLUTION SERVICES, Using Myers-Briggs in Mediation, March 2005, 3-hour training.

**I have been married for 28 years to Laurie Fluker, a former special education teacher. I am the father of two adult children, Meagan, a second year law student at Arizona State University and James, a junior at Northwest Missouri State University majoring in broadcasting and theater. I am very proud of my wife and children. Laurie went back to school 15 years after receiving her Bachelor's degree and obtained her Master's in**