

**APPLICATION OF Gretchen Garrison
TO THE APPELLATE JUDICIAL COMMISSION FOR THE
GEORGE W. DRAPER III VACANCY
MISSOURI COURT OF APPEALS, EASTERN DISTRICT**

***RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE
APPLICANT IS NOMINATED FOR THIS VACANCY***

A. PERSONAL INFORMATION

1. Present principal occupation or title:

Principal, Gray, Ritter & Graham, P.C.

2. Are you at least 30 years of age? Yes (x) No ()

3. (a) How many years have you been a citizen of the United States?

I have been a citizen since birth, 51 years

- (b) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri?

At least 15 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 to the Missouri Bar in 1986. I have always been, and currently am, in good standing.

B. EDUCATIONAL BACKGROUND

5. (a) State the name and address of all colleges and universities attended, other than law school, together with the dates and degrees received.

Name	Address	Dates Attended	Degree
Univ. of Missouri	111 Jesse Hall Columbia, MO 65211	1979-1982	B.S.

(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 Body Representative; Marching Mizzou; Homecoming Committee Member; Dean's List.

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

Name	Address	Dates Attended	Degree
Univ. of Missouri-Kansas City	5100 Rockhill Rd. Kansas City, MO 64110	1984-1986	J.D.

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

Law Review Managing Editor; Law Review Member (first through third years); Moot Court Board; Ellison Moot Court Competition; Dean's List; Student Bar Association Cabinet Member; Author, "Missouri Comparative Fault Treatise-Theory and Practice," UMKC/CLE (1986); Author, "Merger of Comparative Fault and Strict Liability in Missouri," 54 UMKC L. Rev. 243 (1986).

7. 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.

I have never been suspended, placed on probation or expelled.

C. PROFESSIONAL BACKGROUND AND EXPERIENCE

8. State, in chronological order (starting with the earliest employment), significant non-law-related employment prior to or since law school. To the extent reasonably available to you, include the name and address of each employer and the dates of employment.

Employer	Address	Dates of Employment
Foxwood Springs	1500 Foxwood Dr., Raymore, MO 64083	1983

9. State, in chronological order (starting with the earliest employment), all employment from the beginning of law school to the present. For legal employment, describe the positions you have held, e.g., associate, partner, law clerk, general counsel.

Employer	Address	Dates of Employment	Position
Supreme Court of Missouri	207 W. High Street Jefferson City, MO 65101	August 1986-August 1987	Judicial Clerk, Hon. Edward Robertson
Bryan Cave	1 Metropolitan Square St. Louis, MO 63102	Sept. 1987-March 1993	Associate
Missouri Attorney General's Office	207 W. High Street Jefferson City, MO 65101	March 1993-Jan. 1996	Deputy Appellate Counsel; Assistant Attorney General
Missouri Department of Health	912 Wildwood Jefferson City, MO 65102	Jan. 1996-June 1996	General Counsel
Alliance Blue Cross Blue Shield	1831 Chestnut St. Louis, MO 63103	June 1996-Oct. 1998	Associate General Counsel
Stinson Morrison Hecker LLP	7700 Forsyth, Ste.1100 St. Louis, MO 63105	Oct. 1998-Dec. 2007	Partner; Associate
Gray, Ritter & Graham PC	701 Market, Ste. 800 St. Louis, MO 63101	Dec. 2007-present	Principal

10. List any other states, courts or agencies in which you are licensed as an attorney.

Bar Admission	Date
Federal District Court-E.D. Mo.	1987-1989; 1999-present
Eighth Circuit Court of Appeals	1999-present

11. 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:

Please see Attachment – Question 11.

- 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). To the extent reasonably available to you:

- i. State the style, date, court and, if published, the citation;
 - ii. Identify the client(s) you represented and opposing counsel; and
 - iii. Give a one-paragraph description of the case and your role in it.
 - 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). To the extent reasonably available to you:
 - i. State the style, date and court;
 - ii. Identify who you represented and opposing counsel;
 - iii. State whether the case was disposed of following a jury trial, bench trial or at what other stage; and
 - iv. Give a one-paragraph description of the case and your role in it.
 - c. **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in another judicial capacity, please describe the nature and extent of your judicial responsibilities:
 - i. Include the dates you have served at each level;
 - ii. Identify the types of dockets you have handled; and
 - iii. State any special expertise you have developed that you believe is relevant to your qualifications for the position for which you are applying.
12. Describe any additional legal experience that you believe may be relevant to the decision of the commission (e.g., work as a law professor, in government, as corporate or other legal counsel).

In addition to my appellate and litigation experience (*see* Attachment-Question 11), I also have acted as in-house counsel for a number of public and private entities.

While at the Attorney General's Office in 1993-1996, I not only handled all tax appeals on behalf of the Missouri Department of Revenue, but also provided in-house training to staff, sat on committees, attended in-house meetings at which cases and legal issues confronting the Department were analyzed, and provided legal advice to the Director and General Counsel on a range of topics affecting the Department.

In 1996, I became general counsel for the Missouri Department of Health where I was responsible for all legal matters affecting the agency, including advocacy, legislative initiatives, rulemaking, Sunshine Act compliance, and interface with other agencies and the Governor's Office. I established, organized and managed a legal staff, established legal training for agency personnel, drafted proposed legislation and regulations, reviewed fiscal notes, sat on various committees and handled all other legal matters as they

arose. Among other significant projects, I was instrumental in negotiating and drafting the agreement by which a hospital facility in Mount Vernon, Missouri was transferred to the University of Missouri.

In 1996-1998, I served as associate general counsel of (then) Alliance Blue Cross Blue Shield where I was responsible for litigation, risk management, implementation of managed care legislation, compliance with numerous federal and state statutes and regulations, and personnel matters. I also sat on a task force comprised of representatives from the Missouri Department of Insurance, the Missouri legislature, and industry stakeholders for the purpose of developing regulations implementing Missouri's new managed care legislation.

In addition to my in-house experience, I also have represented and advised many corporate clients in private practice. This representation has included litigation, as well as drafting contracts, negotiating contract disputes, developing conflict-of-interest policies, advising on not-for-profit issues, compliance with various legislation such as the Graham-Leach Bliley Act and Sarbanes-Oxley Act, fiduciary duty issues, shareholder disputes and numerous other matters.

All of these experiences have honed my administrative, communication, and advisory skills, and also provide in-depth knowledge and perspective on a broad range of government and corporate issues.

I also have authored a number of legal articles and spoken at CLE and other events. In 1991, I served as an adjunct professor of administrative law at Avila College.

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

Missouri Supreme Court E-Discovery Committee (2010-present); BAMSL Appellate Practice Committee Chairperson (2008-2009); Women Lawyers' Association Legislative Committee and Mentor Program (2006); Missouri Bar Association (1986-present); Missouri Association of Trial Attorneys (2008-present).

14. 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.

Best Lawyers in America (appellate) (2009-present); Best Lawyers in St. Louis, *St. Louis Magazine* (appellate) (2009-present); Missouri and Kansas *Super Lawyers* (appellate) (2010-present).

“Rules of Appellate Brief Writing,” *St. Louis Bar Journal*, Summer 2009; “House Bill 355-Missouri’s New Managed Care Legislation,” 66 UMKC L. Rev. 775 (1998); “Missouri Comparative Fault Treatise-Theory and Practice,” UMKC/CLE (1986) (Rev. Supp. 1989) (Rev. Supp. 1993); Products Liability Handbook, Chapter 42, Contribution and Indemnity, UMKC/CLE (co-author) (1988); “Merger of Comparative Fault and Strict Liability in Missouri,” 54 UMKC L. Rev. 243 (1986).

D. PUBLIC SERVICE

15. Describe your community activities, including any organizations not listed elsewhere with which you are affiliated.

Mid-American Transplant Association Board of Directors (2010-present); Missouri Foundation for Health Board of Directors (2008-2010); Bicycle Works, Inc., Secretary and Board of Directors (2000-2005); St. Louis University Mock Trial Competition Judge (2003-2007); Multiple Sclerosis Society, Gateway Chapter, Governmental Affairs Committee (1999-2001); National Multiple Sclerosis Society, Corporate Achievers Leadership Award (1999); LifeLine Pilots Board of Directors (1997-1998); Youth Symphony of Kansas City Board of Directors (1992-1993); Adjunct Professor-Administrative Law, Avila College (1991); St. Louis Juvenile Detention Mentor (1991).

In addition to these activities, I am a yearly member of the Botanical Garden, have served as Homeroom Mother at St. Margaret of Scotland, and am a volunteer and regular attendee at my nine-year old daughter’s school functions and sporting events.

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

No.

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.

None.

E. PROFESSIONAL CONDUCT AND ETHICS

18. 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.

19. 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.

20. 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.

N/A

- 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.

N/A

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

No.

22. 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?

No.

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.

N/A

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.

N/A

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

No.

F. MISCELLANEOUS

25. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of being an appellate judge, including participating in oral argument; performing legal research; communicating clearly and effectively, both orally and in writing; supervising the lower courts, serving on court committees and performing other administrative functions; and expeditiously deciding issues coming before the court.

Yes.

26. You must attach to this application at least one, but not more than three, writing samples that comply with the requirements set out in the instructions for applicants.

Please see samples submitted herewith.

27. 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.

Speaker, St. Louis Health Care Seminar; Speaker, UMKC/CLE Year-End Review of the Law; Speaker, Kansas City Health Care Law Seminar.

In addition to the length and depth of my experience, analytical and writing skills, the assets I could bring to the bench include first-hand understanding of the practical and precedential import of judicial decisions, commitment to quality, and respect for all those involved in the judicial process.

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**, although if you intend to use as a reference a federal judge or other individual who only can provide a reference upon a specific request by the interviewing authority, please advise the commission and it will send that reference such a request. As to all references, it is your responsibility to see that they send the requested letters in a timely manner.

Provide your references with the attached Guidelines for References. The commission must receive your letters of reference, **via e-mail**, to EDjudgevacancy@courts.mo.gov, by the date indicated in the Instructions to Applicants.

References:

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**Application to the Appellate Judicial Commission
Attachment – Question 11**

11. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work . . . Include in your response:
- a. **Appellate Experience:** Please include a representative list of cases you have briefed and/or argued . . . To the extent reasonably available to you:
 - i. State the style, date, court and, if published, the citation;
 - ii. Identify the client(s) you represented and opposing counsel; and
 - iii. Give a one-paragraph description of the case and your role in it.

 - b. **Trial-Level Experience:** Please include a representative list of cases and/or administrative hearings you have handled . . . To the extent reasonably available to you:
 - i. State the style, date and court;
 - ii. Identify who you represented and opposing counsel;
 - iii. State whether the case was disposed of following a jury trial, bench trial or at what other stage; and
 - iv. Give a one-paragraph description of the case and your role in it.

I have twenty-five years of experience at administrative, trial and appellate levels in cases involving a wide range of subject matters on which I have extensive expertise. The following is a brief summary of that experience at the appellate and trial levels.

Appellate Experience

My appellate experience dates back to 1986 when I was a judicial clerk to the Honorable Edward Robertson at the Missouri Supreme Court. There, I researched issues applicable to appeals before the Court, prepared bench briefs, assisted in drafting opinions and in handling various writs and requests for transfer. This experience solidified an already profound respect for the judicial system, as well as my own commitment to a thorough understanding of the law, its history, policies and effect, my respect for the individual and societal importance of matters coming before juries and courts, and my dedication to producing the highest quality written communication possible.

I have been fortunate to continue my appellate work in both public and private sectors. While serving with the Missouri Attorney General during 1993-1996, I represented the Department of Revenue in all appeals involving that agency. During that time, I briefed and argued numerous appeals, including many that involved constitutional

questions and/or novel issues of statutory construction having significant economic consequences to taxpayers and the State. One such case was *Associated Industries of Missouri v. Director of Revenue*, 511 U.S. 640 (1994) involving the constitutionality of Missouri's use tax system under the dormant commerce clause. I also served as Deputy Appellate Counsel, having oversight of appeals handled by other Assistants Attorney General including analysis and editorial review of briefs, compliance with appellate procedure, and preparation for oral argument. After leaving the Attorney General's Office in 1996, I served as in-house counsel for two organizations (*see* Answer to Question 12), then returned to private practice where I continued my appellate practice before state and federal courts of appeal. Most recently, I am lead appellate counsel in three appeals before the Eighth Circuit Court of Appeals challenging three separate jury verdicts in favor of plaintiff rice farmers in multidistrict litigation titled *In re Genetically Modified Rice Litigation*, Case No. 4:06 MD 1811, United States District Court for the Eastern District of Missouri, Hon. Catherine Perry, presiding. These appeals involve complex issues of federal preemption under the Plant Protection Act (7 U.S.C. § 7701 et seq.), applicability of the economic loss doctrine under Arkansas, Missouri, Mississippi, and Louisiana law, and interpretation of federal regulations codified at 7 C.F.R. Part 340.

During my career, I have directly handled over forty-five appeals and assisted in countless more. I have been recognized for my appellate work in Best Lawyers in America (2009-present), Best Lawyers in St. Louis (2009-present) and Super Lawyers in Missouri (2010).

Trial Level Experience

In addition to appellate work, my practice has focused primarily on litigation. I have represented plaintiffs and defendants alike in forums including administrative tribunals, state circuit courts and federal district courts. I currently am a member of the leadership group representing thousands of rice farmers in Arkansas, Missouri, Mississippi, Louisiana, and Texas in *In re Genetically Modified Rice Litigation*, No. 4:06 MD 1811, United States District Court for the Eastern District of Missouri. I was trial counsel in the first three bellwether trials in that multidistrict litigation, each resulting in a jury verdict for plaintiffs. I also was primarily responsible for, or extensively involved in, submission of and argument regarding jury instructions, as well as numerous motions including class certification, summary judgment, exclusion of experts, exclusion of evidence, pre- and post- verdict motions for judgment and new trial.

My trial experience is complimented by extensive motion practice in numerous cases spanning twenty-five years. The quality of my analytical and written work product is evidenced by success in the vast majority of cases in which I have either brought or defended dispositive or significant procedural motions. I am thoroughly familiar with the rules of evidence, the rules of civil procedure, and many substantive areas of law including: tort law (including negligence, negligence *per se*, tortious interference, nuisance, trespass, Missouri Merchandising Practices Act, private rights of action, venue,

declaratory judgment, injunctive relief, class action, measure of damages, punitive damages); statutory interpretation; public law (including passage of legislation, administrative rulemaking, Sunshine Act compliance, agency authority); taxation; constitutional law; writs of mandamus and prohibition; fiduciary duty and shareholder disputes; contract; and warranty.

Attached hereto is a list of representative appeals and trial-level matters that I have handled.

Appeals and Representative Cases

Appeals:

Kenneth Bell et al. v. Bayer CropScience LP, et al. and *Jim Penn, et al. v. Bayer CropScience LP, et al.*, Nos. 10-2701, 10-2707 (8th Cir.) (pending). Representing plaintiffs/appellees in appeal from first two bellwether trials in multidistrict litigation consolidated in the United States District Court for the Eastern District of Missouri arising from contamination of the U.S. rice supply with regulated, genetically modified material. Primary issues include express federal preemption under the Plant Protection Act (7 U.S.C. §7756), applicability of economic loss doctrine under Arkansas, Missouri, and Mississippi law, and interpretation of 7 C.F.R. Part 340. Opposing counsel: Donald Scott, Bartlit Beck Herman Palenchar & Scott LLP.

Deshotels Farm Management v. Bayer CropScience L.P., et al., Nos. 10-3755, 10-3756, 10-3808 (8th Cir.) (pending). Representing plaintiffs/appellees in appeal from third bellwether trial in multidistrict litigation consolidated in the United States District Court for the Eastern District of Missouri arising from contamination of the U.S. rice supply with regulated, genetically modified material. Primary issues include express federal preemption under the Plant Protection Act (7 U.S.C. §7756), interpretation of 7 C.F.R. Part 340, applicability of economic loss doctrine under Louisiana law, vicarious liability under Louisiana law (non-delegable duty and master-servant). Opposing counsel: Donald Scott, Bartlit Beck Herman Palenchar & Scott LLP.

Manner v. Schiermeier et al. No. 96143 (Mo. App. E.D. 2011) (pending). Representing plaintiff in appeal from summary judgment for defendant insurance companies; issues include stacking, exclusions and set-off. Opposing counsel: Robert J. Wulff, Evans & Dixon LLC.

Ford v. AT&T, Inc., No. 93926 (Mo. App. E.D. 2010) (pending). Representing plaintiffs/appellees in appeal challenging certification of class in action involving misrepresented speed of internet services. Opposing counsel: Stephen B. Higgins, Thompson Coburn LLP.

Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation, 621 F.3d 781 (8th Cir. 2010). Representing plaintiffs/appellants appealing summary judgment in action involving dairy products sold as organic. Primary issues included express and implied preemption under Organic Foods Production Act. Opposing counsel: Mark Mester, Latham & Watkins LLP.

Plubell v. Merck & Co., Inc., 289 S.W.3d 707 (Mo. App. W.D. 2009). Representing plaintiffs/appellees in appeal challenging certification of class in action involving sale of prescription medication. Opposing counsel: John Aisenbrey, Stinson Morrison Hecker.

Vonder Haar ex rel. Mehochko v. Six Flags Theme Park, Inc., 261 S.W.3d 680 (Mo. App. E.D. 2008). Representing plaintiffs/appellants in appeal from summary judgment on claims for personal injuries and wrongful death arising from automobile accident outside entrance to Six Flags Theme Park. Opposing counsel: Reed Sugg, Sandberg Phoenix & Van Gontard P.C.

Trout v. State, 231 S.W.3d 140 (Mo. banc 2007). Representing plaintiff/appellant/cross-appellee in appeal challenging constitutionality of campaign finance reform bill (H.B. 1900). Opposing counsel: Alana Barragan-Scott, Assistant Attorney General.

Matrix Group, Inc. v. Rawlings Sporting Goods Co., 477 F.3d 583 (8th Cir. 2007). Representing defendant/appellant in appeal seeking reversal of judgment on tortious interference claim based on various asserted trial errors. Opposing counsel: Peter J. Brann, Brann & Isaacson.

Monsanto Co. v. Syngenta Seeds, Inc., 226 S.W.3d 227 (Mo. App. E.D. 2007). Representing defendant/appellant seeking reversal of summary judgment based on interpretation of license agreement. Opposing counsel: Mark G. Arnold, Husch Blackwell LLP.

Weinstein v. KLT Telecom, Inc., 225 S.W.3d 413 (Mo. banc 2007). Representing defendant/appellee in appeal on transfer to Missouri Supreme Court from grant of summary judgment in action involving rights of former majority shareholder under put agreement. Opposing counsel: Kenneth J. Mallin, Bryan Cave LLP.

Sullivan v. Deerbrook Ins. Co., 202 S.W.3d 87 (Mo. App. E.D. 2006). Representing plaintiff/appellee in appeal from verdict on claim of negligent operation of motor vehicle. Opposing counsel: Lawrence F. Hartstein, Hartstein & Bleisch, P.C.

Weinstein v. KLT Telecom, Inc., 2006 WL 1319619 (E.D. May 16, 2006). Representing defendant/appellee in appeal from grant of summary judgment in action involving rights of former majority shareholder under put agreement. Opposing counsel: Kenneth J. Mallin, Bryan Cave LLP.

Kaplan v. U.S. Bank, N.A., No. SC87390, Missouri Supreme Court (on transfer Feb. 28, 2006). Representing defendant/appellant on transfer to Missouri Supreme Court from second appeal in action challenging actions of trial court as exceeding mandate and punitive damages. Opposing counsel: Thomas P. Rosenfeld, Goldenberg Heller Antognoli & Rowland, P.C.

Kaplan v. U.S. Bank, N.A., 2005 WL 3041002 (Mo. App. E.D. Nov. 15, 2005). Representing defendant/appellant in appeal from judgment after remand from first appeal challenging actions of trial court as exceeding mandate and punitive damages. Opposing counsel: Thomas P. Rosenfeld, Goldenberg Heller Antognoli & Rowland, P.C.

State ex rel. Missouri Growth Ass'n v. State Tax Comm'n, 998 S.W.2d 786 (Mo. banc 1999). Representing State Tax Commission appealing order in mandamus directing amendment of regulation governing valuation of agricultural land for assessment of property tax. Opposing counsel: James C. Owen, McCarthy, Leonard & Kaemmerer.

Gaddy v. Phelps County Bank, 1999 WL 970757 (Mo. App. S.D. 1999) (transferred Mo. S. Ct. Dec. 21, 1999). Representing bank in appeal involving challenge to reverse stock split including constitutionality of authorizing statute. Opposing counsel: Roger A. Carnahan, Carnahan, Carnahan & Hickle.

CMS Communications, Inc. v. Siemens Rolm Communications, Inc., 187 F.3d 641 (8th Cir. 1999). Representing defendant/appellee in appeal from grant of summary judgment in action for tortious interference involving telephone switching equipment. Opposing counsel: Robert Schultz, Schultz & Little.

Galamet, Inc., v. Director of Revenue, 915 S.W.2d 331 (Mo. banc 1996). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of sales tax on purchases of machinery and electricity. Opposing counsel: Dean H. Kuckelman.

Concord Pub. House, Inc. v. Director of Revenue, 916 S.W.2d 186 (Mo. banc 1996). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission exempting publishing companies from sales and use tax on computer equipment purchased to implement new pagination system. Opposing counsel: Lawrence Weltman, Lewis, Rice & Fingersh.

Aladdin's Castle, Inc. v. Director of Revenue, 916 S.W.2d 196 (Mo. banc 1996). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission denying assessment of use tax on prizes awarded to arcade customers. Opposing Counsel: John P. Barrie, Bryan Cave LLP.

Dean Machinery Co. v. Director of Revenue, 918 S.W.2d 244 (Mo. banc 1996). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission excluding purchase of repair parts from sales tax. Opposing counsel: Dean H. Kuckelman.

Metropolitan News Clips Service, Inc. v. Director of Revenue, 910 S.W.2d 848 (Mo. App. W.D. 1995). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission in appeal regarding sales and use tax on news clipping service.

Delta Airlines, Inc. v. Director of Revenue, 908 S.W.2d 353 (Mo. banc 1995). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission regarding constitutionality of attributing percentage of airline's income to state in computing corporate income tax. Opposing counsel: John P. Barrie, Bryan Cave LLP.

Herschend v. Director of Revenue, 896 S.W.2d 458 (Mo. banc 1995). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission regarding entitlement of shareholders in subchapter S corporation to income tax credit equal to corporate excise taxes paid in Tennessee. Opposing counsel: David Zimmerman, Polsinelli White.

Whitby v. Director of Revenue, 896 S.W.2d 636 (Mo. banc 1995). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission regarding liability of responsible person for payment of sales tax. Opposing counsel: Daniel R. Dunham, Carlyle Foley P.C.

Harmon v. Director of Revenue, 894 S.W.2d 154 (Mo. banc 1995). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission denying taxpayer's request for income tax refund on retirement benefits received from state of Illinois. Opposing party: John A. Harmon, pro se.

Associated Industries of Missouri v. Director of Revenue, 511 U.S. 641 (1994). Representing Department of Revenue in appeal regarding constitutionality of Missouri's use tax system under dormant commerce clause. Opposing counsel: Thomas C. Walsh, Bryan Cave LLP.

McKinley Iron, Inc. v. Director of Revenue, 888 S.W.2d 705 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission denying sales tax exemption for electrical energy used in scrap metal processing. Opposing counsel: John P. Barrie, Bryan Cave LLP.

State ex rel. City of Crestwood v. Lohman, 895 S.W.2d 22 (Mo. App. W.D. 1994). Representing Department of Revenue in appeal from peremptory writ of mandamus regarding Department's collection of City Capital Improvements Sales Tax. Opposing counsel: Harvey M. Tettlebaum, Husch Eppenberger.

Central Hardware Co., Inc. v. Director of Revenue, 887 S.W.2d 593 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission denying refund of sales tax paid on percentage of credit sales as fees to credit card companies. Opposing counsel: Deborah A. Polk, Armstrong Teasdale.

Prudential Ins. Co. v. Director of Revenue, 885 S.W.2d 337 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of use tax on foreign insurance company against argument that statute taxing premiums "in lieu of" other taxes exempted use tax liability. Opposing counsel: John P. Barrie, Bryan Cave LLP.

AllStar Amusement v. Director of Revenue, 873 S.W.2d 843 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding sales tax assessment on gross receipts from vending sales from coin-operated amusement devices. Opposing counsel: Thomas E. Carew, Stinson Mag & Fizzell.

Sipco, Inc. v. Director of Revenue, 875 S.W.2d 539 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of use tax on purchases of dry ice and natural gas used in butchering process. Opposing counsel: John P. Barrie, Bryan Cave LLP.

Duggan v. Director of Revenue, 879 S.W.2d 555 (Mo. App. W.D. 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission denying refund of county sales tax. Opposing counsel: Lester W. Duggan.

Harper v. Director of Revenue, 872 S.W.2d 481 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission denying collection of sales and use taxes unpaid by predecessor corporation. Opposing counsel: Mark B. French.

Laciny Bros, Inc. v. Director of Revenue, 869 S.W.2d 761 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of sales tax on labor and supply charges separately stated on invoices and involving retroactivity of prior decision. Opposing counsel: Donald W. Tripp, Haller, Leonard & Tripp.

House of Lloyd v. Director of Revenue, 884 S.W.2d 271 (Mo. banc 1994). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of sales and use taxes on packing material used by marketer in catalog sales. Opposing counsel: Paul E. McLaughlin, Stinson Mag & Fizzell.

Gutknecht v. Director of Revenue, 867 S.W.2d 709 (Mo. App. E.D. 1993). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of sales tax on architectural drawings as taxable personal property rather than service. Opposing counsel: H. Clay Billinsley, Klutho, Cody, Kilo & Flynn.

Sneary v. Director of Revenue, 865 S.W.2d 342 (Mo. banc 1993). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of sales tax on architectural illustrations. Opposing counsel: G. William Quatman, Shughart, Thompson & Kilroy.

Contel of Missouri, Inc. v. Director of Revenue, 863 S.W.2d 928 (Mo. App. W.D. 1993). Representing Department of Revenue in appeal from decision of Administrative Hearing Commission upholding assessment of sales taxes on wire maintenance services provided by telecommunications companies. Opposing counsel: William D. Kolb.

Satterlee v. United States, 862 S.W.2d 365 (Mo. App. S.D. 1993). Representing Department of Revenue in appeal challenging constitutionality of sales tax. Opposing party: Ronald L. Satterlee, pro se.

House of Lloyd, Inc. v. Director of Revenue, 824 S.W.2d 914 (Mo. banc 1992). Representing catalog retailer in challenge to sales and use tax for repackaging equipment and materials. Opposing counsel: Carole L. Iles, Assistant Attorney General.

Wulfing v. Kansas City Southern Industries, 842 S.W.2d 133 (Mo. App. W.D. 1992). Representing plaintiff in appeal from jury verdict for minority shareholder in action based on put agreement. Opposing counsel: John Power, Watson, Ess, Marshall & Enggas.

International Shoe Co. v. Centerre Bank, N.A., 767 S.W.2d 131 (Mo. App. E.D. 1989). Representing seller in appeal from judgment for bank regarding transmission of invoices and bills of lading for loss arising out of buyer's failure to pay. Opposing counsel: Robert F. Wiegert.

Representative Trial-Level Cases:

In Re Genetically Modified Rice Litigation, Case No. 4:06 MD 1811, United States District Court for the Eastern District of Missouri (Hon. Catherine Perry). Member of leadership group representing Arkansas, Louisiana, Missouri, Mississippi and Texas rice farmers in multidistrict litigation involving contamination of U.S. rice supply with regulated, genetically modified material. Trial counsel in three bellwether trials resulting in plaintiff verdicts. *See In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2011 WL 601627 (E.D. Mo. Feb. 11, 2011); *In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2010 WL 5070718 (E.D. Mo., Dec. 6, 2010); *In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2010 WL 4643265 (E.D. Mo., Nov. 9, 2010); *In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2010 WL 2926207 (E.D. Mo., July 20, 2010); *In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2010 WL 2926214 (E.D. Mo., July 20, 2010); *In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2010 WL 2326036 (E.D. Mo., June 7, 2010); *In re Genetically Modified Rice Litigation*, No. 4:06 MDL 1811, 2009 WL 4801399 (E.D. Mo., Dec. 9, 2009); *In re Genetically Modified Rice Litigation*, 666 F. Supp. 1004 (E.D. Mo. 2009). Opposing counsel: Mark Ferguson, Eric Olsen, Glenn Summers, John Hughes, Bartlit Beck Herman, Palenchar & Scott LLP.

Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation, Case No. 4:08-MD-01907, United States District Court for the Eastern District of Missouri. Representing plaintiffs in putative class action arising from purchase of dairy products represented to be organic (pending). Opposing counsel: Mark Mester, Latham & Watkins LLP.

Plubell v. Merck & Co., Inc., Case No. 04CV235817-0, Circuit Court of Jackson County. Representing plaintiffs in class action against drug manufacturer alleging misrepresentation and violations of Missouri Merchandising Practices Act (pending). Opposing counsel: John Aisenbry, Stinson, Morrison Hecker LLC.

Manner v. Schiermeier et al., Case No. 0711-CV07158, Circuit Court of St. Charles County. Representing plaintiff in insurance dispute; summary judgment for defendant insurance companies currently on appeal.

Kaplan et al. v. U.S. Bank N.A., et al., Case No. CV198-6654CC, Circuit Court of St. Charles County. Representing defendant after remand from first appeal in action asserting negligence and trespass resulting from disposal of concrete. Jury verdict for plaintiff reversed on second appeal. Opposing counsel: Thomas P. Rosenfeld, Goldenberg Heller Antognoli & Rowland, P.C.

Beaird v. St. Francis Medical Center, Case No. 05CG-CC-0291, Circuit Court of Cape Girardeau County. Representing defendant in putative class action on behalf of uninsured patients alleging excessive charges for medical services. Obtained dismissal of all counts. Opposing counsel: Gray, Ritter & Graham P.C.

Dehne v. HomeTown Drug Stores LLC, et al., Case No. 06-CC-004038, Circuit Court of St. Louis County. Representing plaintiffs in declaratory judgment action regarding membership interests in limited liability company. Obtained remand after removal to federal court; negotiated favorable settlement.

St. Jude Medical S.C., Inc. v. St. Marys Health Center, Case No. 03-CC-002605, Circuit Court of St. Louis County. Representing plaintiff in action against hospital failing to pay amounts due for restricted medical devices, asserting claims for breach of contract, quantum meruit, conversion, and improper corporate practice of medicine. Motions to dismiss and for summary judgment by defendant denied; negotiated favorable settlement.

Mid-America Transplant Foundation v. St. Louis County Collector of Revenue, Case No. 04CC-1044, Circuit Court of St. Louis County, Missouri; *Mid-America Transplant Foundation v. Scott Payne*, Case No. 104-CC-1138, Circuit Court of Greene County. Representing not-for-profit corporation on petitions for refund of property tax following evidentiary proceedings before St. Louis County and Greene County Boards of Equalization. Summary judgment motions granted in both cases awarding refunds.

Midcoast Aviation, Inc. v. Department of Revenue, State of Illinois, Case No. 03-PT-0006, St. Clair County Circuit Court. Representing taxpayer on petition for judicial review regarding taxability of leasehold interests in exempt property, involving issues of first impression regarding construction and application of Illinois revenue statutes. Summary judgment for defendant appealed.

Midcoast Aviation, Inc. v. Philip A. Muehlheausler, Case No. 03-10233, Missouri State Tax Commission. Representing taxpayer in administrative proceeding regarding property tax assessment on leasehold interests at Lambert International Airport. Summary judgment for defendant challenged on petition for judicial review.

Charles Parker et al. v. United States Department of Agriculture, et al., Case No. 1:01cv57 (LMB), United States District Court for the Eastern District of Missouri. Representing cotton farmers denied loan deficiency payments as result of misinformation from agency representatives. Defendant's motions to dismiss and for summary judgment denied; negotiated favorable settlement.

Young, et al. v. MCI Worldcom Communications, Inc., Case No. 00-CV-324811, Circuit Court of Cole County. Representing defendant in putative class action alleging misrepresentations regarding telecommunications service. Obtained dismissal of all counts.

Young, et al. v. MCI Worldcom Communications, Inc., Case No. 01-CV-325123, Circuit Court of Cole County. Representing defendant in second putative class, asserting res judicata based on dismissal of prior action. Obtained dismissal of all counts.

Youngblood v. MoArk Productions, Case No. CV399-974CC, Circuit Court of Newton County. Representing minority shareholder in action alleging breaches of fiduciary duty. Obtained preliminary injunction; negotiated favorable settlement.

Arbuckle v. Stoneville Pedigreed Seed Company, Case No. CV199-141CC, Circuit Court of Dunklin County. Representing multiple plaintiffs against seed manufacturer, alleging breaches of warranty and consumer fraud. Obtained summary judgment for plaintiffs.

CMS Communications, Inc. v. Siemens Rolm Communications, Inc., Case NO. 4:96cv2168 (GFG), United States District Court for the Eastern District of Missouri. Representing defendant telecommunications company in suit alleging tortious interference. Obtained summary judgment; upheld on appeal. *CMS Communications, Inc. v. Siemens Rolm Communications, Inc.*, 187 F.3d 641 (8th Cir. 1999).

City of Crestwood v. Lohman, et al., Case No. CV194-262CC, Circuit Court of Cole County. Representing Department of Revenue in mandamus proceeding to compel collection of capital improvement sales tax. Preemptory writ of mandamus issued by circuit court reversed on appeal. *State ex rel. City of Crestwood v. Lohman*, 895 S.W.2d 22 (Mo. App. W.D. 1994).

D.M., et al. v. Meuther, et al., Case No. CV924-00029, Circuit Court of St. Louis. Representing defendant Department of Mental Health in putative class action asserting violations of various state and federal statutes. Obtained dismissal of all counts.

City of Sunset Hills v. Lohman, Case No. CV194-1610CC, Circuit Court of Cole County. Representing Department of Revenue in consolidated actions by eighteen municipalities seeking declaratory judgment regarding constitutionality of exclusionary language in Mo. Rev. Stat. §94.577. Obtained summary judgment.

City of Ellisville v. Benton, Case No. CV189-1337CC, Circuit Court of Cole County. Representing Department of Revenue in suit by ninety-two

municipalities seeking declaratory judgment regarding distribution of St. Louis County sales tax. Disposed upon judgment after bench trial.

Wulfing v. Kansas City Southern Industries, Case No. CV90-8639, Circuit Court of Jackson County. Representing plaintiff minority shareholder in action based on stock put agreement. Plaintiff's verdict upheld on appeal. *Wulfing v. Kansas City Southern Industries*, 842 S.W.2d 133 (Mo. App. W.D. 1992).