

APPLICATION FOR CIRCUIT JUDGE
16TH CIRCUIT JUDICIAL COMMISSION
JACKSON COUNTY, MISSOURI (revised May 2008)

RESPONSE TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE APPLICANT
IS SELECTED AS A NOMINEE.



NAME: Joel Fahnestock May

1. State your present principal occupation:

Assistant United States Attorney
United States Attorney's Office for the Western District of Missouri
2. Are you at least 30 years of age?

Yes
3. (a) How long have you been a citizen of the United States?

39 years
- (b) Have you been a resident of Jackson County for at least one year immediately prior to the date of this application?

Yes
- (c) How long have you been a qualified voter of Missouri?

21 Years
4. Are you licensed to practice law in Missouri?

Yes

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

United States District Court for the Western District of Missouri

United States Court of Appeals for the Eighth Circuit

5. State the date you were admitted to the Bar in Missouri:

September 30, 1994

Missouri Bar Number 42698

Are you currently a member in good standing of the Missouri Bar?

Yes

(In completing items 6 and 7, please account for all time periods between post-high school education and the date of this application.)

6. State the name and address of all law schools, colleges and universities you have attended, together with the dates and degrees received:

William Woods College (August 1987 to May 1991)
Bachelor of Science in English Communications
Certified to teach English, Secondary Schools
Rank 1/147

University of Missouri-Kansas City School of Law (August 1991 to May 1994)
Juris Doctorate
Rank 1/127

7. State, in chronological order, your entire working career, including non-legal employment, if any. Include the name and address of each firm, corporation, partnership, or governmental body with which you have been associated, and the dates thereof. (Start with earliest date, conclude with present.)

Marshall Parks and Recreation (May 1987 to August 1987, May 1988 to August 1988, May 1989 to August 1989)

P.O. Box 416

Marshall, MO 65340

Tennis instructor

Designed tennis program and taught basic and advanced tennis to students ages 5 to adult.

The Fulton Daily Sun Newspaper (May 1990 to August 1990)

115 E. 5th Street

Fulton, MO 65251

Reporter

Promoted from unpaid summer intern writing the hog and grain report to the only reporter covering all news for the entire county.

Marshall Parks and Recreation (May 1991 to August 1991)

P.O. Box 416

Marshall, MO 65340

Golf House Attendant

Collected greens and cart fees, ran the concession stand, and cleaned the clubhouse and restrooms.

Shook, Hardy & Bacon L.L.P. (June 1992 to August 1992)

Summer Associate

Conducted research and drafted legal memoranda regarding various legal issues.

Bryan Cave LLP (June 1993 to August 1993)

Summer Associate

Conducted research and drafted legal memoranda regarding various legal issues, drafted summary judgment motion, and assisted with breach of contract jury trial.

The Honorable Scott O. Wright (August 1994 to August 1996)

Law Clerk

Researched and drafted orders and jury instructions and assisted with trials.

Rouse, Hendricks, German, May & Shank (August 1996 to October 1997)
Associate
Researched and drafted motions, conducted depositions, drafted appeals, drafted Petition for a Writ of Certiorari to the United States Supreme Court, first-chaired temporary restraining order hearing.

Shank, Laue, & Hamilton, P.C. (November 1997 to February 2000)
Associate
Researched and drafted motions, conducted depositions, managed litigation, first-chaired termination of parental rights trial, first-chaired parentage hearing.

Jackson County Prosecutor's Office (February 2000 to August 2000)
Assistant Prosecutor Drug Unit
Appeared in drug court and special actions for Division 50, tried two felony jury trials (first degree murder, drug) and one felony bench trial (second degree murder).

United States Attorney's Office (September 2000 to present)
Assistant United States Attorney, Civil Division (September 2000 to present)
Managed the defense of, and the prosecution on behalf of, the United States in numerous legal contexts, argued numerous appeals, and tried two jury trials and three bench trials.

Healthcare Fraud Coordinator (2003 to present)
Coordinated numerous complex healthcare fraud investigations resulting in the recovery of \$62.5 million for the United States.

8. If you are presently an associate circuit judge and have served for two years or longer, attach a list of ten significant cases over which you presided to completion. Set forth the style, cause number, date and name and current address of the primary attorneys participating in each case, identifying the party each attorney represented. Indicate whether bench or jury tried and give a one-three sentence description of each case and its outcome.

Not applicable

(a) In addition, you may attach a list of cases you tried as an attorney in the last five years before becoming a judge. Set forth the style, cause number, date and jurisdiction and identify who you represented, whether you were first or second chair and the name and address of opposing counsel. State for each case whether bench or jury tried and give a one-three sentence description of each case and its outcome.

9. Are you able, with or without a reasonable accommodation, to perform the essential functions of a judge including the ability to preside over trials, perform legal research, attend court anywhere in the state, communicate clearly and effectively both orally and in writing, and expeditiously decide issues coming before the court?

Yes

10. If you have never served as an associate circuit judge or have served for fewer than two years, attach a list of cases you have tried in the last five years. Set forth the style, cause number, date, and court, and identify who you represented, whether you were first or second chair, and the name and address of opposing counsel. Indicate for each case whether bench or jury tried and provide a one to three sentence description of each case and its outcome. If, during any of the last five years, you served as a commissioner or in any other judicial capacity, set forth the dates of same and a description of the duties performed.

Due to the nature of healthcare fraud litigation, I have not tried a case in five years. As noted in my work history, I have tried numerous jury and bench trials in federal and state court throughout my career.

11. Have you briefed or argued any case in an appellate court?

Yes

If yes, attach a list showing the citation for each case and describe the extent of your participation in briefing and arguing the case.

See Attached List

12. If your experience as an attorney is not in litigation, you may list up to five (5) of your most significant accomplishments in your law career.

Not applicable

13. Set forth any additional information that demonstrates the quality of your legal work as an attorney.

My most recent case is one example of the quality of my legal work. After five years of directing a difficult healthcare fraud investigation against a hospital and coordinating a settlement with numerous federal agencies, \$60 million was returned to the United States. It was likely the largest settlement ever reached in this district. The quality of my legal work resulted in an outstanding result for the United States and for the community the hospital served.

I am equally proud, however, of my first case – a case that resulted in no press release or acclaim. Fresh from my judicial clerkship, I was directed to obtain a restraining order protecting the president of a major corporation from harassment. My opponent represented himself, and he was the first person I ever deposed or tried a case against. His litigation strategy included filing bar complaints against every attorney he encountered and harassing their families and law firms. My litigation strategy was to treat him with courtesy and to respect his concerns and legal position. Even though Judge Preston Dean granted my restraining order, I was the only person who was not the subject of a bar complaint or harassment by my opponent.

Throughout my career, my goal has been to provide superior quality legal work in every case – the largest to the smallest, the first to the last.

14. Have you ever been convicted of a misdemeanor or felony?

No

If yes, provide details, including the style of the case, cause number, name of the jurisdiction, and date of conviction:

15. 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 yes, provide details, including the style of the case, cause number, name of the jurisdiction and the approximate year in which such litigation was commenced and in which it was terminated:

16. 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?

No

If yes, provide details:

17. Have you ever been held in contempt of court?

No

If yes, provide details:

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

Not applicable

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 yes, state the nature of such breach, the date discipline was imposed and the exact 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 yes, provide details including date the order was entered, the date of your consent, and a description of the conduct you were ordered to cease and desist:

(c) Whether, to your knowledge, you have been a subject of a complaint and investigation by the Commission on Retirement, Removal and Discipline, which did not result in any action by the Commission? If yes, provide details:

19. To your knowledge, have you been investigated by a court or by any bar association or committee thereof for breach of ethics or professional conduct?

No

If yes, provide details:

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

The Missouri Bar (1996 through present)

Missouri/Kansas Healthcare Fraud Working Group (2003 to present)

Western District of Missouri Federal Law Clerk Society (2008 to present)

21. Describe your community activities, including any organizations, not listed above, with which you are affiliated:

St. Luke's Hospital Hand to Hand Volunteer

The hand to hand program gives me the opportunity to visit hospital patients, provide them a friendly ear, and offer a complimentary hand massage.

Sometimes my service to, and interaction with, the healthcare industry is perceived negatively. Volunteering through this program allows me to serve the industry in a completely positive atmosphere.

Operation Breakthrough Volunteer

I assist Operation Breakthrough teachers in the toddler room by playing with, holding, and reading to the children. This volunteer opportunity will permit me to include my young son in volunteer activities and continue our family tradition of public service.

22. Do you now hold or have you ever held any elective or appointive public office or position?

No

If yes, provide details:

23. Are you delinquent in the payment of any federal, state, county or city taxes?
Yes () No (X)

If your answer is yes, please state details.

24. Provide the branches and dates of (a) military service, or (b) other public service, not otherwise covered in this application. If discharged from the military, was the discharge other than honorable? If military service continues, so state:

Not applicable

25. List any professional articles or books which have been published or any special recognition or award of a professional nature which you have received:

Special Act Award for outstanding work and contributions made to the United States Attorney's Office (August 2008)

Special Act Award for outstanding work and contributions made to the United States Attorney's Office (September 2007)

All Stalk and No Action: Pending Missouri Stalking Legislation, 61 U.M.K.C. L. Rev. 783 (1993).

UMKC Outstanding Academic Achievement Award (awarded to highest ranking student)

National Association of Women Lawyers Award

ABA National Trial Competition Award

Clark Boardman Callaghan Award for Exemplary Third Year Student

American Jurisprudence Awards: Contracts, Constitutional Law, Business Organizations, Criminal Procedure, Evidence, Family Law

26. No more than five (5) persons may mail a letter of reference with respect to your character and judicial qualifications. See instructions for deadline for submission. **DO NOT INCLUDE AS A REFERENCE ANY ACTIVE SITTING JUDGES FROM THE CIRCUIT FOR WHICH YOU ARE APPLYING.** List the names of the persons from whom each member of the commission will receive letters.

The Honorable Scott O. Wright
United States District Court for the Western District of Missouri

Thomas M. Larson
Deputy United States Attorney

Charlie Harris
Seyferth Blumenthal & Harris LLC, Missouri Bar President

Jean Peters-Baker
Assistant Jackson County Prosecutor

Daniel Coney, Resident Agent in Charge, U.S. Department of Commerce

27. State any additional information you deem relevant:

One of the most important qualifications I bring to the bench is my integrity. A judge must have the integrity to follow the law and protect the judicial system, even when it is unpopular. A judge must have the integrity to refuse to use the law for her personal advantage, even when it is undiscoverable. Equally important, a judge must have integrity with herself. She must be willing to acknowledge she does not possess all the answers, but remain willing to work tirelessly to find them. A judge must have the integrity to admit when mistakes are made and maintain the courage to rectify them. I offer my integrity to this judgeship, and from it I will not waiver.

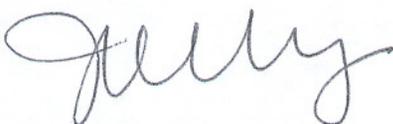
Further, my career has been an excellent training program for the bench. Motivated by a enthusiasm for the law, there are few areas of it I have not touched. From car wrecks to malpractice from discrimination to murder cases, I have welcomed the opportunity to work hard to master something new. I have tried bench trials and jury trials in state court and federal court. I have argued appeals. I have been in private practice, a public servant, a defense attorney, a plaintiff's attorney, a litigator, an investigator, a neutral, a civil attorney, and a criminal prosecutor. And, in each of these roles, I have always sought to treat those I have encountered, whether "friend or foe," with fairness and respect.

It is fitting my career now comes full circle. I began by working for a judge, and now I am prepared to use my on-the-job training to do justice from the other side of the bench. I offer my skill and humanity to the residents of Jackson County and would perform my duties with a passion for the law and justice.

By my signature to this application, I authorize: (1) the Commission by its chairperson to obtain relevant information, including but not limited to documents, records and files with respect to my medical, police or disciplinary records, and (2) the Commission and its members to obtain additional relevant information regarding my qualifications as well as the accuracy of my responses to the questions on this application, with the understanding that the information described in (1) and (2) above is available only to the members of the Seventh Circuit Judicial Commission. Notwithstanding the above, in accordance with Supreme Court Rule 10, as amended effective February 29, 2008, if I am one of the three nominees listed on the certificate of nomination sent to the Governor, I authorize the Commission to send a complete copy of this application to the Governor and publicly release a copy of the application with personal and confidential information redacted as identified on the cover page of this application.

I hereby certify that all my statements as made above are correct, and that if I am appointed to the office of Circuit Judge of Jackson County, Missouri, I will accept the appointment, qualify, and promptly enter upon the performance of the duties of that office.

DATE: *November 15, 2008*

SIGNED: 

Joel Fahnstock May
Appeals Briefed and Argued

Kansas Pub. Employees Retirement Sys. v. Blackwell, Sanders, Matheny, Weary, & Lombardi, L.C., 114 F.3d 679 (8th Cir. 1997).

Authored appellees' brief defending district court's granting of summary judgment for defendants in investment fraud case. The district court's decision was affirmed.

Sutton v. Rumsfeld, 343 F.3d 948 (8th Cir. 2003).

Authored appellee's brief and argued the case before the Eighth Circuit defending the magistrate judge's granting of summary judgment for defendant in employment discrimination case. The magistrate judge's decision was affirmed in part and reversed in part.

Watson v. O'Neill, 365 F.3d 609 (8th Cir. 2004).

Contributed to appellee's brief defending district court's order denying request for a new trial. The district court's order was affirmed.

Smith v. Wintersteen, No. 03-2550, 2004 WL 1125238 (8th Cir. May 21, 2004).

Authored appellees' brief defending district court's granting of summary judgment for defendants in slander case. The district court's decision was affirmed.

Yang v. Gonzales, No. 03-4025-ag, 2005 WL 3527869 (2d Cir. Dec. 23, 2005).

Authored respondent's brief arguing against Petition for review of the Board of Immigration Appeal's decision. Petition was granted.

Chen v. Immigration and Naturalization Serv., No. 04-3455-ag, 2006 WL 1227459 (2d Cir. May 2, 2006).

Authored respondent's brief arguing against Petition for review of the Board of Immigration Appeal's decision. Petition was denied.

Xu v. Gonzales, No. 04-1196-ag, 2006 WL 1584512 (2d Cir. May 26, 2006).

Authored respondent's brief arguing against Petition for review of the Board of Immigration Appeal's decision. Petition was granted.

Zhou v. Gonzales, No. 05-4024-ag, 2006 WL 1526893 (2d Cir. May 31, 2006).

Authored respondent's brief arguing against Petition for review of the Board of Immigration Appeal's decision. Petition was denied.

Pan v. Bd of Immigration Appeals, No. 03-40623-ag, 2007 WL 177931, (2d Cir. Jan. 16, 2007).

Authored respondent's brief arguing against Petition for review of the Board of Immigration Appeal's decision. Petition was granted in part and denied in part.