

**APPLICATION OF THOMAS B. WEAVER
TO THE APPELLATE JUDICIAL COMMISSION
FOR THE JUDGE SHAW VACANCY
MISSOURI COURT OF APPEALS, EASTERN DISTRICT**

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

1. Present principal occupation or title: **Attorney - Private Practice**

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? **57**

(b) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri? **36**

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 in 1978. My license is in good standing.**

5. List any other states, courts, or agencies in which you are licensed as an attorney.
**Illinois; United States District Court for the Eastern District of Missouri;
United States Courts of Appeals for the Fourth, Seventh, Eighth, and Tenth
Circuits.**

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

**Duke University - A.B. (1974), Major in English, Secondary School Teaching
Certificate.**

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

Magna Cum Laude; Phi Beta Kappa.

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

St. Louis University Law School - J.D. (1978).

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

Magna Cum Laude; Order of the Woolsack.

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.

Secondary School English Teacher, Allegheny County, Virginia (1974-1975); Law Clerk to the Honorable James Reinhard, Missouri Court of Appeals, Eastern District (1978-1979); Armstrong Teasdale LLP (1979 to present), Partner (1985 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. N/A

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.

See attached.

- 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.

See attached.

- 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.

11. 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).

Member, Missouri Board of Law Examiners, 1999 to present (President, 2006-2008).

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

Missouri Bar - 1978 to present, Co-Chair Appellate Practice Subcommittee - 2009; Bar Association of Metropolitan St. Louis - 1979 to present, Co-Chair BAMSL Appellate Practice Committee - 1996 to 1998; Illinois Bar Association - 1979 to present; American Bar Association - 1979 to present; Fellow, American Academy of Appellate Lawyers - 1999 to present; Eighth Circuit Bar Association - Board of Directors 2003 to 2008 (President - 2007).

13. 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.

Member, Missouri Board of Law Examiners, 1999 to present.

Fellow, American Academy of Appellate Lawyers, 1999 to present.

Best Lawyers in America, 2007 to Present, Appellate Law and Eminent Domain Law

Insurance Coverage for Environmental Claims, Missouri Environmental Law Handbook.

“Mary Carter Agreements,” Litigation Magazine, (Spring 1994).

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

Board Member - Saint Louis Ballet Company (1995 to present).

Team Parent Coordinator - John Burroughs School Ice Hockey Team (1993-1997).

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

Missouri Board of Law Examiners, 1999 to present (President, 2006 - 2008).

16. 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. **N/A**
17. 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.**
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. **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.**

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?

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.

No.

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.)*

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

No.

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 at least one, but not more than three, writing samples that comply with the requirements set out in the instructions for applicants.

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.

**Missouri Super Lawyers – 2007 to present
(Top 50 list for St. Louis, 2008-2009)**

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.

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***AUTHORIZATION FOR RELEASE OF AND CERTIFICATION
OF ACCURACY OF INFORMATION***

By my signature on this form, I certify that all statements made in my application and attachments thereto are correct and that if I am selected by the commission and appointed to the office for which I seek appointment, I will accept the appointment, qualify, and promptly enter upon the performance of the duties of that office as provided by law.

By my signature to this form, I further authorize (1) the commission by its chairperson to obtain relevant information, including but not limited to documents, records, and files about me from educational, law enforcement and disciplinary authorities and from employers and others who may have control of any documents, records, or other information pertaining to my application and suitability for the appointment I am seeking, and (2) the commission and its members to make such additional inquiries and to receive and share amongst themselves such additional information they shall deem appropriate in determining my qualifications for the position for which I seek appointment and the accuracy of my responses to the questions in this application and in otherwise fulfilling its duties. The information obtained under (1) and (2) above shall be made available only to the members of the Appellate Judicial Commission and their staff as necessary to perform their duties.

Notwithstanding the above, by my signature on this form, and in accordance with Supreme Court Rule 10, if I am one of the three nominees listed on the certificate of nomination sent to the governor, I authorize the commission to: (1) send a complete copy of this application and attachments to the governor and (2) publicly release a copy of the application and attachments, so as to inform the public as to my qualifications for the position for which I am applying, and

thereby waive any objections and rights I have with reference to the privacy of all information contained in the answers and attachments to this form, with the exception of the cover page (which contains personal and confidential identifying addresses, telephone numbers and similar information).

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

By: 

Dated: 8/19/09

Response to 10(a)
Representative Appellate Experience

1. *H&R Block v. American International Specialty Lines Insurance Company*, Appeal No. 07-3156 (8th Cir. 2008). I represented defendant American International Specialty Lines Insurance Company, and Tom Walsh represented H&R Block. This was an appeal from a summary judgment in an insurance coverage claim. Plaintiff H&R Block claimed it was entitled to coverage under American International Specialty Lines Insurance Company's insurance policies for a series of class actions arising out of H&R Block's rapid refund program. American International Specialty Lines Insurance Company took the position that H&R Block was not entitled to coverage because the claims involved conduct for which coverage was excluded under the operative policy language. I oversaw and participated in the preparation of the brief and argued the case in the 8th Circuit.
2. *Townsend v. Eastern Chemical Waste Systems*, 234 S.W.3d 452 (Mo. App. 2007). I represented defendant Eastern Chemical and Ken McClain represented the plaintiffs. Plaintiffs sued Eastern Chemical and the District of Columbia for personal injuries allegedly sustained as a result of exposure to PCBs, dioxin, and other chemicals. After a jury verdict in favor of defendants, the trial court granted plaintiffs' motion for new trial, and defendants appealed. I had overall responsibility for and participated in drafting the briefs, and argued the case in the Missouri Court of Appeals, Western District.
3. *JAS Apartments, Inc. v. Naji*, 230 S.W.3d 354 (Mo. App. 2007). I represented defendants Mr. and Mrs. Naji and Paul Sinclair represented plaintiff. The case involved a dispute concerning Mr. Naji's agreement to sell an apartment building to plaintiff. After Mrs. Naji refused to assent to the sale, plaintiff brought a claim for breach of contract, specific performance and declaratory judgment. Plaintiff appealed after the Circuit Court ruled that the contract terminated by its own terms and that neither party was entitled to relief. I had overall responsibility for and participated in drafting the brief and argued the case in the Missouri Court of Appeals, Western District.
4. *Smiley v. MTI*, ____ S.W.3d ____ (Mo. App. 2007). I represented defendant MTI, and Paul Redfearn represented the plaintiff. This was a product liability action in which an overhead crane detached from its base, and plaintiff was injured when he was thrown out of the lift bucket. I had overall responsibility for and participated in drafting the briefs and argued the case in the Missouri Court of Appeals, Western District.
5. *Berthelsen v. URS*, ____ S.W.3d ____ 2007 WL 4104092 (Mo. App. 2007). I represented defendant URS, and Grant Davis represented the plaintiffs. This was an appeal from a \$25,000,000 judgment in favor of plaintiffs in a personal injury action arising out of a traffic accident. The accident occurred when a truck driven by a URS employee failed to slow down and rear-ended the Berthelsen's van, which had stopped as a result of construction on the highway. Defendant URS admitted liability, and the case was tried to the jury on the issue of damages only. I had overall responsibility for and participated in

drafting the briefs and argued the case in the Missouri Court of Appeals, Western District.

6. *Centene Plaza Redevelopment Corporation v. Mint Properties*, 225 S.W.3d 431 (Mo. 2007). I represented plaintiff Centene, and Jerry Carmody represented the defendant property owners. This was an appeal from an order of condemnation in a Chapter 353 redevelopment project. The property owners claimed that Centene had failed to prove that the property was statutorily blighted, as required for condemnation under Chapter 353. I had overall responsibility for and participated in drafting the briefs in both the Missouri Court of Appeals and the Supreme Court of Missouri, and argued the case in both the Missouri Court of Appeals and the Supreme Court of Missouri.
7. *United States v. Buder*, 436 F.3d 936 (8th Cir. 2006). I represented the taxpayer Buder, and the United States was represented by the Department of Justice. This case involved a claim for a multi-million dollar tax refund, arising out of improperly collected estate taxes. The principal issue on appeal was whether the government was entitled to collect interest on a certain portion of the unpaid estate taxes. I had limited involvement in the preparation of the briefs, and argued the case in the 8th Circuit.
8. *Lepi Industries, Inc. v. National Environmental Services Corp.*, 440 F.3d 937 (8th Cir. 2006). I represented National Environmental Services, and Lepi was represented by Robert Radice. The case involved a claim for breach of contract and quantum meruit arising from a contract to remove environmental waste. Plaintiff Lepi claimed that NESC had improperly terminated the contract based on alleged poor performance by Lepi. I had overall responsibility for and participated in drafting the briefs and argued the case in the 8th Circuit.
9. *Anderson v. Kohler Company*, 170 S.W.3d 19 (Mo. App. 2005). I represented defendant Kohler, and Ed Hershewe represented the plaintiffs. This case arose out of an exhaust leak on a boat generator that resulted in the death of four persons on the boat. In the resulting wrongful death action by the survivors of two of the decedents, plaintiffs alleged that the product had been defectively manufactured because the exhaust pipe was prone to corrosion. The jury returned a verdict of approximately \$600,000 in compensatory damages and \$25,000,000 in punitive damages. Plaintiffs moved for a new trial, and defendants moved for a judgment notwithstanding the verdict or, in the alternative, for a finding that the punitive damage award was excessive and violated defendant's due process rights under state and federal constitutions. The trial court granted plaintiffs' new trial motion. Kohler appealed the trial court's order granting a new trial. I had overall responsibility for and participated in drafting the briefs and argued the case in the Missouri Court of Appeals, Eastern District.
10. *GMAC v. Dillard's Department Stores, Inc.*, 357 F.3d 827 (8th Cir. 2004). I represented plaintiff GMAC, and Jordan Cherrick represented Dillard's Department Stores. GMAC brought a breach of contract claim against Dillard's. After a multi-million dollar verdict in favor of GMAC, Dillard's appealed to the 8th Circuit, and claimed for the first time on appeal that the federal courts did not have jurisdiction because of lack of diversity. I drafted the brief on appeal for GMAC and argued the case in the 8th Circuit.

11. *SSM Healthcare v. Radiological Imaging Consultants*, 128 S.W.3d 534 (Mo. App. 2003). I represented plaintiff SSM Healthcare, and James Leonard represented the defendant. This was an appeal from an judgment in an action in which SSM Healthcare pursued an indemnity claim against Radiological Imaging Consultants arising out of a medical malpractice judgment. I had overall responsibility for and participated in drafting the brief and argued the case in the Missouri Court of Appeals, Eastern District.
12. *Maldonado v. Gateway Holdings*, 154 S.W.3d 303 (Mo. App. 2003). I represented defendant Gateway Hotel Holdings, and Paul Passanante represented the plaintiff. This appeal arose out of a \$14,000,000 adverse judgment in a personal injury action arising out of a boxing match. Plaintiff claimed that defendant Gateway Hotel was liable for the promoter's failure to have an ambulance on site at the boxing match, and argued that the hotel was the independent contractor of the promoter. I had overall responsibility for and participated in drafting the briefs in both the Missouri Court of Appeals and the Supreme Court of Missouri, and argued the case in the Missouri Court of Appeals and the Supreme Court of Missouri.
13. *Hoskins v. Businessmen's Assurance*, 116 S.W.3d 557 (Mo. App. 2003). I represented defendant Federal Mogul, and Louis Accurso represented plaintiff. This was an appeal from a \$10,000,000 adverse judgment in an asbestos personal injury case. Plaintiff alleged that he had been injured as a result of exposure to asbestos insulation installed in a building several years before plaintiff performed maintenance work on the building. The case was originally appealed to the Supreme Court of Missouri because of the punitive damage award. I had overall responsibility for and participated in drafting the briefs in the Supreme Court of Missouri. After argument, the Supreme Court decided the single issue on which its jurisdiction was based, and transferred the case to the Missouri Court of Appeals, Western District, to address the remaining issues. I also argued the case in the Missouri Court of Appeals, Western District, after transfer.
14. *Scott v. SSM Healthcare St. Louis*, 70 S.W.3d 560 (Mo. App. 2002). I represented defendant SSM Healthcare, and Michael Stokes represented plaintiff Scott. This was an appeal from a judgment in favor of plaintiffs in a medical malpractice action. One of the issues in the case was how the statutory cap was to be calculated when several healthcare providers were allegedly involved in actions that resulted in a singles injury. I had overall responsibility for and participated in drafting the briefs, and argued the case in the Missouri Court of Appeals, Eastern District.
15. *Sheehan v. Northwestern Mutual Life Insurance Company*, 103 S.W.3d 121 (Mo. App. 2002). I represented Northwestern Mutual Life Insurance Company, and Michael O'Keefe represented plaintiff Sheehan. This was an appeal from a judgment in favor of defendant in a suit for benefits under a life insurance policy. Northwestern had denied coverage based on misrepresentations by the insured in his application. I had overall responsibility for and participated in drafting the brief, and argued the case in the Missouri Court of Appeals, Western District.
16. *Rasse v. GE Capital Small Business Finance Corporation*, _____ S.W.3d ____ (Mo. App. 2002). I represented GE Capital and Patrick McMonigle represented plaintiff

Rasse. This was an appeal from an adverse judgment in a lender liability claim. Plaintiff contended that GE had improperly foreclosed on a loan, allegedly resulting in a loss of substantial property. I had overall responsibility for and participated in drafting the briefs, and argued the case in the Missouri Court of Appeals, Western District.

17. *Walmart Stores, Inc. v. RLI Insurance Company*, 292 F.3d 583 (8th Cir. 2002). I represented National Union Fire Insurance Company, and Richard Watts represented RLI. This was an appeal from a \$10,000,000 judgment arising from a coverage dispute. National Union was one of Walmart's insurers, and RLI was another. The parties disputed who was obligated to provide coverage for a claim arising out of an accident involving a halogen lamp. Walmart and National Union appealed a judgment of \$10,000,000 in favor of RLI. I had overall responsibility for and participated in drafting the briefs, and argued the case in the 8th Circuit.
18. *Freeman v. Leader National Ins. Co.*, 58 S.W.3d 590 (Mo. App. 2001). I represented defendant Leader National and Lawrence Ferguson represented plaintiff. This was an appeal from dismissal of plaintiff's claim against Leader National alleging bad faith failure to settle an underlying personal injury claim. Plaintiff had acquired the bad faith by assignment. The principal issue was whether Leader had a duty to defend after a declaratory judgment on a coverage issue. I drafted the brief and argued the case in the Missouri Court of Appeals, Eastern District.
19. *Alcorn v. Union Pacific Railroad*, 50 S.W.3d 226 (Mo. 2001). I represented defendant Union Pacific and Amtrak, and Grant Davis represented plaintiff. This is an appeal from an adverse judgment awarding \$25,000,000 in compensatory damages and \$50,000,000 in punitive damages in a personal injury claim arising out of a railroad crossing accident. Issues on appeal included a claim of federal preemption and the submissibility of plaintiff's claim for punitive damages. I had overall responsibility for and participated in drafting the briefs, and argued the case in the Supreme Court of Missouri.
20. *Esswein v. Chrysler Insurance Company*, 43 S.W.3d 833 (Mo. 2001). I represented plaintiff Esswein, and Tom Walsh represented Chrysler Insurance Company. Chrysler appealed from a \$5.4 million judgment in favor of Esswein. The case involved the interpretation of coverage and limited liability provisions in an insurance policy that contained drafting errors. I participated in drafting the briefs, and, after transfer, argued the case in the Supreme Court of Missouri.
21. *Boersig v. Union Electric Company*, 219 F.3d 816 (8th Cir. 2000). I represented Union Electric Company, and John Lynn represented plaintiff Boersig. This was an appeal from a summary judgment in favor of Union Electric on plaintiff's ADA claim. Plaintiff claimed that Union Electric's seniority system discriminated against him, because he allegedly suffered from a disability that prohibited him from performing certain jobs subject to a union seniority system. I participated in drafting the brief, and argued the case in the 8th Circuit.
22. *Union Electric v. Consolidation Coal Co.*, 188 F.3d 998 (8th Cir. 1999). I represented Union Electric and Charles Weiss represented Consolidation Coal. This was an appeal

from a summary judgment in favor of Consolidation Coal on Union Electric's claim for \$90,000,000 in damages arising from breach of a coal supply contract. The appeal involved issues of contract interpretation. I drafted the briefs and argued the case in the 8th Circuit.

23. *Ritter v. BJC Barnes Jewish Christian Health Systems*, 987 S.W.2d 377 (Mo. App. 1999). I represented defendant BJC and Joan Lockwood represented plaintiff Ritter. This was an appeal from a summary judgment in favor of a hospital's parent corporation on plaintiff's medical malpractice claim. The issue on appeal was whether the record supported disregarding the separate corporate forms of the parent and its affiliated hospitals. I drafted the brief and argued the case in the Missouri Court of Appeals, Eastern District.
24. *Sandage v. Bankhead Industries*, 177 F.3d 670 (8th Cir. 1999). I represented defendant Bankhead Industries, and James Jeans represented plaintiff Sandage. This was an appeal from a \$2,000,000 judgment in favor of plaintiff in a product liability action involving an auto hauler. Plaintiff claimed that the auto hauler had been defectively designed because, at certain locations on the hauler, the driver of the vehicle was unable to fully open the door of the new car being loaded. Plaintiff injured his back attempting to get out of a car through a partially open door. I drafted the briefs and argued the case before the 8th Circuit.
25. *Callahan v. Alumax Foils*, 973 S.W.2d 488 (Mo. App. 1998). I represented defendant Alumax and Tom Gregory represented plaintiff Callahan. This was an appeal from a summary judgment in favor of defendant Alumax. The issue was whether defendant Alumax sufficiently controlled the jobsite and the activities of an independent contractor to make it liable for the contractor's negligence. I drafted the brief and argued the case in the Missouri Court of Appeals, Eastern District.
26. *Cole v. Goodyear Tire and Rubber Company*, 967 S.W.2d 176 (Mo. App. 1998). I represented plaintiff Cole and Tom Walsh represented defendant Goodyear. This was an appeal from a judgment for plaintiff arising out of an automobile tire explosion. A major issue on appeal was defendant's duty to warn of risks of which plaintiff allegedly was aware. I had overall responsibility for and participated in drafting the brief.
27. *DeWolff, Boberg & Associates v. Chrysler Corporation*, No. 97-3971 (8th Cir. 1998). I represented plaintiff DeWolff, Boberg & Associates, and Gordon Ankney represented Chrysler Corporation. In addition to representing DBA at the trial level, I also represented DBA in the appeal of the judgment against Chrysler for \$1,000,000 in a breach of contract claim. DBA provided consulting services to Chrysler Corporation for 10 weeks, at which point Chrysler told DBA that it no longer needed DBA's services, and claimed that it had never authorized the work. I prepared the briefs on appeal and argued the case in the 8th Circuit.
28. *State ex rel. Helujon v. Jefferson County*, 964 S.W.2d 531 (Mo. App. 1998). I represented respondent developer and Mary Schultz represented plaintiff Helujon. This was an appeal from a judgment rejecting plaintiff's challenge to a rezoning order

approving a planned unit development for riverfront property. I drafted the brief and argued the case in the Missouri Court of Appeals, Eastern District.

29. *Spacewalker, Inc. v. Insurance Company of North America*, 954 S.W.2d 420 (Mo. App. 1997). I represented defendant INA, and Clinton Roberts represented Spacewalker. This was an appeal from a default judgment for \$1.1 million entered against INA, based on INA's allegedly incomplete responses to discovery. I prepared the briefs on appeal in the Missouri Court of Appeals, Eastern District.
30. *DP-Tech v. NCR Corporation*, 100 F.3d 828 (10th Cir. 1996). I represented NCR Corporation, and Greg Musil represented DP-Tech. This was an appeal from a summary judgment in favor of NCR Corporation on plaintiff's claim of tortious interference with contract and business expectancy. Plaintiff alleged that NCR Corporation, which was its competitor in supplying cash registers to retail outlets, had interfered with its contract or business expectancy to provide cash registers to Venture Stores. In addition to being involved in all aspects of the case at the trial level, I drafted the brief on appeal.
31. *Enterprise Bank v. Magna Bank of Missouri*, 92 F.3d 743 (8th Cir. 1996). I represented Magna Bank of Missouri, and John Sandberg represented Enterprise Bank. This was an appeal from a grant of summary judgment in favor of Magna Bank on plaintiff's challenge to prejudgment attachment of creditors' assets of more than \$1,000,000. Enterprise Bank claimed that Magna had not followed proper prejudgment attachment procedures in a claim involving attachment of stock and securities. I drafted the brief on appeal and argued the case in the 8th Circuit.
32. *Parker v. Pulitzer Publishing Co.*, 882 S.W.2d 245 (Mo. App. 1994). I represented plaintiffs, and Tom Walsh represented Pulitzer Publishing Co. Plaintiffs, who delivered daily newspapers pursuant to distributorship contracts with Pulitzer Publishing Co., claimed that Pulitzer was breaching the agreements by making portions of the newspaper available online. I drafted the briefs, and argued the case before the Missouri Court of Appeals.
33. *Unlimited Equipment Lines, Inc. v. The Graphic Arts Center, et al.*, 889 S.W.2d 926 (Mo. App. 1994). I represented defendants, and William Travis represented plaintiff. This was an appeal from a judgment for plaintiff on a breach of contract and business tort claim arising out of the acquisition of assets of a failing company. I drafted the briefs and argued the case before the Missouri Court of Appeals, Eastern District.
34. *Tractor Trailer Supply Co. v. NCR Corporation*, 873 S.W.2d 627 (Mo. App. 1994). I represented NCR Corporation, and Gary Growe represented Tractor Trailer. This was an appeal from the circuit court's denial of a motion to compel arbitration. The issue was whether the claimants were bound by an arbitration provision in an agreement which they had not personally signed. I drafted the briefs on appeal and argued the case in the Missouri Court of Appeals.
35. *Carter v. Tom's Truck Repair*, 857 S.W.2d 172 (Mo. banc 1993). I represented Tom's Truck Repair, and Phil Denton represented plaintiff Carter. This was an appeal from an

adverse judgment in a personal injury action arising out of a truck which collided with another vehicle as a result of the failure of the truck's brakes. The principal issue on appeal was the admissibility of a Mary Carter agreement entered into between plaintiff and a co-defendant. I drafted the briefs on appeal.

36. *Kochan v. Owens-Corning Fiberglass Corporation*, 610 N.E.2d 683 (Ill. App. 1993). I represented Owens-Corning Fiberglass, and Brent Rosenthal represented plaintiffs. This was an appeal from a multi-million dollar adverse judgment involving multi-plaintiff asbestos personal injury claims. The issues on appeal included whether defendant was entitled to introduce evidence of plaintiffs' exposure to asbestos products manufactured by settling defendants. I drafted the briefs on appeal and argued the case in the Illinois Court of Appeals.
37. *ITT Commercial Finance Corporation v. Mid-America Marine Supply*, 854 S.W.2d 371 (Mo. 1993). I represented defendant Mid-America, and William Bay represented ITT. This was an appeal from a summary judgment in favor of plaintiff on a suit to enforce a personal guarantee, and generated a lengthy opinion from the court explaining the principles and procedures governing summary judgment in Missouri. I drafted the briefs on appeal and argued the case in the Supreme Court of Missouri.
38. *Pollard v. Ashby*, 793 S.W.2d 394 (Mo. App. 1990). I represented defendant Dr. Ashby, and Richard Hughes represented plaintiff. This was an appeal from an adverse verdict in a product liability claim involving the use of prescription drugs. The issues on appeal included the scope and application of Comment K to Section 402(a) of the Restatement (2nd) of Torts. I drafted the briefs and argued the case in the Missouri Court of Appeals, Eastern District, including argument on rehearing en banc.
39. *Roberta Adams v. Fuqua Industries*, 820 F.2d 271 (8th Cir. 1987). I represented defendant Fuqua Industries, and Paul Hetterman represented plaintiff. This was an appeal from an adverse verdict in a product liability claim involving a lawnmower, arising out of an accident in which plaintiff's foot was severed by the lawnmower blade. I had overall responsibility for and participated in drafting the briefs.
40. *State v. Dees*, 639 S.W.2d 149 (Mo. App. 1982). I represented defendant Dees and John Morris represented the State. This was an appeal from a conviction for rape. The principal issue involved a challenge to the sufficiency and integrity of forensic evidence used to convict the defendant. I drafted the brief and argued the case in the Missouri Court of Appeals, Southern District.

Response to 10(b)
Trial Level Experience

1. *Centene Plaza Redevelopment Corporation v. Mint Properties*, Cause No. 06CC-002423 (Circuit Court of St. Louis County, 2007). I represented plaintiff Centene, and Jerry Carmody represented defendants. This was a jurisdictional hearing in a condemnation action arising out of a Chapter 353 redevelopment project. The issues in the trial were whether the property in downtown Clayton was blighted pursuant to Chapter 353. I was lead trial counsel, handling the direct and cross-examination of most witnesses. The case was tried to a judge.
2. *City of St. Louis v. Broadway Office Interiors*, Cause No. 992-8558 (Circuit Court of the City of St. Louis, 2006). I represented the City of St. Louis, and Joe Jacobson represented the defendant. Plaintiff City of St. Louis had previously condemned property owned by Broadway Office Interiors. The City then abandoned the project for which the property had been acquired. The trial court ordered that the property be returned to the defendant, and that a jury trial be held to determine the damages to which plaintiff was entitled as a result of the City having had possession of defendant's property for three years. I was lead trial counsel, handling voir dire, opening and closing, and examination of all but one witness.
3. *City of St. Louis v. B. N. S. Lodging*, Cause No. 02CC-01903 (Circuit Court of St. Louis County, 2006). I represented plaintiff City of St. Louis, and defendant was represented by Jerry and Stan Wallach. This was an exceptions hearing to determine the damages to which defendant was entitled as a result of a partial taking in a condemnation arising from the airport expansion. I was lead trial counsel and handled voir dire, opening, closing, and the direct and cross-examination of most of the witnesses. The case was tried to a jury.
4. *City of St. Louis v. Bowers*, Cause No. 01CC-004323 (Circuit Court of St. Louis County, 2004). I represented plaintiff City of St. Louis, and Mary Schultz represented defendants. This was a trial on exceptions to determine the damages to which defendants were entitled as a result of the taking of their property by the City of St. Louis as part of the airport expansion. I was lead trial counsel and handled all aspects of the trial. The case was tried to a jury.
5. *City of St. Louis v. Baniak*, Cause No. 02CC-003749A (Circuit Court of St. Louis County, 2004). I represented plaintiff City of St. Louis, and Bob Denlow represented defendants. This was a trial on exceptions to determine the damages to which defendants were entitled as a result of the taking of their property by the City of St. Louis as part of the airport expansion. I was lead trial counsel and handled all aspects of the trial. The case was tried to a jury.

6. *City of St. Louis v. Crabtree*, Cause No. 02CC-003749C (Circuit Court of St. Louis County, 2004). I represented plaintiff City of St. Louis, and Bob Denlow represented defendants. This was a trial on exceptions to determine the damages to which defendants were entitled as a result of the taking of their property by the City of St. Louis as part of the airport expansion. I was lead trial counsel and handled all aspects of the trial. The case was tried to a jury.
7. *City of St. Louis v. Afshari*, Cause No. 01CC-001574C (Circuit Court of St. Louis County, 2003). I represented plaintiff City of St. Louis, and George Hudspeth represented defendants. This was a trial on exceptions to determine the damages to which defendants were entitled as a result of the taking of their property by the City of St. Louis as part of the airport expansion. I was lead trial counsel and handled all aspects of the trial. The case was tried to a jury.
8. *City of St. Louis v. Miller*, Cause No. 01CC-001574B (Circuit Court of St. Louis County, 2003). I represented plaintiff City of St. Louis, and Stan Wallach represented defendants. This was a trial on exceptions to determine the damages to which defendants were entitled as a result of the taking of their property by the City of St. Louis as part of the airport expansion. I was lead trial counsel and handled all aspects of the trial. The case was tried to a jury.
9. *Union Electric Company v. Phillips*, Cause No. 01CC-001587 (Circuit Court of St. Louis County, 2003). I represented Union Electric Company, and Stan and Jerry Wallach represented defendants. This was an exceptions hearing to determine the damages to which defendants were entitled as a result of the condemnation of their property to acquire a site for a Union Electric substation. I handled all aspects of the trial. The case was tried to a jury.
10. *Union Electric Company v. Bussen Quarries, Inc.*, Cause No. CV196-505CC (Circuit Court of Jefferson County, 2001). I represented Union Electric Company, and Bob Denlow represented defendants. This was an exceptions hearing to determine the damages to which defendants were entitled as a result of the condemnation of their property to acquire a site for a Union Electric substation. I handled all aspects of the trial. The case was tried to a jury.
11. *Union Electric Company v. The Collier Organization*, Cause No. CV198-8022CC (Circuit Court of St. Charles County, 2000). I represented Union Electric Company and Claude Knight represented the defendant. This was an exceptions hearing to determine the damages to which defendants were entitled as a result of the condemnation of their property to acquire a transmission line easement. I handled all aspects of the trial. The case was tried to a jury.

12. *DeWolff, Boberg & Associates v. Chrysler Corporation*, Cause No. 4:95CV02223-JCH (United States District Court, Eastern District of Missouri, 1997). I represented DeWolff, Boberg & Associates, and Gordon Ankney represented Chrysler Corporation. This was a breach of contract action brought by DBA against Chrysler. DBA provided 10 weeks of consulting services at Chrysler's manufacturing facilities in St. Louis, and Chrysler refused to pay DBA for the work provided, based on a claim that the work had never been properly authorized. I shared responsibility for the trial with Richard Scherrer, and handled the direct and cross-examination of most witnesses. The case was tried to a jury.
13. *Union Electric Company v. Mangnall*, 23CV192-3102 (Circuit Court of Jefferson County, 1993). I represented Union Electric Company and J. B. Carter represented Mangnall. This was an exceptions hearing to determine the damages to which defendants were entitled as a result of Union Electric's taking of an easement. I handled all aspects of the trial. The case was tried to a jury.
14. *Union Electric Company v. William Bruce*, 23CV192-2104 (Circuit Court of Jefferson County, 1994). I represented Union Electric Company and J. B. Carter represented Bruce. This was an exceptions hearing to determine the damages to which defendants were entitled as a result of Union Electric's taking of an easement. I handled all aspects of the trial. The case was tried to a jury.
15. *Champlin v. Consolidation Coal*, Cause No. 91-902-WLB (United States District Court, Southern District of Illinois, 1992). I represented Consolidation Coal, and James Mendillo represented plaintiff. The defendant Consolidation Coal had denied Champlin's claim for benefits under its ERISA plan. The case was tried to a jury. I was lead trial counsel and handled all aspects of the trial. After a jury verdict in favor of plaintiff, I handled all the post-trial motions. The trial court granted a judgment notwithstanding the verdict based on the post-trial motions.