

**Application of BRYAN ERIC NICKELL
to the Appellate Judicial Commission
Judge Sheffield vacancy
Missouri Court of Appeals**

Responses to these questions, including any attachments thereto, will be made public if the applicant is nominated for this vacancy.

1. State your principal occupation, place of work, and job title:

I am a private practice attorney with the Law Office of Blanton, Nickell, Collins, Douglas, Hanschen & Peters LLC in Sikeston, Missouri.
2. Provide answer the following questions concerning your eligibility for this position:
 - (a) Have you been a citizen of the United States for at least 15 years? **Yes.**
 - (b) Have you been a qualified voter of Missouri for at least nine consecutive years immediately preceding your application? **Yes.**
 - (c) Are you at least 30 years of age? **Yes.**
2. List each state, court, or agency in which you are licensed as an attorney, and, for each, the date you were admitted, your bar number, and whether your license is in good standing. If any license is not in good standing, explain.
 - **Missouri Bar; October, 1994; Bar No. 42744; good standing.**
 - **Illinois Bar; February, 1995; Bar No. 6226996; good standing.**
 - **United States District Court – Eastern District of Missouri; September, 1995; Bar No. 42744MO; good standing.**
 - **United States District Court – Northern District of Illinois; March, 2020; Bar No. 42744MO; good standing.**
 - **United States Court of Appeals for the Eighth Circuit; 1995; Bar No. 42744MO; good standing.**

4. *Other than law school:*

- (a) State the name and address of all colleges and universities attended, together with the dates and degrees received.

**Southeast Missouri State University
One University Plaza,
Cape Girardeau, Missouri 63801.
Attended: 1987-1991
Degree(s): Bachelor of Science and Bachelor of Arts
Major: Accounting; Minor: English
GPA: 3.24**

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

**- Regent's Scholarship Recipient;
- Order of Omega; and
- Sigma Chi Fraternity – President, Vice President, Treasurer.**

- (c) If, as a student, you were suspended, placed on probation, or expelled by school authorities for any reason, describe the circumstances.

N/A.

5. Provide your law school background:

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

**University of Missouri; School of Law – Columbia
820 Conley Ave,
Columbia, Missouri 65211.
Attended: 1991-1994
Degree: Juris Doctorate
Rank: 20/138; GPA: 87.41**

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

**- Missouri Law Review;
- Journal of Dispute Resolution;**

- Order of the Barristers; and
- Board of Advocates.

(c) If, as a student, you were suspended, placed on probation, or expelled by school authorities for any reason, describe the circumstances.

N/A.

6. State, in chronological order (starting with the earliest employment), your *significant non-law-related employment*. To the extent reasonably available to you, include the name and address of each employer along with the dates of employment; the position held; whether the employment was full-time, part-time, or seasonal; and the reason the employment ceased.

1984-1987;

Bizzell Lawn Care;

508 Smith Street, Sikeston, Missouri 63801;

Lawn care laborer;

Part-time and Full-time summers;

Relocated to attend Southeast Missouri State University.

1989-1991;

Beaver Janitor Supply;

1914 Independence, Cape Girardeau, Missouri 63801;

Warehouse labor and truck driver;

Part-time;

Relocated to attend University of Missouri – School of Law.

7. State, in chronological order (starting with the earliest employment), *all law-related employment*. To the extent reasonably available to you, include the name and address of each employer along with the dates of employment; the position held (e.g., associate, partner, law clerk, general counsel); and the reason the employment ceased.

1991-1994;

Blanton, Rice, Sidwell and Ottinger, LLC;

219 S. Kingshighway, Sikeston, Missouri 63801;

Law Clerk;

Employed during the summer, winter break, and on projects during

**the school year;
Relocated for Judicial Clerkship.**

**1993-1994;
University of Missouri – School of Law;
820 Conley Ave, Columbia, Missouri 65211;
Teaching Assistant – research and writing;
Graduated from University of Missouri – School of Law.**

**1993 (summer) and 1994-1995
Law Clerk to the Honorable Stanley Grimm, Chief Judge;
Missouri Court of Appeals – Eastern District of Missouri;
815 Olive Street, St. Louis, Missouri 63101;
Judicial Clerk;
Clerkship ended.**

**1995 – Present;
Blanton, Nickell, Collins, Douglas, Hanschen, & Peters LLC;
219 S. Kingshighway, Sikeston, Missouri 63801;
Private Practice Attorney.**

8. Describe the nature of your experience in trial and appellate courts and explain how such experience demonstrates the quality of your legal work. *(You may take as much space as you need here. It is your responsibility to redact any confidential information.)* Include in your response:

(a) Appellate Experience: 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; and give a one-paragraph description of the case and your role.

***Maxwell v. City of Hayti*, 985 S.W.2d 920 (Mo.App.S.D. 1999). This was a slip and fall case involving an icy sidewalk. I represented the City of Hayti, Missouri and lost at the Trial Court. I appealed on behalf of the City alleging that the Trial Court improperly refused to give a proffered not-in-MAI instruction. The**

proffered instruction related to the affirmative defense that a city has no duty to remove a general condition of ice that is not a special, isolated condition. The Southern District Court of Appeals reversed and remanded for a new trial.

Nail v. Hush Blackwell Sanders, LLP, 436 S.W.3d 556 (Mo. 2014). Plaintiff sued the Defendant's law firm alleging legal malpractice which resulted in lower profit on stock options. Plaintiff alleged negligent advice and negligence in drafting settlement documents. The Trial Court granted Summary Judgment in favor of Defendant law firm finding there was no causal connection between any alleged negligence and the market fluctuation of stock price. The case was ultimately transferred to the Missouri Supreme Court. I wrote an Amicus Brief supporting the Defendant law firm. The Supreme Court affirmed the Trial Court's Summary Judgment, finding that Plaintiff failed to meet the causal connection of the "case within a case" required in legal malpractice actions.

Richmond v. Higgins, 435 F.3d 825 (8th Cir. 2006). Our firm represented the Defendant sued under the Fair Debt Collection Practices Act ("FDCPA"). John Albright of Poplar Bluff, Missouri was opposing Counsel. The District Court granted Summary Judgment in our client's favor, finding the FDCPA did not apply to communications with a debtor's counsel. On appeal, the Eighth Circuit Court of Appeals affirmed, finding no violation of the FDCPA.

Robinson v. Pfizer, Inc., 855 F.3d 893 (8th Cir. 2017). The issue in the Amicus Brief was whether sixty (60) Plaintiffs from outside of Missouri could be joined with four (4) instate Plaintiffs. The Eighth Circuit Court of Appeals ultimately dismissed this particular case as moot, as Plaintiffs' counsel filed a Satisfaction of Judgment with regard to sanctions. The issue addressed in the Amicus Brief regarding specific personal jurisdiction and whether an action had to arise out of, or relate to, a defendant's contacts in a forum was ultimately decided in *Bristol-Meyers Squibb v. Superior Court*, 137 S.Ct. 1773 (2017).

Dean v. Astrue, 11-3075 (8th Cir. 2011). I was appointed by the U.S. District Court – Eastern District of Missouri to represent a claimant in an appeal of the denial of his Social Security Disability Benefits. This was an area outside of my usual practice. The appeal was denied by the Magistrate Judge as well as the District Judge. Although released from my appointed representation, my client was unable to find representation in the Eighth Circuit prior to the filing deadline. I agreed to continue representation pro bono and filed a brief in the

Eighth Circuit Court of Appeals. I argued that the Administrative Law Judge's decision was not supported by substantial evidence. Only evidence of a rotator cuff injury was considered, while evidence of neck and back conditions were disregarded. I, further, argued that the record was not developed properly prior to my appointment in that opinions of two treating physicians were not considered by the ALJ. After our brief was filed, the Commissioner filed a Motion for Remand, conceding our points on appeal.

***State v. Bradshaw*, 867 S.W.309 (Mo.App.W.D. 1993). I wrote the brief for this case as part of an Appellate Advocacy Workshop under Rule 13. I represented the State of Missouri. This was a criminal appeal from the Circuit Court of Boone County, Missouri. The Defendant was approached by a journalism student at the University of Missouri – Columbia, who was collecting information for an undercover investigation of the Defendant's business. The student negotiated plans for a fictional bachelor party. Law enforcement was involved, and the Defendant was charged with promoting prostitution. After conviction, the Defendant alleged that the Trial Court erred in sustaining an objection to the examination of a patron. The Defendant also requested post-conviction relief. The conviction was affirmed in all respects.**

(b) Trial-Level Experience: 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; and give a one-paragraph description of the case and your role.

***Cameron v. Criddle* 12CG-CC00196 and *State Farm Insurance Co. v Criddle*, 12CGCC00304-01 (2014), - Circuit Court of Cape Girardeau County, Missouri. These are two related cases where I represented various defendants in lawsuits filed by an injured co-employee. Phil Barkett of Cape Girardeau, Missouri was opposing Counsel in the primary injury case. Aaron Mandel of Madison, WI represented State Farm Insurance in a declaratory judgment action where it sought to deny coverage. In the underlying case, I obtained dismissal of all**

defendants except one. In the corresponding declaratory judgment action, I obtained an initial Summary Judgment providing the remaining Defendant with insurance coverage. Shortly thereafter, the cases resolved in all respects.

***Bohannon v. Wal-Mart*, 06CG-CC00088-01 (2006), - Circuit Court of Cape Girardeau County, Missouri.** I represented Wal-Mart in a premises liability case. Steve Walsh and Danny Moore of Poplar Bluff, Missouri were opposing counsel. At trial, the jury assessed 90% fault to Plaintiff.

***Dinkins v. Three Rivers Healthcare, Inc. et al*, 04NM-CV00435 (2006), - Circuit Court of New Madrid County, Missouri.** This was a medical malpractice case where I represented a hospital. Plaintiff's Counsel was Martin Perron of St. Louis, Missouri. The hospital was sued as the alleged principal/employer of a co-defendant radiologist and for alleged standard of care breaches by nurses. The allegations of negligence pertained to the reading of a mammogram and alleged delay in diagnosis of breast cancer. I obtained a Summary Judgment for my client shortly before trial.

***Walker v. Alley, et al*, 13BT-CV00329 (2015) - Circuit Court of Butler County, Missouri.** I represented the family of a maintenance worker at the Southeast Correctional Center in Charleston, MO who was electrocuted while working on a large, industrial mixer. Lindsay Leible Combs and Michael Lach of St. Louis represented the Defendants. We alleged that the general contractor and electrical sub-contractor did not install the mixer with a proper electrical disconnect in violation of code. I also made allegations against the contractor and sub-contractor under products liability, alleging modification of the mixer. A co-employee was sued for negligence as well. The Defendants' Motions to Dismiss were denied and the case was ultimately settled for a confidential amount. I also successfully represented the family in the related worker's compensation action against the Department of Corrections.

***Rowland v. Bollwerk, et al*, 1:01-cv-00009CAS (2002) - U.S. District Court of the Eastern District of Missouri.** I represented the school board members and various administrators of the Cape Girardeau Public Schools. Opposing counsel was Eric Sowers of St. Louis. My clients were sued for alleged civil rights violations under Section 1983, in both their personal and official capacities. A student alleged that he was expelled in violation of his constitutional rights and had an undiagnosed learning disability. I obtained

Summary Judgment in favor of my clients based on qualified immunity as to their personal capacities. Shortly thereafter the matter resolved in full.

***Pennington v. Integrity Communications, LLC*, 4:11-cv-02030 (2012) - U.S. District Court for the Eastern District of Missouri. This was a Fair Labor Standards Act (“FLSA”) class action brought by cable installers against our client, Integrity Communications, LLC. The cable installers alleged they were employees and not independent contractors as classified by our client, entitling them to treble damages. The Plaintiff’s counsel were Kevin Dolley and Russ Riggan of St. Louis, Missouri. Plaintiff’s counsel sought to have the matter certified as a class action under the FLSA, which is frequently granted. After discovery and vigorous efforts by opposing counsel, the Court denied class certification. My firm tried the case to a jury and obtained a defense verdict for our client.**

***Genus Medical Technologies, LLC v. Medical Imaging Solutions International*, 17SLCC04471 (2017). This case was arbitrated in front of the Hon. John C. Holstien and then litigated in St. Louis County, Mo. Opposing counsel was Gavin Fleming of Bloomfield Hills, MI. I represented Genus Medical Technologies, LLC (“Genus”), a medical device supply company. It entered into a distribution agreement with Medical Imaging Solutions International (“MISI”) to sell radiological syringes in the United States. I filed a Demand for Arbitration alleging breach of the agreement and damages on behalf of Genus. The parties tried the Arbitration to verdict and Genus was awarded all damages and relief it sought. MISI refused to pay and I filed suit in St. Louis County to Confirm the Arbitral Award. MISI defended the action, alleging the Arbitrator exceeded his authority in entering the award. I obtained a Summary Judgment in favor of Genus, with the Court awarding additional attorney fees and confirming the Arbitration Award. The case was appealed to the Eastern District Court of Appeals, but the appeal was ultimately dismissed.**

***Wake v. Kennett HMA, Inc.*, 22042-00566 (2005) - City of St. Louis Court. This was a wrongful death medical malpractice case where I represented the Defendant. John Cook of Cape Girardeau, Missouri was opposing counsel. The primary factual issue in the case was whether the Defendant failed to diagnose the Plaintiff’s encephalitis, leading to his death. The case was tried for three days and settled.**

***Sutton v. St. Francis Medical Center, et al.*, 15CG-CC00308 (2019) - Circuit Court of Cape Girardeau County, Missouri. This was a medical negligence case against a long-term acute care hospital and several physicians. Our firm represented one of the physicians. Opposing counsel were Chandler Gregg and Grant Rahmeyer of Springfield, Missouri. The allegations concerned an alleged delay in diagnosing Fournier's gangrene in a paraplegic patient. Our firm obtained a defense verdict for our client.**

***Urhahn v. Hill*, 11SO-CV02241 (2017) - Scott County Circuit Court, Missouri. This was a boundary line dispute involving two adjoining farms in Scott County. The parties had disputed the proper boundary line and ownership of certain land for multiple generations. Tom O'Loughlin of Cape Girardeau, Missouri was opposing counsel. Suit was filed against my clients to quiet the title and for adverse possession of the land. The case was tried to Judge Rob Fulton in a bench trial where I obtained a verdict in my client's favor.**

***WM Mahn Plumbing, Inc. v. Roseburg, Inc, et al.*, 11JE-CC00192 (2017). This was a complicated mechanics lien case filed over construction of a hotel in Jefferson County, Missouri. I represented the bank which loaned money on the project and was the holder of various Deeds of Trust on the property. Opposing counsel was Jonathan Skrabacz of Festus, Missouri. In addition to seeking a mechanics lien, the Plaintiff sought a declaration from the Court that its mechanics lien was superior to my client's Deeds of Trust. After discovery, I filed a Motion for Summary Judgment which was granted by the Court in favor of my client.**

***Travelers Indemnity Company et al v. City of Sikeston, et al.*, 1:19-cv-00070 (2020) – U.S. District Court for the Eastern District of Missouri. In 2001, David Robinson was convicted of a murder which occurred in 2000. Eighteen years later, his conviction was overturned and he was released. Robinson filed suit against the City of Sikeston and former law enforcement officers. The City of Sikeston tendered the case for defense and indemnity to Travelers, which denied insurance coverage under a variety of theories. Travelers then filed a declaratory judgment action against Sikeston seeking a ruling that it had no liability for coverage for Robinson's lawsuit. I represented Sikeston in the declaratory judgment action. Cross Motions for Judgment on the Pleadings were filed by the parties. Eventually, the underlying case was settled with**

Sikeston's insurance companies paying the entire settlement of \$8 million with the exception of small deductibles.

Morgan v. Crosby Group, Inc., 1:02-cv-00078 (2002). I represented a Plaintiff who was injured when a piece of equipment fell on him, while it was being attached to a block and tackle. The lawsuit alleged the block and tackle was unreasonably dangerous as the hook did not contain a safety latch, which would have prevented the accident. Opposing counsel was Ted Perryman of St. Louis, Missouri. After discovery, the case settled for a confidential amount.

Slavings v. Shipman Construction, 08-119514 (2017). My client, the Claimant, was seriously injured at work in both 2007 and 2008. The employer contested the compensability of both injuries, alleging they were not within the scope and course of employment. After multiple hearings, the 2007 and 2008 injuries were resolved in my client's favor. In 2017, we tried a contested hearing against the Second Injury Fund. The Final Award granted the Claimant Permanent Total Disability Benefits.

In re Sikeston R-6 School District, 16-0053-1 (2016). In 2016, a citizen filed a complaint with the Missouri Ethics Commission ("MEC") alleging that conflict of interest laws were violated when the District awarded a brokers contract for health insurance. I represented the District and the Superintendent in the proceedings. I set forth the District's position that (1) there was not a conflict of interest as appropriate procedures were followed; and (2) the awarded bid was, in fact, the lowest bid. Extensive documents were produced. After investigation, the MEC found there was no evidence to support a violation of conflict-of-interest laws and closed the file.

Montgomery Bank, N.A. v. First Horizon Home Loan Corp. 2010 WL 1712848 (Mo.E.D. 2010). The parties in this case were two banks in a dispute over a Loan Participation Agreement. I represented the Plaintiff and filed suit in the U.S. District Court - Eastern District of Missouri. Opposing counsel was Joseph E. Foster of Orlando, Florida. The Defendant bank objected to jurisdiction and venue in Missouri, alleging that the transaction took place in Florida. The District Court ruled that jurisdiction and venue were proper in Missouri. The case ultimately resolved.

***Ochs v. Aloha Pools & Spas*, 19CG-CC00021 (2019).** This was a commercial breach of contract action and negligence case brought in Cape Girardeau Circuit Court, Missouri. I represented the Defendant. The Plaintiff was represented by Megan Andrews of Cape Girardeau, Missouri. I filed a Motion to Dismiss alleging that suit in Missouri was in violation of a forum selection clause in the contract. The Plaintiff argued the forum selection clause did not apply to the tort claims and was unfair and unreasonable. The Trial Court granted my Motion and dismissed the case.

***Pulford v. Alan Wire Company, et al*, 1:20-cv-00706 (2023) – U.S. District Court – Northern District of Illinois.** This case involved a 600-pound spool of industrial wire that flew off of a rack during the spooling process causing serious injuries to the operator of a spooling machine. Plaintiff was represented by Bryan O'Connor of Chicago, IL. I represented the manufacturer of the wire. Co-defendants were the manufacturer of the wire spooling machine and the rack system. Under Illinois law, the Employer was brought into the case as a third-party defendant. All parties blamed the others for the accident. After completion of discovery, *Daubert* and Summary Judgment Motions were filed. The case settled piecemeal prior to rulings on the dispositive motions.

***Kennet Trust Bank v. Wilcoxson Brothers, Inc, et al*, (18DU-CC00046-01) (2025) – Circuit Court of Stoddard County.** This case was a dispute over a banking relationship and involved an action to collect a disputed debt and various counterclaims based on lender liability. I represented the bank. The alleged debtors were represented by Tom O'Loughlin and Dale Gereoke of Cape Girardeau. After extensive Discovery and Motions, the Court granted Summary Judgment in favor of my client and against the debtors on the lender liability claims. Shortly thereafter, the debtors filed a related action in a different venue (*Wilcoxson v. Kennet Trust Bank* - 24CG-CC00330 – Cape Girardeau), including individual as well as corporate defendants in an attempt to revive their lender liability action. Eventually, Summary Judgment was granted in the original case in favor of the bank on the debt, including an award of attorney fees. After collection attempts were instituted, the parties negotiated a resolution which included dismissal of the Cape Girardeau case.

(c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, 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 believe is relevant to your qualifications for the position for which you are applying.

Law Clerk to the Honorable Stanley Grimm, Chief Judge, Missouri Court of Appeals – Eastern District of Missouri; 815 Olive St., St. Louis, MO 63101; Summer 1993 and 1994-1995.

I had the honor of working as a judicial clerk for Honorable Stanley Grimm who at the time was the Chief Judge of the Missouri Court of Appeals. During my 15-month clerkship, I was Judge Grimm's only clerk. I worked on all different types of cases, including, but not limited to, criminal, family, administrative, workers compensation, probate and civil. Some of the more notable cases I worked on include:

- (1) *Gilmore v. Erb*, 900 S.W.2d 669 (Mo.App.E.D. 1995). Addressed the application of collateral estoppel to a will contest.**
- (2) *School Dist. Of Univ. City ex rel v. Reliance Ins. Co.*, 904 S.W.2d 253 (Mo.App.E.D. 1995). Considered whether notice of a construction bond claim was timely.**
- (3) *Kingston Elec. v. Wal-Mart Properties*, 901 S.W.2d 260 (Mo.App.E.D. 1995). Addressed the sufficiency of numerous mechanic's liens.**
- (4) *Estate of Munier v. Jacquemin*, 899 S.W.2d 114 (Mo.App.E.D. 1995). Decided the disputed ownership of a certificate of deposit.**
- (5) *Frison v. City of Pagedale*, 897 S.W.2d 129 (Mo.App.E.D. 1995). Considered whether a city government violated the substantive civil rights of a group of flea market operators.**
- (6) *Blake v. May Dep't Stores Co.*, 882 S.W.2d 688 (Mo.App.E.D. 1994). Decided issue of whether the intra-corporate immunity rule shielded an employee's comments from a slander action.**

Judge Grimm was an excellent Judge. He was also an excellent mentor to his clerks, which he believed was the most important part of his job. If given the opportunity to serve I will try to emulate those traits.

9. Describe any additional legal experience you believe may be relevant to the commission's decision (e.g., work as a law professor, in government, as corporate or other legal counsel, etc.).

I have represented physicians and nurses before the Missouri Board of Healing Arts.

In addition to my litigation practice, which is outlined above, I practice in several other areas. For example, I have served as the Attorney for the Sikeston R-6 School District since 2012. As Attorney for the School District, I advise the Board and Administration on a variety of legal matters including but not limited to: employment/personnel, special education law and Sunshine Law. I have represented the District in a variety of administrative matters involving students and personnel. I have also represented the District in two bond elections which resulted in the construction of two elementary schools and a language arts building. I am now representing the District in the expansion of its career and technology center.

For most of my career, I have represented banks in both litigated and non-litigated matters. This includes structuring complicated loan transactions, structuring and litigating UCC Article 9 issues and advising on real estate law.

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

- Scott County Bar Association;**
- American Bar Association;**
- Fellow of the Litigation Counsel of America (less than ½ of 1% of litigation attorneys);**
- Counsel of School Attorneys;**
- Missouri Organization of Defense Lawyers; and**
- Defense Research Institute.**

11. Describe your efforts (e.g., work on bar committees, pro bono efforts, CLEs presented, etc.) to contribute to the improvement of the law, the legal system and the administration of justice.

I have served on the Missouri Bar Fee Dispute Resolution Committee and acted as an Arbitrator for fee disputes through that organization. I have presented at several CLE events in civil procedure and medical malpractice.

Over the course of my career, I have represented many individuals without charge.

-I served as the Attorney for the Sikeston Jaycees for over a decade without compensation and still provide them with legal assistance.

-I have represented the Kenny Rodgers Children's Center (a local children's rehab facility) pro bono.

-I have also represented various local churches and civic organizations without charge.

-I have represented people for free when denied coverage from health insurance, both public and private.

-I have represented people who are facing medical bill denial do not have the financial ability to hire an attorney. This leaves them in an untenable position, and I have been able to assist in that area.

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

- Sikeston YMCA Board of Directors (2002-2008)

- Sikeston Jaycees

-Vice President;

- Comptroller;

- Rodeo Board of Directors; and

- Legal Counsel.

13. Describe your activities (e.g., speeches, presentations, educational activities, etc.) undertaken to further public understanding of and respect for courts and the judicial system and to promote access to justice for all.

I have spoken at numerous schools about being a lawyer, what it means to me and why I believe it to be a great profession. I have also spoken at public school retired teacher organizations regarding basic estate planning and real estate issues.

14. List any published professional articles or books you have authored.

Mo. Appellate Practice – Rehearings, Transfers, and Certiorari- Missouri and Federal (2007).

15. List any special recognition or award of a professional nature you have received.
- **AV rated by Martindale-Hubbell;**
 - **Missouri Organization of Defense Lawyers – Outstanding Service Award 2014 & 2018; and**
 - **My firm is listed in the Best Law Firms by U.S. News in Medical Malpractice, Commercial Litigation, Products Liability and Class Actions.**
16. Do you now hold or have you ever held an elective or appointive public office or position? If yes, provide details.
- No.**
17. Provide the branches and dates of any (a) military service and (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.**
18. 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.**
19. Were you ever refused admission to a bar of any state or federal court? If yes, provide details.
- No.**
20. Have you ever been disciplined, admonished or cited for a breach of ethics or professional conduct by any court or bar association or committee thereof? If yes, provide details.

No.

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

None.

- (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.

None.

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

No.

23. Have you ever been sued by a client or been a party to any other litigation, other than as guardian ad litem, plaintiff ad litem, or defendant ad litem?
- If 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. I have only been listed as a nominal party as a Trustee on a banking client's Deed of Trust in Real Estate and Interpleader Actions. This is akin to a defendant ad litem.

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

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

No.

25. Have you ever been delinquent in the payment of any federal, state, county or city taxes?

If yes, provide details.

No.

26. *List below* – then 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:

- Pennington v. Integrity Communications – Memorandum in Opposition to Plaintiff’s Motion to Certify Class;

- Travelers Ind. Co. v. City of Sikeston, et al – Memorandum in Support of Motion for Judgment on the Pleadings; and

- Nail v. Hush Blackwell Sanders, LLC – Amicus Brief.

27. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above demonstrating the quality of your work as an attorney or otherwise relevant to the commission’s decision.

See above.

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 five references, **please provide name, title, mailing address, telephone and e-mail address.**

The commission may not accept or consider letters from any additional persons beyond the five references listed in this application.

Please note it is your responsibility to contact your references. 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.

Provide your references with the attached Guidelines for References. The commission must **receive** your letters of reference, **via e-mail** to SDJudgeVacancy@courts.mo.gov, no later than **5 p.m. Wednesday, August 6, 2025**.

Sayler A. Fleming, Former U.S. Attorney for the Eastern District of Missouri
Thomas Eagleton U.S. Courthouse
111 S. 10th Street, 20th Floor
(314) 539-2200
sayler.fleming@gmail.com

David A. Dolan, Retired Circuit Judge – Scott and Mississippi County, Mo.
131 S. Winchester St.
Benton, MO 63736
(573) 545-3141
Judge33cir@gmail.com

J. Michael Ponder, Attorney – Cook, Barkett, Ponder & Wolz
1610 N. Kingshighway St. #201
Cape Girardeau, MO 63701
(573) 335-6651
mponder@cbpw-law.com

Shannon Holifield, Superintendent of Sikeston R-6 Public School District
1002 Virginia Ave
Sikeston, MO 63801
573-472-2581
sholifield@spsr6.org

Samuel Spain, Attorney at Spain, Miller, Galloway & Lee, LLC
1912 Big Bend Rd.
Poplar Bluff, MO 63901
(573) 686-5868
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Respectfully submitted,

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By: /s/ **Bryan E. Nickell**
Bryan E. Nickell