

**APPLICATION (Revised September 2011)**  
**TWENTY-FIRST CIRCUIT JUDICIAL COMMISSION**  
**CIRCUIT JUDGE**

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



NAME: SANDRA FARRAGUT-HEMPHILL

1. State your present principal occupation: Associate Circuit Judge
2. Are you at least 30 years of age? Yes
3. (a) How long have you been a citizen of the United States? 60 years  
(b) Have you been a resident of St. Louis 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? 32 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, Eastern District of Missouri

5. State the date you were admitted to the Bar in Missouri? May 1, 1982

Missouri Bar Number: 31772

(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 colleges and universities you have attended, together with the dates and degrees received: See attached resume
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.) See attached resume

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 to three sentence description of each case and its outcome.

See attached response

- (b) 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 to 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.

Not Applicable

11. Have you briefed or argued any case before any 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 response

12. Set forth any additional information that demonstrates the quality of your legal work as an attorney. See attached response
13. 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:
14. 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? Yes  
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: See attached response

15. 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:
16. Have you ever been held in contempt of court? No  
If yes, provide details:
17. If you are or were a member of the Judiciary of the State of Missouri, please state:
- (a) Whether an order of reprimand, removal, retirement, suspension or other disciplinary action has ever been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct?  
If yes, state the nature of such breach, the date discipline was imposed and the exact nature and duration of the discipline imposed: No
- (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. No  
  
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: No
18. 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:
19. List all bar associations and other professional societies, of which you are a member, with any offices held and dates: See attached resume
20. Describe your community activities, including any organizations, not listed above, with which you are affiliated: See attached resume
21. Do you now hold or have you ever held any elective or appointive public office or position?  
If yes, provide details: Yes, appointed Associate Circuit Judge 21<sup>st</sup> Judicial Circuit March 31, 1991.
22. 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
23. List any professional articles or books which have been published or any special recognition

or award of a professional nature which you have received: See attached resume

24. Furnish the names and addresses, including zip codes and telephone numbers of not more than five persons, who are not judges, as references with respect to your judicial qualifications: See attached response

25. State any additional data you deem relevant: See attached response

Authorization

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 Twenty-First 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 the Circuit Court of St. Louis County, I will accept the appointment, qualify, and promptly enter upon the performance of the duties of that office.

Applicant Signature: 

Printed name: SANDRA FARRAGUT - HEMPHLING

Date: 8/23/14

**Resume of  
Sandra Farragut-Hemphill  
(314) 615-1542 (Office)**

**EDUCATION:**

University of Florida School of Law  
Spessard Holland Law Center  
Juris Doctor, 1979

**Honors:**

Earl Warren Scholarship Recipient (1976-1979)  
Council on Legal Education Opportunity Scholarship Recipient (1978-1979)  
Florida Board of Regents Scholarship Recipient (1978-1979)

**Activities:**

Vice-president, John Marshall Bar Association  
Legal Advisor, University of Florida Student Government Association

Spelman College  
Atlanta, Georgia  
Bachelors of Science, Cum Laude, 1975

**Major:** Political Science

**Honors:**

Who's Who in American College & Universities  
Dean's List Honoree

**Activities:**

President, Spelman College Student Government Association  
President, Spelman College Political Science Club

**COURT ADMISSIONS:**

United States District Court, Eastern District of Missouri  
Missouri Court of Appeals, Eastern District  
Missouri State Courts, 21st and 22nd Judicial Circuits

## **PROFESSIONAL AFFILIATIONS:**

Missouri Bar, Admitted 1982  
Bar Association of Metropolitan St. Louis  
The Women Lawyers' Association of Greater St. Louis  
Missouri Association of Probate & Associate Circuit Judges  
    President, 1998 - 1999  
    Vice-president, 1997-1998  
    Board of Directors, 1993-2008;  
    Historian, 2002-2008  
Mound City Bar Association,  
    Member at Large, 1993-1994  
National Association of Women Judges (NAWJ)  
St. Louis County Bar Association  
Phi Alpha Delta Legal Fraternity

## **COMMITTEES:**

Missouri Supreme Court Committee on Preservation of The Record, 1996-1998  
Missouri Supreme Court Task Force on Children & Families, 1994-1998  
Missouri Supreme Court Commission on Alternative Dispute Resolution, 1999- 2003  
Missouri Supreme Court Automation Committee, 2011- Present  
Missouri Supreme Court Automation Committee, Trial Judge Focus Group  
    Subcommittee, 2013- Present  
Missouri Supreme Court Judge Transfer Committee, 2012- Present  
Missouri Supreme Court Coordinating Commission for Judicial Department Education,  
    2014- Present  
Missouri Supreme Court Committee on Access to Family Court, Judicial Education  
    Subcommittee, 2014 - Present  
Judicial Conference of Missouri, Legislative Steering Committee 1998-2001  
Judicial Conference of Missouri, Executive Council 1998- 2002  
21st Judicial Circuit Rules Committee, 1997- 1999; 2005-Present  
21st Judicial Circuit Family Court Committee, 1998- 2002, 2012- Present  
21<sup>st</sup> Judicial Circuit Security Committee, 2012 - Present  
21<sup>st</sup> Judicial Circuit Strategic Planning Committee, 2012 – Present  
21<sup>st</sup> Judicial Circuit Electronic Search Warrant Committee, Chair 2012-Present  
State of Missouri Juvenile Court & Personnel Advisory Commission, 1996-1998  
Missouri Bar President's Foresight Committee, 1994  
National Bar Association, Chair, Auditing Committee 2014- Present  
National Association of Women Judges,  
    Chair Site Selection Committee, 2006-2007, 2008-2009  
    Chair Media & Public Relations Committee 2009-2010  
    Nominating Committee, 2008-2009

**EDUCATIONAL PRESENTATIONS:**

Supreme Court of Missouri Trial Judge Education Committee  
Faculty, New Judges Orientation 2008 - Present  
Faculty, Missouri Judicial Trial College 2007- Present

**LEGAL EXPERIENCE:**

2012-Present           **St. Louis County Circuit Court**  
St. Louis, Missouri  
**Position:** Associate Circuit Judge

**Duties:** This docket consists of presiding over various Family Court matters including Motions to Modify, Adult Abuse, Paternity/Petitions for Support and Custody, Family Access Motions, TRO's and Name Changes. Additionally, all State of Missouri IV D child support cases filed in St. Louis County are assigned to the division. I also preside over all Petitions for Dissolution of Marriage and/or Legal Separation and Paternity actions where the parties filed as self-represented litigants. Additional responsibilities include case management of cases assigned to the division, conducting settlement conferences, presiding over trials on contested and non-contested matters, hearing and ruling on various motions and hearing other administrative matters.

2004-2012           **St. Louis County Circuit Court**  
St. Louis, Missouri  
**Position:** Associate Circuit Judge

**Duties:** During this time period I was assigned to the civil/equity docket. The docket consists of civil jury and non-jury cases, Department of Revenue, Trial de Novo and equity matters. The civil cases were circuit and associate civil cases. The equity cases, involved issuing TRO's, conducting preliminary and permanent injunction hearings and hearing jury and non-jury trials. I was also responsible for case management of all cases assigned to my division. This included setting discovery schedules, conducting pretrial conferences and hearing all motions filed by the parties.

2003-2004

**St. Louis County Circuit Court**

St. Louis, Missouri

**Position:** Associate Circuit Judge

**Duties:** This assignment was a jury trial docket consisting of various types of civil cases including but not limited to circuit court cases, associate civil cases, trials de novo and municipal appeals. The municipal cases were criminal in nature and were certified to the circuit court from municipalities in St. Louis County. Primary responsibilities included hearing and ruling on pretrial motions, setting discovery schedules, conducting pretrial conferences and presiding over trials.

1999-2003

**St. Louis County Circuit Court**

St. Louis, Missouri

**Position:** Associate Circuit Judge

**Duties:** I was responsible for presiding over traffic and criminal matters. This included conducting preliminary hearings on felony cases, hearing misdemeanor and traffic bench trials, conducting arraignments, setting bonds on cases assigned to my division and supervising defendants placed on probation.

1991- 1999

**St. Louis County Circuit Court**

St. Louis, Missouri

**Position:** Associate Circuit Judge

**Duties:** This assignment was to the certified civil and criminal jury trial docket. I was responsible for case management of all cases assigned to the division. Specific tasks in civil cases included but were not limited to conducting settlement conferences, setting discovery schedules, hearing all motions related to the case and presiding over the jury trial. In criminal cases I presided over misdemeanor jury trials.

Before this assignment I was assigned to the Family Court where I presided over domestic relations and juvenile matters. These cases included but were not limited to: contested dissolutions of marriage, abuse & neglect, delinquency, adult abuse, paternity and child support matters. Other duties on the bench have included presiding over cases such as small claims, associate civil, preliminary hearings, misdemeanor bench trials, traffic, non-contested dissolutions of marriage, petitions for review, trial de novo and Department of Revenue cases.

1988-1991

**Cahill, White & Hemphill**

St. Louis, Mo.

**Position:** Partner

**Duties:** My primary responsibilities in the firm included representing

clients in personal injury, workers' compensation, real estate, municipal finance and collection litigation.

1990- 1998  
2001-2004

**Washington University School of Law**

**Position:** Adjunct Professor of Law

**Duties:** I taught a course in pre-trial procedure designed for 2nd and 3rd year law students. The course objective was to assist law students in developing the skills necessary for trial preparation. My tasks included lecturing, grading assignments, teaching the techniques and skills for taking depositions, conducting negotiations, client and witness interviewing, drafting petitions and responsive pleadings, arguing motions and conducting discovery.

1986-1988

**Office of the County Counselor**

St. Louis County, Missouri

**Position:** Assistant County Counselor

**Duties:** Prosecuting violations of St. Louis County municipal ordinances. This included initiating the prosecution of cases, preparing for trial, conducting victim interviews, writing legal opinions, trying cases and recommending sentences to the court. I was responsible for two traffic dockets weekly, and for representing St. Louis County in tax suits in St. Louis County Circuit Court and before the State Tax Commission. Additionally I represented St. Louis County in defending Section 1983 civil rights actions filed in the United States District Court, Eastern District of Missouri.

1983-1986

**Legal Services of Eastern Missouri**

St. Louis, Missouri

**Position:** Staff Attorney

**Duties:** As a staff attorney in the Employment, Education and Housing Unit my duties included representation of low-income clients with landlord-tenant, federal housing and real property problems in the 22nd Judicial Circuit. Based on an average caseload of 40-50 clients, I was responsible for client interviewing, case evaluation, investigation, negotiation, legal research and writing, trial preparation and litigation. Additionally, I supervised law students assigned to the unit. Supervisory duties included orientation, assignment of cases and monitoring their performance.

1983-1985

**St. Louis University School of Law**

St. Louis, Missouri

**Position:** Adjunct Professor of Law

**Duties:** Teaching a course in civil practice designed for 2nd and 3rd year

law students. The course objective was to assist law students in understanding the rules of civil procedure and developing good practical skills.

1982

**Bell, Harris Kirksey & Thomas**

St. Louis, Missouri

**Position:** Associate

**Duties:** As an associate in this four-partner firm I worked directly for senior partner James A. Bell, who specialized in criminal law. My duties included all pretrial matters such as client interviewing, case evaluation, research and writing, drafting of pleadings and assisting Mr. Bell at trial.

1979-1981

**Jacksonville Area Legal Aid, Inc.**

Reginald Herber Smith Community Lawyer Fellowship Program  
Jacksonville, Florida

**Position:** Law Clerk

**Duties:** This program allowed me the opportunity to represent clients in judicial and administrative forums. In addition to client representation I was responsible for monitoring the State of Florida Department of Health and Rehabilitative Services to determine their compliance with federal Medicaid rules and regulations.

1980-1981

**Edward Waters College**

Jacksonville, Florida

**Position:** Assistant Professor

**Duties:** Instructor for 3rd and 4th year constitutional law class. I developed the course objectives and outline, prepared all assignments, and evaluated the students based on class participation and written examinations.

1979

**Three Rivers Legal Services**

Law Students Civil Rights Research Council (LSCRRC)

**Position:** Legal Intern

**Duties:** As a legal intern I researched and reviewed HUD regulations on subsidized housing, interviewed clients to determine the merit of complaints received against management for noncompliance with federal regulations and drafted monitoring reports describing findings of fact and conclusions of law.

**COMMUNITY ACTIVITIES:**

Bethesda Temple Church

Coordinator, Daughters of The King 2003-2013

Adult Leader, Junior Usher Board 2000-2007  
Adult Leader, Golden Voices of Youth Choir 2000-2003  
Counselor, Annual Youth Retreat 1994-2014  
Bethesda Temple Bible Institute Board of Directors 1998 - 2003  
Almost Home, Board of Directors Member 2012- Present  
Community Outreach Ministries  
Member, Board of Directors 2005-2007  
Girl Scout Council of Greater St. Louis,  
Member, Board of Directors 1998-1999  
Mathews-Dickey Boys Club  
Member, Board of Directors, 1993- 1999

**AWARDS & RECOGNITION:**

Annie Malone Children & Family Services Child Advocate Award 2009  
Bar Association of Metropolitan St. Louis, Legal Pioneer Award 2006  
Missouri Legislative Black Caucus Foundation  
Gwen B. Giles Public Service Award, 1995  
Mound City Bar Association, Legal Legend Award 2010  
National Association of Women Judges, Hon. Mattie Belle Davis Award 2007  
Olive Chapel A.M.E. Church Olive Branch Award 2007  
Royal Vagabonds of St. Louis, Extraordinary African-American Trailblazer 2014  
Spelman College Alumni Achievement Award, 2001  
St. Louis Argus Legend Award 2008  
Top Ladies of Distinction, Unsung Heroine Award 2009  
Unsung Heroine Award, Top Ladies of Distinction St. Louis Chapter 2009  
Who's Who in The Midwest, 1986  
Who's Who in American Law, 1985  
Who's Who in American Colleges & Universities, 1975  
YWCA Leader Lunch XIX Awardee, 1999

**PERSONAL DATA:**

Date of Birth: December 9, 1953  
Marital Status: Divorced  
Children: 2

**REFERENCES:** Furnished upon request.

## Response to No. 8

In response to this question I submit the following ten cases for your review. Each case presented distinctive challenges or issues. I included several cases which were decided on a Motion for Summary Judgment. These cases were specifically selected because in hearing these motions, the court is determining whether there is no genuine issue as to any material fact such that the movant is entitled to judgment as a matter of law. Although I have tried many jury cases, as indicated in my response to No. 25, I have chosen to list below bench trials where in addition to being the trial judge I was also the finder of fact. The listing of these ten cases is in no way intended to diminish the significance of the many other cases over which I have presided.

- 1. State of Missouri Ex Rel. Jeremiah W. (Jay) Nixon, Attorney General, Respondent, vs American Tobacco Company, Inc., et. al., Respondents, and the City of St. Louis, et. al., Proposed Intervenors/Appellants**

Cause No: SC82392  
Date: September 7, 2000

### Appellants Attorneys:

Hugh E. McNeely (Client: Cheeks and Gatlin)  
2325 Pump Station Road  
Fredericksburg, TX 78624

Larry D. Coleman (Client: Margie Coleman)  
8801 E. 63<sup>rd</sup> Street, Suite 208  
Kansas City, MO 64133

W. Bevis Shock (Client: Sherry Neal)  
7777 Bonhomme, Suite 2300  
Clayton, MO 63105

Kenneth C. Brostron (Client: City of St. Louis)  
714 Locust  
St. Louis, MO 63101

### Respondents Attorneys:

J. William Newbold (Client: American Tobacco Company, Inc.)  
One Mercantile Center, Suite 3400  
St. Louis, MO 63101

Thomas G. Strong (Client: State of Missouri)  
901 East Battlefield  
Springfield, MO 65807

Summary: By order of the Chief Justice I was appointed Special Judge of the Missouri Supreme Court. The Attorney General had entered into a settlement agreement with several tobacco product manufacturers in pending litigation. Motions were filed by various persons attempting to intervene in the case. The trial court had denied their motions and certain proposed intervenors appealed to the Missouri Supreme Court. After hearing the matter en banc the Supreme Court affirmed the trial court's decision.

**2. State Senator Peter Kinder and Rickey Jamerson, Appellants, vs Jeremiah W. (Jay) Nixon, Attorney General, and Thomas Strong, Repondents**

Cause No. SC82898  
Date: September 7, 2000

Appellants Attorney:

W. Bevis Shock  
7777 Bonhomme, Suite 2300  
Clayton, MO 63105

Respondents Attorney:

Paul C. Wilson  
Assistant Attorney General  
P.O. Box 899  
Jefferson City, MO 65102

Summary: This was a companion case to the tobacco litigation mentioned above. In this case appellants attempted to enjoin enforcement of a contract between the Attorney General and Thomas Strong. Pursuant to the contract Strong, if successful, would receive compensation based on certain time lines and the outcome of the litigation. The trial court granted the respondent's motion for judgment on the pleadings. After hearing the matter en banc the Supreme Court affirmed the decision of the trial court.

**3. Charlyn E. Keane vs Lawyers Title Insurance Corp.**

Cause No. 08SL-AC50416  
Date: December 2009

Plaintiff's Attorney:

Bryan M. Kaemmerer  
400 South Woods Mill Rd., Ste. 250  
Chesterfield, MO 63017

Defendant's Attorney:

Martin W. Blanchard  
321 Lakeside View Lane  
Cottleville, MO 63376

Summary: This matter was before the court on cross-motions for Summary Judgment. Defendant motioned on Count I (Breach of Contract) of plaintiff's Second Amended Petition and Plaintiff's motion was directed to Defendant's Counterclaim for Declaratory Judgment (Count 1) and Fraudulent Inducement (Count II). In conjunction with plaintiff and her deceased husband's purchase of certain property a title insurance policy was issued for the property. A provision of the policy stated "the coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land." Plaintiff entered into a license agreement with neighboring property owners regarding parking spaces near the property. Plaintiff, alleging she was an insured under the policy, filed a title claim under the policy based on expenses she incurred in arbitrating a dispute with the licensee neighbors. Defendant alleged that the claim arose from a matter created and/or agreed to by plaintiff subsequent to the date of the policy. Apparently, plaintiff had negotiated and agreed upon the sale of the property to a third party. Plaintiff's mortgage contained a prepayment penalty therefore she executed a Special Warranty Deed to the third party which was delivered to an escrow account. The Special Warranty Deed specifically provided that the deed would be held in escrow until closing. The title company was given power of attorney to date the deed and was authorized to release it, upon buyer's request, once the purchase price was paid. Plaintiff initially filed suit against the title company but later dismissed the action. Thereafter plaintiff and defendant entered into a settlement agreement however when the title company discovered the Special Warranty Deed to the third party they withdrew their settlement offer and terminated settlement discussions. Plaintiff then filed this action for Breach of Contract and defendant counterclaimed on Count I and II as noted above. A primary issue presented was whether the plaintiff had an "insurable interest" in the property such that coverage was available for her expenses. Plaintiff argued, which was disputed, that because her obligations secured by the property continued after she conveyed the Special Warranty Deed to the third party, her coverage under the policy also continued. I found that there was a genuine issue of material fact as to whether plaintiff had an insurable interest because of plaintiff's failure to present any undisputed facts demonstrating her obligation on the mortgage after conveyance of the property to the third party.

4. **Commercial Realty Associates Limited Partnership vs Citizens National Bank, et. al.,**

Cause No. 08SL-CC00643 and ED93408

Date: August 2010

Plaintiff's Attorney:

Steven M. Hamburg  
231 S. Bemiston, Ste. 1111  
Clayton, MO 63105

Defendant's Attorney/ Citizens National Bank and Maplevue Holdings, Inc.,

George B. Restovich  
13321 N. Outer Forty Road  
Chesterfield, MO 63017

Paul F. Devine  
2458 Old Dorsett Rd., Ste, 230  
Maryland Heights, MO 63043

Defendant's Attorney/ John and Constance Courmoyer

Alan J. Steinberg  
665 Craig Road, Ste. 338  
St. Louis, MO 63141

Summary: In this case plaintiff's agent had discussions, but no written agreement, with Citizen National Bank (CNB) who desired to purchase certain real property. Subsequent to those discussions CNB purchased the property directly from the Cournoyers who owned the property. Plaintiff filed suit against CNB, Maplevue Holdings Inc. and the Cournoyers alleging they were entitled to a commission from the sale because they acted as a transaction broker. As a transaction broker plaintiff's real estate conduct is controlled by the provisions of Chapter 339 and the rules and regulations of the Missouri Real Estate Commission. Defendant's argued that plaintiff's claim was barred because of their failure to comply with Chapter 339. I found that in balancing the loss to the broker against the purpose and public policy of the statute and rules, which are designed to protect the public in real estate transactions, that plaintiff's claim should be barred. Plaintiff filed an appeal and the Order and Judgment dismissing plaintiff's claim was affirmed.

**5. Middlewest Properties, Inc. vs Ronald Meyers and Frances Meyers**

Cause No. 09SL-AC00620 and ED94574  
Date: December 2010

Plaintiff's Attorney:

Jeffrey Weisman  
13801 Riverport Dr., Ste 502  
Maryland Heights, MO 63042

Blake Hill  
2000 S. Hanley Rd.  
St. Louis, MO 63144

Defendant's Attorney:

Wayne C. Harvey  
Rufus J. Tate, Jr.  
7751 Carondelet Ave., Ste. 803  
Clayton, MO 63105

Summary: This case came before the court on Plaintiff's Petition for Deficiency After Foreclosure. On December 12, 2007 plaintiff entered into a real estate contract with defendants for the purchase of residential property. Plaintiff was both lender and seller in the transaction. Defendant Ronald Meyers did not sign the contract however, Frances Meyers signed on her husband's behalf based on a Power of Attorney. Frances Meyers also signed a balloon note in the amount of \$290,000 with a maturity date of July 1, 2008. At the time of closing, the title policy issued to the Meyers did not reflect any liens and/or encumbrances on the property. In January 2008 a \$2M lien was placed on the Meyers property in favor of plaintiff. The lien was in the form of a line of credit used by plaintiff to purchase the property for \$157,000 before it was sold to the Meyers. Plaintiff's agent testified that the lien was characterized as a "master lien" and that its existence would not have prevented the Meyers from obtaining refinancing. Ultimately the Meyers were in default of the loan and plaintiff foreclosure then filed this suit for a deficiency judgment. I found that plaintiff had not acted in good faith and had unclean hands in that they were instrumental in preventing the Meyers from refinancing the loan and their conduct interfered with the ability of the Meyers to refinance their loan. Based on these findings I entered judgment in favor of the Meyers. Middlewest appealed and my decision was affirmed on appeal.

**6. MJR Howard, LLC vs Matthew E. Burghoff and Carolyn Mary Burghoff**

Cause No. 08SL-CC02302  
Date: March 2011

Plaintiff's Attorney:

Scott Riley  
1900 Locust, Ste. 300  
St. Louis, MO 63103

Defendant's Attorney:

Jack Spooner  
7733 Forsyth, Ste. 2000  
Clayton, MO 63105

Summary: Thomas E. Howard (Howard) and defendant Matthew E. Burghoff were partners in various business ventures and commercial real estate developments. Howard was the managing member of MJR Howard, LLC the plaintiff herein. Defendants, Matthew and Carolyn Burghoff, were owners of a 100% beneficial interest in a trust. The trust was the legal owner of record of property located in Mexico which was unencumbered. This property could only be sold, leased or transferred by the trust. Defendants were experiencing financial difficulty and executed a promissory note for \$250,000 to Wilmore Management Corporation (Wilmore). Howard was also the Manager, Director and President of Wilmore. At one point defendants were unable to repay the note by its maturity date and thereafter additional collateral was added and the term of the note was extended. Defendants business continued to decline and was faced with debt between \$10 and \$12 million. Howard discovered that Matthew Burghoff had been "double billing" on one of their projects and threatened to expose Matthew Burghoff to the authorities unless he and Carolyn Burghoff assigned their interest in the Mexico property to him. At Howard's direction and insistence, numerous documents were executed by the Burghoffs included an assignment of their beneficial interest in the trust. Essentially, MJR Howard would receive an assignment of property valued at approximately \$4 M in exchange for an alleged forbearance on a \$250,000 note. Additionally the Burghoffs were required to maintain the Mexico property even while Howard held a beneficial interest in the property. They were obligated to be responsible for maintenance expenses on the property when income was insufficient. Howard presented all of the documentation to the Burghoffs under threat of informing the police of the "double billing" if they did not sign. They did so within 10 minutes. Additionally Howard notified certain lenders of his interest in the Mexican property consequently the Burghoffs were unable to obtain other financing. Matthew Burghoff was ultimately indicted and was sentenced to two years and ordered to pay restitution for the "double billing." MJR then filed this action for Temporary Restraining Order and Preliminary and/or permanent injunction against the Burghoffs alleging the Burghoffs have refused to perform under the assignment by failing to assign their one hundred percent (100%) beneficial interest in the Mexican property to plaintiff. I entered judgment on the Petition for Preliminary and/or Permanent Injunction in favor of defendants specifically finding that the assignment of the trust beneficial interest was

not consideration for forbearance of the Willmore note because there was no assignment of the note to MJR Howard; that the assignment lacked sufficiently definitive terms to be deemed a forbearance agreement; that the terms of the assignment were vague and ambiguous and unenforceable. I further found that the terms of the assignment were unconscionable and that the document was executed under duress and coercion.

## **7. Anthony Daniele and Beth Daniele vs Missouri Department of Conservation**

Cause No. 05CC-005481

Date: May 2011

Plaintiff's Attorney:

Stephen B. Evans  
2245 S. Kingshighway, Ste. 100  
St. Louis, MO 63110

Jeffrey Medler  
8000 Maryland Ave. Ste. 640  
Clayton, MO 63105

Defendant's Attorney:

Kenneth J. Heinz  
130 S. Bemiston, Ste 200  
Clayton, MO 63105

Summary: The plaintiffs brought action against the Missouri Department of Conservation (MDC) for breach of contract and MDC counterclaimed for breach of contract and trespass. Part I of this case was a jury trial where both parties appealed my granting of Defendant's Motion for Directed Verdict on plaintiff's claim and the granting of a Plaintiff's Motion for Directed Verdict on MDC's counterclaims. Both parties appealed. The appellate court affirmed the granting of defendant's Motion for Directed Verdict on plaintiff's breach of contract but reversed and remanded on the granting of a Directed Verdict on MDC's counterclaims for breach of contract and trespass. On remand the matter was heard as a bench trial. The issues presented related to whether MDC was a real party in interest and proof of damages. Specifically, the controversy related to an assignment executed by MDC to Missouri American Water and whether the execution of this assignment affected MDC's right to file action against plaintiffs. I found that the assignment was not a complete divestiture of all of MDC's rights therefore MDC retained its rights as the real party in interest. Judgment was entered in favor of MDC. Plaintiffs then filed a second appeal. The appellate court affirmed the judgment.

**8. Michael Phillips vs Keith Schafer, et. al.,**

Cause No. 09SL-CC01489 and ED96077

Date: July 2011

Plaintiff's Attorney:

Christopher M. Smith  
3910 Lindell Blvd.  
St. Louis, MO 63108

Defendant's Attorney:

Chris Koster, Attorney General  
Michael R. Cherba  
P.O. Box 861  
Jefferson City, MO 63188

Summary: This matter was filed as a Judicial Review of a decision of the Missouri Department of Mental Health (DMH) which substantiated two counts of verbal abuse against Plaintiff. Plaintiff alleged DMH was in error in finding him guilty of both counts because this finding was not supported by competent and substantial evidence; was arbitrary and capricious and unreasonable and that based upon the circumstances DMH had inappropriately applied the DMH definition of verbal abuse. The issue presented was whether DMH had based its decision on an impermissible interpretation of the law. The court found that they had not and affirmed the decision of DMH. Plaintiff then appealed to the Missouri Court of Appeals Eastern District of Missouri. My review of the DMH decision was affirmed.

**9. General Credit Acceptance Company, LLC vs Nadine Reese**

Cause No. 11SL-AC27397 and ED97941

Date: December 2011

Plaintiff's Attorney:

William F. Whealen  
11970 Borman Drive, Suite 250  
St. Louis, MO 63146

Respondent/ Self Represented:

Nadine Reese  
10838 Big Bend  
Unit B  
Saint Louis, MO 63122

Summary: In this breach of contract action defendant Reese was duly served and ordered to appear for hearing on December 5, 2011 at 9:00 a.m. Reese appeared late for court and was not present when her case was called. The court entered a default judgment against Reese. Thereafter Reese filed a Motion to Set Aside the Default Judgment. The issue presented was whether in a Chapter 517 case the trial court may enter a default judgment against a defendant who appears late for court and has filed a responsive pleading. Reese claimed that entry of the default was improper because, although late, she appeared on the hearing date. Additionally, she claimed that because she had timely filed a responsive pleading, entry of a default judgment was improper. The court determined that Reese's filing of the responsive pleading and her untimely appearance in court did not preclude the court from entering the default judgment and denied her Motion to Set Aside the Default Judgment. Plaintiff appealed and the trial court's decision was affirmed.

#### 10. Scott K. Seabaugh vs Angela K. Seabaugh

Cause No. 2101FC-08259-04

Date: June 27, 2013

Petitioner's Attorney:

Craig G. Kallen  
13321 North Outer Forty Road  
Town & Country, MO 63017

Respondent's Attorney:

James R. Stein  
1258 Jungermann Rd.  
Saint Peters, MO 63376-6940

Summary: Petitioner (Father) filed this Motion to Modify and for Relocation to relocate the parties' minor child to San Diego, California. The minor child was diagnosed with Asperger's Syndrome and oppositional defiant disorder. He also had a shunt inserted for hydrocephalus and had mild cerebral palsy. Pursuant to a prior modification, Mother and Father shared legal custody and Father was granted sole physical custody and residential parent. Mother was granted visitation every other weekend and on agreed holidays. In his Motion to Modify, Father requested sole legal custody and permission to relocate the minor child to San Diego, California. Prior to filing his action, Father provided Mother proper notice of his intent to relocate and information regarding medical providers and an educational plan for the minor child in San Diego. Mom opposed relocation therefore Father filed his Motion to Modify and to Relocate. This case was challenging in that the minor child had numerous medical, educational and mental needs which had to be considered by the court in determining what would be in his best interest. Additionally, relocating the

minor child such a long distance from Mother, medical and educational services available in San Diego verses those in Missouri, a visitation schedule and transportation costs were also factors to be considered. The court found that it was in the best interest of the minor child for Father to have sole legal and physical custody and granted Father's motion to relocate to San Diego.

**Response to No. 11**

Missouri Court of Appeals  
Eastern District

C.G.S. Realty Company v Minnie Jacobs

49164

As the attorney of record in this landlord-tenant dispute I was responsible for completing the legal research, preparation of the appellate brief and arguing this case before the appellate court.

## **Response to No. 12**

I have been on the bench for 23 years. Prior to joining the bench my work experience as a trial attorney was diversified. These experiences allowed me to develop my skills as an attorney and counselor at law and demonstrate the quality of my legal work as an attorney. First, my trial experience while employed at Legal Services of Eastern Missouri, the St. Louis County Counselors Office and as a private practitioner. These positions provided me the opportunity to not only engage in trial preparation of a case but to adjudicate the cases to final disposition. Second, is the absence of any bar complaints filed against me while in private practice or being reprimanded in any of my places of employment. I have never been reprimanded by an employer or judge for unpreparedness, unprofessional conduct, tardiness or an ethical violation. Finally, the recommendations I received from former employers addressing my competence, professionalism and work ethic. All of these factors I believe demonstrate the quality of my legal work as an attorney.

## Response to No. 14

1. **Ivey's v Sandra Farragut:**

Synopsis: In 1980 Plaintiff, a department store, filed a suit on account in the Circuit Court of Duval County, Florida. A stipulation was entered into and a satisfaction of judgment was entered in 1980.

2. **Sandra Hemphill v Theresa Stearns: 22930-03975**

Synopsis: This action for breach of contract and quantum meruit was filed by me on March 3, 1993 in the 22nd Judicial Circuit, City of St. Louis to recover attorney's fees. A jury trial was held in 1996 and judgment was entered in my favor. The case disposition date was February 2, 1996.

3. **In Re Marriage of S.F.H. and R.E. H.: 663176**

Synopsis: Action for dissolution of marriage was filed in the 21st Judicial Circuit. The matter was heard as a non-contested dissolution. The Judgment and Decree of Dissolution was entered on October 28, 1994. Subsequent consent modifications occurred in 1996, 1998 and 2003.

4. **S.F.H. v Rybee, Inc: 2103SC-02344**

Synopsis: Small claim action against furniture store filed on November 21, 2003 in the 21<sup>st</sup> Judicial Circuit for return of monies paid on furniture placed in will call. After several payments were made I was informed that the items had been sold since the store was going out of business. Judgment was in my favor. The case disposition date was March 1, 2004.

5. **In Re: Estate of Catherine Farragut-Moses: 06-834**

Synopsis: This probate matter was heard in the Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County, Florida. As the named Personal Representative of my mother's estate, my step-father attempted to have me removed as trustee. After hearing the matter the Probate

court entered its order on May 14, 2008 finding in my favor and ruling that the estate had been properly distributed, the claims of creditors had been paid or otherwise disposed of, and the estate would be closed. My duties as Personal Representative were determined to be completed.

**6. Estate of Catherine Moses v Yolanda English 05-CC-015090**

As Personal Representative of my mother's estate this action was filed against a former tenant for eviction and unpaid rent. After judgment was obtained on July 30, 2007 proceedings were also instituted for deposition in aid of execution on the judgment. The action was filed in the Thirteenth Judicial Circuit In and For Hillsborough County, Florida.

**7. Festus Moses, Jr. v Sandra Farragut-Hemphill 07-006505**

Action by my step-father regarding property located in Hillsborough County, Florida which granted a life estate to he and my mother with a remainder to me. After my mother's death in 2005, this action was filed in 2007 attempting to divest me of title to the property. Summary Judgment was entered in my favor on August 28, 2008. The case was appealed to the Florida 2<sup>nd</sup> District Court of Appeals Cause No. 08-4815. The appeal was dismissed by the appellate court July 27, 2009.

**Response to No. 24**

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## Response to No. 25

The information detailed below is intended to provide a general overview of my judicial experience since being appointed to the bench. The information demonstrates the depth of my judicial experience, my successful appellate record and my effective management abilities.

### **TRIAL EXPERIENCE:**

In March, 1991 I was appointed to the bench. Initially, I was assigned an associate civil docket comprised of civil and small claims cases. I remained in this assignment until September, 1991. At that time I was reassigned to the domestic relations docket. This docket consisted of hearing contested dissolutions, motions to modify, PDL motions, paternity actions, non-contested divorces and adult abuse cases. In November, 1993 the Family Court of St. Louis County was created and I continued to preside over domestic cases and juvenile matters involving delinquency, abuse & neglect until December, 1996. Traditionally dissolution of marriage and juvenile matters were heard by Circuit Judges. At the time of my assignment to juvenile I was the first Associate Circuit Judge given this type of assignment.

Since completing my Family Court assignment in 1996 until the present time I have presided over a variety of types of cases. These include civil jury and non-jury (circuit and associate civil), state criminal cases, municipal ordinance appeals, trial de novo cases, preliminary hearings on felony cases and equity (circuit). In January 2013 I returned to the Family Court where I now preside over Motions to Modify, Adult Abuse, Paternity/Petitions for Support and Custody, Family Access Motions, Petitions for Relocation, TRO's and Petitions for Name Change. This docket further includes all State of Missouri child support cases filed in St. Louis County and Petitions for Dissolution of Marriage and/or Legal Separation where the parties are self-represented.

As a result of these various assignments, my knowledge of the law and trial experience have broadened and deepened over time. This has provided me with a solid foundation to serve as a Circuit Judge.

1. In the contested Motions to Modify and Dissolution of Marriage cases my rulings address issues ranging from child custody and support, modification of maintenance and/or child support, requests for relocation, requests for termination of child support and/or maintenance, determination and distribution of marital and separate property to determinations of business interests. Because of the sometimes complex nature of these issues Findings of Fact and Conclusions of Law are oftentimes necessary.

2. In the juvenile cases I resolved issues ranging from determining whether abuse and neglect had occurred to reunification of the family, removal and/or appropriate placement for the juvenile and conducting delinquency hearings to determine whether laws had been violated by the juvenile.
3. My experience presiding over criminal cases involved conducting preliminary hearings to determine whether probable cause existed for a defendant to be bound over on felony charges. This required knowledge of the elements of the offense and the applicable case law. Additionally, I accepted pleas of guilty and supervised defendants placed on probation in misdemeanor cases.
4. My jury trial experience expands over an extensive period of time. During these assignments I conducted pretrial conferences, resolved discovery disputes, was responsible for case management of the cases to ensure compliance with established time standards, made evidentiary rulings in civil and criminal matters, presided over trials and ensured the proper submission of the case to the jury. The issues presented in these cases ranged from claims for personal injury and/or breach of contract to various property, insurance and commercial issues.
5. On any associate civil docket you have the opportunity to hear numerous bench trials. In these types of cases the judge is both the finder of fact and the decision maker. These cases provide the court the opportunity to assess the credibility of the witnesses, rule on evidentiary matters and enter the appropriate judgment. Since joining the bench I have presided over thousands of these types of cases.
6. My civil trial experience both on the associate and circuit level has also included hearing a substantial number of Motions for Summary Judgment. Quite often these matters take up a great portion of non-trial time. My rulings on these motions oftentimes required extensive legal research. In writing my Orders I, oftentimes without a request from the attorneys, provided the parties with a clear analysis of the issues and the legal reasoning used for my decision in the case.
7. The equity cases that have been assigned to me covered a wide range of legal issues. Some of these cases involved actions to quiet title, mechanics liens, breach of fiduciary duty of trustees, declaratory judgments on duty to defend, indemnity and various other insurance issues, non-compete agreements, setting aside tax sales, issuing Temporary Restraining Orders, conducting preliminary and permanent injunction hearings, property disputes, election contests and various other commercial litigation issues.

## APPELLATE RECORD

A critical factor in evaluating the competency of a judge is their appellate record. The judge's appellate record is devoid of any subjective opinions regarding whether there was a loss or a win in the case. The appellate review is to determine whether error has occurred. Additionally, this data provides the best review of a judge's knowledge of the law, their application of the rules of evidence and his or her ability to correctly apply the law.

In regards to my appellate record I submit the following information.

### March 1991-August 21, 2014

Affirmed (includes 1 consolidated case)	37	24%
Reversed	5	3%
Reversed & Remanded	9	6%
Affirmed In Part/Remanded	12	8%
Dismissed by Court or Parties	82	53%
Pending	4	3%
**DOR Appeals	5	3%

\*\* These DOR Appeals were originally stayed pending an Application for Transfer to the Missouri Supreme Court in *Schneider v. Director of Revenue*, 339 S.W. 3d 533 (Mo. App. E.D. 2011). The request for transfer was denied on June 28, 2011 and the trial court's decision in *Schneider* was affirmed by the appellate court. These 5 cases were reversed and remanded and sent back to the trial court. On remand, the parties entered into a consent judgment in all 5 cases.

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TOTAL CASES	154	100%
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## CASE MANAGEMENT

A cornerstone in the effective administration of justice is a judge's ability to have good case management skills. Cases may be complex and dockets can be large therefore it is imperative that a judge develop a management plan for processing cases assigned to their division.

As an associate circuit judge I was challenged with developing a system which would accommodate the processing of a voluminous number of cases on a weekly basis. This docket referred to as the "bulk" docket would oftentimes have 200-300 cases scheduled daily three times a week. In addition to this docket, the civil rotation included equity and circuit civil jury and non-jury trials. I find that the case management style is necessary in handling my current Family Court docket.

The way in which I manage my docket is based on the following principles:

- Monitor the age of the case to ensure compliance with Time Standards
- Establish clear parameters for the progress and/or disposition of the case
- Conduct timely pretrial conferences to explore settlement, set discovery schedules and select the trial dates
- Evaluate cases which may be appropriate for mediation
- Provide parties sufficient time to complete discovery and prepare for trial
- Rule timely on motions and other pretrial matters
- Ensure coverage for dockets during Judicial College, vacation and as needed

One indication of my effective case management is the OSCA time standards report. This report is indicative of my compliance with the established time standards for disposition of cases assigned to my division. I have consistently met or exceeded the time standards established by the Missouri Supreme Court.

I believe that my experience, legal knowledge, appellate record and case management style are indicative of the breadth and depth of my judicial experience. These experiences indicate a high level of adjudicatory experience. This coupled with my prodigious work ethic will ensure the 21<sup>st</sup> Judicial Circuit a smooth transition from associate circuit judge to circuit judge.