SEVENTH CIRCUIT JUDICIAL COMMISSION
APPLICATION FOR ASSOCIATE CIRCUIT JUDGE, DIVISION SIX
CLAY COUNTY, MISSOURI

PLEASE NOTE: RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE APPLICANT IS SELECTED AS ONE OF THE NOMINEES FOR THE VACANCY.

1. State your full name.

   Louis Angles

2. State your date and location of birth. September 18, 1957 in Havana, Cuba

3. State your present principal occupation, place of work, and job title.

   Attorney at Law, 1902 W. Jesse James Road, Suite 1, Excelsior Springs, Missouri 64024

4. Provide the following information concerning your eligibility for the office of Associate Circuit Judge:

   (a) Are you at least twenty-five years of age? Yes

   (b) Are you licensed to practice law in Missouri? Yes

   (c) Are you a registered voter in Missouri? Yes

   (d) Are you a resident of Clay County? Yes

5. State the year of your admission to the Missouri Bar and whether your license is and always has been in good standing. If not, please explain. Admitted 1988. License has always been in good standing.

6. List any other states, courts, or agencies in which you have been licensed as an attorney, and state whether your license is and always has been in good standing. Previously licensed in Kansas in 1988. Didn't renew KS license after 1994 due to

scheduling conflicts, distance to travel to Kansas, and full case load in Missouri, and easier to refer Kansas cases to Kansas attorneys.

7. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of an Associate Circuit Judge, including the ability to preside over trials, conduct legal research and analysis, attend court anywhere in the State of Missouri, communicate clearly and effectively both orally and in writing, and expeditiously decide issues coming before the court. Yes, no accommodations required.

8. Provide the following information for all colleges or universities, other than law schools, you have attended:

(a) University of Missouri at Kansas City School of Pharmacy, 2464 Charlotte Street, Kansas City, Missouri, 64108; Attended August 1980 through September 1983. Earned a Bachelor's Degree in Pharmacy

(b) University of Missouri at Kansas City School of Arts and Sciences. Undergraduate, 5100 Rockhill Road, Kansas City, Missouri; Attended June, 1979 through July, 1980. Pharmacy School prerequisite curriculum.

9. Provide the following information for all law schools you have attended:

(a) Name and location of law school: Washburn University School of Law, 1700 S.W. College, Topeka, Kansas 66621.

(b) Dates attended and degrees received: August 1985 through December, 1987. I earned a Juris Doctor Degree with the May, 1988 graduating class.

(c) Significant activities, achievements, honors, and awards:

10. State whether you have ever been suspended or expelled as a student from any school or educational institution. If so, please explain. No

11. List, in chronological order, all non-legal and legal employment you have held post-high school. Include the name and location of each employer, job title, dates of employment, and reason for termination of employment.

A. United States Marine Corps, Camp Pendleton, California
Rank: Corporal E-4, First Reconnaissance Battalion
Parachute Rigger/Jumpmaster
Active Duty: June 25, 1976-June 24, 1979

Inactive Reserve: June 25, 1979-June 24, 1982
Honorable Discharge after completion of active duty tour

B. Dolgin's Pharmacy (no longer in existence) Overland Park, Kansas
Pharmacy Intern/Student
July, 1979 - July, 1980
Left due to better employment opportunity with VA Hospital

C. Veteran's Hospital, Department of Pharmacy, 4801 Linwood Blvd, Kansas City, Missouri
Pharmacy Intern/Student
July, 1980 through November, 1983
Left due to graduation and having passed the MO Pharmacy Board.

D. Excelsior Springs Medical Center, Department of Pharmacy,
1700 Rainbow Drive, Excelsior Springs, Missouri 64024
Relief Pharmacist, November, 1983 - present
Hospital now contracts its pharmacy service from Red Cross Pharmacy, 1018 N. Jesse James Road, Excelsior Springs, MO 64024 and I am employed very sporadically or on call in same capacity with Red Cross

E. North Kansas City Hospital, Department of Pharmacy,
2800 Clay Edwards Drive, North Kansas City, Missouri 64116
Staff Pharmacist (full-time)
March, 1984 – August, 1985
Left to attend Washburn Law School in Topeka, Kansas

F. Liberty Hospital, Department of Pharmacy
2525 Glenn Hendren Drive, Liberty, Missouri 64068
Relief Pharmacist (sporadic work)
April, 1991 - present

G.. Irigonegaray and Associates Law Firm
1535 S.W. 29th Street
Topeka, Kansas 66611
Law Clerk (student)
March 1986-September 1987

H. Hershewe Law Firm, P.C.
431 S. Virginia Avenue
Joplin, Missouri 64801
Legal Associate
February, 1988 to February 1990
Left to start own law practice and relocate to metropolitan Kansas City area

I. Louis Angles Law Office
1902 W. Jesse James Road, Suite 1
Excelsior Springs, Missouri 64024
Attorney in solo practice
February, 1990 to present

12. Describe the nature and extent of your experience as a practicing attorney in the trial and appellate courts, and explain how such experience demonstrates the quality of your legal work.

In 23 years as an attorney, I have worked primarily in litigation and have gone to trial in numerous cases of all types. I endeavor to be prepared for each matter brought before the judges I appear in front of. I am always respectful of all persons involved in the legal process, including clerks, court reporters, bailiffs, etc. I aspire to be candid with clients and never over-promise a result. I always strive to be honest with the opposing attorney and generally find that as I have grown more seasoned as a litigator and negotiator, my analysis of the ultimate case result has also sharpened. This has resulted in better client selection, better client control, and has increased the number of cases I have been able to settle before trial, thus adding the value of finality to each of my client's court cases.

I have extensive experience with litigation, in associate and circuit courts, in the probate division, in the juvenile division, and in numerous municipal courts. I have handled appeals in the Missouri Court of Appeals, Western District, and have some administrative case experience, primarily in cases against the Missouri Department of Revenue. The bulk of my cases are in Clay and Ray Counties. Occasionally I appear in Clinton County.

My caseload has consisted of civil, criminal, and traffic cases. I handle many domestic cases (paternity, divorces, modifications and step-parent adoptions), landlord/tenant cases, torts and contract cases, two wrongful death cases, debtor/creditor cases (representing primarily debtors), and driver's license cases. The criminal defense cases I handle include felonies and misdemeanors of all types, including one murder charged case.

I am also frequently appointed to represent indigent defendants in Excelsior Springs Municipal Court and have been appointed special prosecutor on several cases in the Richmond Municipal Court.

I am a certified guardian ad litem (GAL) and receive appointments in guardianship and/or conservatorship cases filed by the Clay County Public Administrator. I also represent children in juvenile and domestic cases filed in circuit court. In Ray County I get several GAL appointments each year, primarily in the juvenile court.

13. Provide a representative list of at least ten cases in which you served as the primary attorney at trial or an administrative hearing. The list should include the style of each case, court or administrative agency, identification of your client, and the nature and date of disposition.

Evan Hoit, et. al. vs. Brent Rankin, et. al.
Clay County Case No: 08CY-CV08946, Filed September 12, 2008
Case Issues: Partition of Real Property, Breach of Contract, Reliance
Judge: Michael J. Maloney
Opposing Counsel: Carl Kimbrell
Bench Trial: Tried on March 9 and 10, 2009, Clay County Court Division 5
Facts: Elderly parents (Evan and Jean Hoit) sought to purchase home in Kearney, Missouri for $188,500.00 and relocate to Clay County, upon sale of their Kansas farm. Retired son, Rankin, and his wife, Webb, (hereinafter Rankins) agreed to facilitate purchase of the home by permitting Hoits to utilize Rankin's loan, previously approved for the purchase of a different house Rankins were seeking to purchase. Parties agreed to live together in same house. Hoits offered Rankins future gift of House in exchange for Rankins taking care of Hoits until their demise. Lender required that all four names be placed on deed to house. Parties thereafter moved into house together, with Hoits occupying upstairs and Rankins downstairs. Upon closing of sale of Kansas farm, Hoits paid off entire indebtedness on the Kearney home home.

Within months of establishing the co-habitation living arrangement, the relationship between the parties deteriorated. The Hoits asked the Rankins to leave and the Rankins refused, claiming gift of 100% interest in the property. At this time, the Rankins had never provided any care to the Hoits and had only contributed payment of the real estate taxes for 2008. Hoits thereafter filed suit for partition of the property and the Rankins countersued for breach of contract and reliance. Judgment: No contract ever established between the parties. Therefore, property partitioned 98.61% to Hoits and 1.39% to Rankins. Affirmed on appeal.

State of Missouri vs. Monte Wise
Livingston County Case No: 43R100503598-01 (Change of venue from Clinton County to Livingston County)
Original Charge: Murder, 2nd Degree (Class A Felony) filed December 29, 2005
Judge: Warren McElwain
Prosecutor: Mitchell Elliott
Guilty Plea: Involuntary Manslaughter, 2nd Degree on October 3, 2006
Facts: Defendant Wise, 45 years of age, resided in a Cameron, Missouri duplex with his girlfriend. Defendant's alienated 21 year old son, Jared, a resident of Oklahoma, was visiting Defendant's alienated brother (Daniel Wise) in Gladstone, Missouri. Defendant was disabled due to a bus accident and had limited use of entire left arm. Jared and Defendant's brother, Daniel Wise, both became intoxicated and drove from Gladstone to Cameron so Jared could "settle things up" with Defendant for mistreating Jared's mom years before when Defendant was married to her. Jared showed up at Defendant's home late at night and began pounding on the front door and verbally threatening to do great bodily harm to Defendant. Defendant's girlfriend called police, but before police could arrive Defendant went to door carrying a pocket knife in Defendant's functional hand, opened the door, and tried to scare Jared away. An intoxicated Jared, (autopsy blood alcohol 0.24%) lunged at Defendant through the door. Defendant poked Jared with the knife on the left side three times under the arm pit. One of the knife wounds penetrated Jared's chest cavity between the ribs and ruptured the pericardial sac around Jared's heart, causing Jared to bleed to death.

The case was filed as Class A felony of Murder in the Second Degree with a sentence range of 10-30 years. I commenced representation in the case after the public defender represented Defendant in the preliminary hearing and took a change of venue.

As part of preparation for trial, I physically examined the duplex and took pictures of all the fist indentations on the outside of the front door. I took the deposition of the Defendant's brother, Daniel, Jared's girlfriend, Abby McGhyhy (the driver), and all the Cameron police officers and detectives involved in the investigation. I was able to elicit favorable (but hostile) testimony from these State witnesses which created reasonable doubt in the State's murder case against Defendant and gave credence to the defense theory of "self defense". I hired a physician, Dr. Sidney Cantrell, to examine Defendant and testify that because of his disability, Defendant was essentially defenseless to protect himself against the attack. Prosecutor initially offered Defendant a plea offer from Murder 2nd degree to the Class B felony of Voluntary Manslaughter, with a sentence range of 5-15 years. I advised my client against taking any offers until after both attorneys met with the trial judge. At pretrial conference, the Judge advised he would probably

impose maximum sentence on any guilty plea. On my advice, Defendant declined the plea bargain offer. The case was set for jury trial for October 3, 2006. By the time of trial, Defendant had been in custody for over a year. Three days before trial the Defendant was offered and agreed to the State's final offer of Involuntary Manslaughter, 2nd Degree, a Class D felony and received a 4 year sentence at the sentencing hearing on December 20, 2006. Defendant was paroled six months later in June, 2007.

State of Missouri vs. James Giseburt
Ray County Case No: CR498-458FX
Charge: Class C Felony of Stealing
Judge: Werner Moetmann
Prosecutor: Stanley Thompson
Jury Trial: April 5, 1999
Facts: Defendant was a landlord in Richmond, Missouri. Tenants (Ralston and Rhodes) were renting house located 413 Farris Street. Defendant gave tenants notice to vacate by July 1, 1998 for failure to pay rent and maintaining a filthy residence. Defendant then gave tenants additional time, until July 11th, to move out. On July 18th Defendant went to house and found numerous items bagged up, dirty dishes, trash and cockroaches all over the house. Defendant, believing the remaining items had been abandoned, removed all the items, took them to his farm, and burned them to prevent further bug infestation. He then went back and had the house sprayed for bugs. The following day, Tenants returned to house and found the items gone and called police. Police turned the matter over to prosecutor. Defendant was charged with felony stealing of property of another, worth at least $150.00, and with purpose to deprive victims thereof.

The trial lasted a full day. I cross-examined the State's four witnesses, and put into evidence the notice to vacate and the photographs of the condition of the house. I called Defendant as my only witness and he gave credible testimony. After deliberating for over less than an hour, the jury found Defendant not guilty.

Janice D. Tomlinson vs. Lisa Kay Johnson & Keith Conner
Clay County Case No: 7CV105006572 Filed: August 1, 2005
Issues: Conversion, Breach of Fiduciary Duty, and Quiet Title
Judge: Rex Gabbert
Opposing Counsel: Thomas McGiffin
Facts: On May 5, 2003, Plaintiff, an elderly widow, executed a general Durable Power of Attorney naming her granddaughter, Defendant Lisa Kay Johnson, as her attorney in fact. At the time of the execution of the DPOA, Plaintiff was in poor health and receiving medical treatment and was a resident of a nursing home.

Shortly after the execution of the DPOA, Johnson, on behalf of the Plaintiff, sold the Plaintiff's home in Kansas City, Kansas. In August, 2003, Johnson withdrew the proceeds from Plaintiff's bank, as well as other funds constituting Plaintiff's lifetime savings. Johnson and her husband, Conner, purchased a home in Liberty, Missouri and titled the home exclusively in their names. Johnson also converted large sums of money from Plaintiff's bank account and lived an elaborate lifestyle, without Plaintiff's knowledge. When Plaintiff discovered that her bank account had been depleted from over $120,000.00 to just over $4,000.00, she contacted me and asked me to pursue Johnson and Conner.

I first filed a Notice of Lis Pendens with the Recorder of Deeds in the property to prevent Johnson and Conner from transferring it to a third party during the pendency of the suit. I then filed suit against Johnson and Conner, jointly and severally, for conversion, breach of fiduciary duty, and quiet title. The Defendants initially claimed gift. However, Johnson was in an awkward position because the power of attorney did not permit Johnson to make gifts, especially to herself. After some discovery, it became obvious that Johnson and Conner were deeply in debt and would eventually be filing bankruptcy. I convinced Defendants' attorney to settle the case by quitclaiming the house to Tomlinson in exchange for a release. I helped Tomlinson make the House payments until the house sold several months later. Tomlinson realized $55,000 proceeds from the sale. She was very grateful as she didn't know if she would ever get anything from the Defendants.

James Trinidad, Jr. by James Trinidad, Sr. vs. Royal Care Center, Inc.
Clay County Circuit Court (2 cases)
Case No: 07CY-CV08845 and Case No: 09CY-CV08777
Filed: September 14, 2007 and Filed: August 19, 2009
Issues: Defense of Nursing Home Negligence
Judge: Rex Gabbert (Case 1) and K. Elizabeth Davis (Case 2)
Opposing Counsel: William Mason (both cases)
Facts: James Trinidad, Jr. (a man in his mid 20's) suffered severe injuries in motor vehicle accident in 1998, that left him in a chronic vegetative condition and in need of permanent nursing home care. During the period from 1998 through 2005, Trinidad was hospitalized on numerous occasions throughout the Kansas City area and was placed in several long term care facilities.

In February, 2005, Trinidad was admitted to my client's nursing home, the Royal Care nursing home (Royal) in Excelsior Springs. Trinidad thereafter had hospitalizations for several chronic conditions, i.e. feeding tube, tracheotomy, etc. Each time Trinidad was discharged back to Royal. In December, 2006, the State of Missouri notified Royal that due to not having a backup generator on the premises, it was cutting funding for Mr. Trinidad (and other similarly situated patients) and

Trinidad would have to be transferred to another facility. Trinidad's father refused the discharge. He wrote to the Administration Hearing Commission in Jefferson City contesting the decision and telling the AHC by letter that his "son had been taken care of better at Royal Care than anywhere else".

After the discharge, Trinidad sued Royal claiming his son had been infected with "scabies" during the entire time he was a resident at Royal. I filed an answer for Royal denying the allegations. I propounded discovery to Royal to disclose its expert witness in a medical negligence case pursuant Section 538.225 RSMo. It had no expert witness. I filed a Motion to Dismiss on July 18, 2008, and Plaintiff voluntarily dismissed the case "without prejudice" prior to the hearing.

The Plaintiff then refiled the case the day before the statute of limitations was to run. In Round 2, the Plaintiff filed voluminous discovery requesting medical records of other Royal residents, and deposition subpoenas to the pharmacies and physicians of those other residents. I answered by filing numerous objections and motions to quash the subpoenas, as well as refiling the Motion to Dismiss for failure to disclose an expert witness. We offered to settle the matter for the estimated cost of defense. The Plaintiff never responded to our offer. Mr. Mason was allowed to withdraw as counsel for Trinidad. My client's Motion to Dismiss was called up on March 30, 2010, and the matter was dismissed by Judge Davis.

Amanda J. Tipton vs. Donald J. Tipton
Ray County Case No: 09RY-CV00246 Filed: March 2, 2009
Issues: Divorce, Paternity, Custody, Support, and Division of Husband's Retirement Account by Qualified Domestic Relations Order
Judge: Judge David Miller (temporary custody hearing) and
Judge Kevin Walden (trial)
Opposing Counsel: Vic Peters
Facts: I represented the Wife in this action for divorce. Wife and Husband married on May 6, 2005. Wife was pregnant with prior child at the time Husband and Wife married in 2005. Husband agreed to place his name as father on prior child's birth certificate and at all times held out prior child as his own. Husband and Wife had a second child. Wife was pregnant with third child when Husband separated from Wife on February 23, 2009, and commenced cohabitating with girlfriend. Husband did not pay any support for Wife or children despite being gainfully employed. Wife and child (plus the prior child fathered by another man) resided with Wife's father and siblings in Ray County, Missouri. Wife filed for divorce and requested temporary custody and support for both children. In his Answer, Husband denied the prior child was his and also denied whether child being carried by Wife was his.

On June 4, 2009, Judge Miller granted temporary custody of child and prior child to Wife until she delivered, and ordered Husband to pay support for both. He deferred ordering genetic testing on prior child and on the child to be born. After birth of child on June 9, 2009, Mother came to me with prior child and it was obvious the child was not Husband's child as the child had strong Hispanic features. I filed an amended Petition for Dissolution of Marriage and a second count for Paternity for Mother and Motion to Add the actual biological father of the prior born child. Father was then determined to be biological parent of the newborn child.

Father then insisted in his parenting plan he wanted split custody of the second child and the newborn child, despite Father living in North Kansas City and working the nightshift. Case was transferred to Judge Walden. Case went to trial on October 22, 2010. Matter could not be settled. After a half day trial, result was judgment for Wife for residential custody of both children, child support, and one-half of marital interest in Husband's 401K. I prepared a qualified domestic order and submitted to the Judge for signature and then Plan Administrator and shortly thereafter matter was resolved in April, 2010.

Capital One Bank (USA) vs. Rosemary Allert

Clay County Case No: 09CY-CV11203 Filed: August 27, 2009 in Jackson County and transferred by Plaintiff to Clay County

Issues: Defense of alleged credit card debt, Violations of Fair Debt Collection Practices (FDCPA) at 15 Act U.S.C. 1692(a).

Judge: Donald T. Norris

Opposing Counsel: Kramer and Frank (Elizabeth Ashton)

Facts: My client, Rosemary Allert was sued for $924.63, plus interest and lawyer fees for breach of contract for failing to pay on a credit card. She denied she incurred the credit card charges as her purse and identity had been stolen in 2005. Allert initially hired a company on the internet that claimed they could help her with this debt and could help her to fix her credit for a lot cheaper than a lawyer could. Allert paid them about $1,000.00 and the company wrote two letters to Capitol One and signed Allert's name to the letters denying Allert owed the debt. The fictitious debt resolution company was not licensed in Missouri and had no mailing address.

Plaintiff set the case for trial in December, 2009. I was hired shortly before trial and the trial was continued. I filed a countersuit against Plaintiff for violation of the FDCPA for previously failing to remove the debt from Plaintiff's credit report, failing to validate the debt's accuracy prior to filing suit, etc. I later withdrew my motion when Capitol One, through discovery, was discovered to be the actual creditor and not a debt collector. I did obtain photocopies of mailed

credit card checks which contained forged signatures of my client. Capitol One still refused to dismiss the case. The case proceeded to trial and when the matter was called for trial, Capitol One dismissed the matter before presenting any evidence.

Nathan Curtis Siems vs. Missouri Director of Revenue
Clay County Case No: 06CY-CV06801 Filed: August 28, 2006
Issues: Refusal of Breathalyzer Test (Section 577.041), Head Injury, Consent
Judge: Rex Gabbert
Opposing Counsel: Melissa Howard, Clay County Prosecutor
Facts: Siems was stopped without probable cause and then arrested for allegedly driving while intoxicated on July 29, 2006, in Excelsior Springs. He was later notified that his driving privileges were suspended for one year effective August 13, 2006 for refusing a breathalyzer test. Siems' primary defense to the refusal was he had been hit in the head with the base of a pool cue, suffering a concussion. Siems claimed the head injury rendered him unable to remember any events of the evening of 7/28/29 and the early morning hours of 7/29/2006.

The Excelsior Springs Case Incident Report stated in part "Siems was read the implied consent. He refused to provide a sample of his breath...Siems was read his Miranda Warning listed in the Alcohol Influence Report. **Siems said he did not understand his rights.** Nonetheless, he agreed to answer questions. Officer Hamer stated "I observed a knot on the left side of Siems' forehead...**Siems did not request medical treatment".**

Upon being bonded out of jail the next morning, Siems' mother took him directly to the emergency department at Liberty Hospital. In his medical records, under "Chief Complaint" the nurse wrote, "Headache-Dizziness, Diff (difficulty) remembering, Hit in head last night". The examining physician, Dr. Stephanie Davis, drew a diagram of the location of the injury, assessed Siems with a "Concussion w/ LOC (loss of consciousness)" and ordered a CT Scan of Nathan's head. Nathan spent six hours in the E.D. and was later released home with head injury instructions, bed rest for the next 48 hours, and follow up with his family physician. The notes of the doctor and nurses at Liberty Hospital did not indicate any indicia of alcohol intoxication nor was a blood draw ordered.

It was our position that Nathan was unable to refuse the breath test, as he had a concussion, with loss of consciousness. He had all the physical signs of a head injury when arrested. Our position was Officer Hamer should known that a person with a serious head injury could not possibly be able to reason to request medical treatment when his brain injury made it impossible for him to even reason that he was injured.

The case went to a three hour bench trial on February 26, 2007. I prosecuted the case by calling eye witnesses that were with Siems that night and a nurse expert

witness to translate the medical records. I also raised the exception defense set forth in Section 577.033 RSMo that "any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusing to take a test" is not capable of withdrawing his implied consent to take the breath test. Officer Hamer also admitted under cross-examination that she could have called an ambulance to take Siems to nearby hospital and have blood drawn, but failed to do so. Judge Gabbert found one or more of the issues set forth in Section 577.041.4 was absent and ruled in favor of Siems. As a result, Siems did not lose his driving privileges for one year and was not required for the two subsequent years to maintain high risk SR-22 automobile insurance.

City of Kearney vs. Holly Soto
Clay County Case No: 09CY-CR02977 Date of Incident: February 24, 2009
Issues: Driving While Intoxicated, Drug Recognition Evaluation (DRE)
Judge: Donald T. Norris
Opposing Counsel: Brian Hall, Kearney City Prosecutor
Facts: Defendant Soto, 44 years old, was diagnosed with bipolar disorder in the early 1990's. She had been under the care of a psychiatrist ever since and her bipolar disorder had been kept in check due to good compliance with her medication regimen. She had always had an operator's license and driven without restrictions after the diagnosis, to her place of employment, the grocery store, the gym, etc.

On February 24, 2009, Holly was stopped in mid-afternoon for speeding by Kearney Police Officer Kantola. At the time of the stop, Holly was given a breath test which registered a zero blood alcohol. After being arrested, a search discovered a small quantity of marijuana and a pipe in the glove box of her vehicle. In his observation of Holly, Kantola did not list that she reeked of the smell of marijuana. She was arrested and taken to the Kearney Police Station and administered a breathalyzer test which showed zero blood alcohol. Officer Kantola then administered a DRE (Drug Recognition Examination) which consisted of measuring pupil size, blood pressure, pulse rate, body temperature, reaction time to light, etc. Holly was also given a urine test which showed the presence of marijuana metabolites. From this, Officer Kantola surmised Holly was under the influence of drugs. Holly was charged with DWI, and possession of the marijuana and paraphernalia.

To defend this case, I first entered a technical not guilty in Kearney Municipal Court to all the charges and the case was then transferred to Clay County. I hired a local physician, Dr. Sidney Cantrell, D.O. We set up an examination of Holly under the same conditions and circumstances as Officer Kantola had when he did his DRE several months earlier. I had Holly's 80 year old

father observe her for any drug usage during the entire day of the exam to be conducted by Dr. Cantrell late in the afternoon. After following the same exam guidelines as Officer Kantola, Dr. Cantrell's findings of Holly's vital signs were essentially identical to Kantola's findings. Dr. Cantrell opined the urine sample was worthless since urine sitting in one's bladder is not part of the circulatory blood system, and is merely a screening tool to find past drug usage. He wrote a report and Mr. Hall still refused to dismiss the DWI case. Case was set for trial on December 21, 2009, and Dr. Cantrell was hired to testify. On that morning, Mr. Hall finally dismissed the DWI case and Holly received a suspended imposition of sentence on the possession and paraphernalia charges. (09CY-CR02985 & 09CY-CR02981)

Braden Emerson Schwebach by NF Andrew Daniel Curfman vs. April Long Schwebach and Terry Schwebach

Clay County Case No: 07CY-CV07956 Filing Date: August 10, 2007

Issues: Paternity, Overcoming presumption of paternity of child born during a marriage to another

Family Court Commissioner: Sherrill Roberts

Opposing Counsel: Brent Winterberg

Facts: April Schwebach had sex with my client, Andrew Curfman, during her marriage to Terry Schwebach. Thereafter, April called Curfman to tell him she was pregnant and he was the biological father of Braden Schwebach, who was subsequently born May 25, 2003. April never told her husband Terry the child was not his, and when the parties divorced in Callaway County, both were granted joint legal and physical custody of Braden in 2005. Eventually, the parties remarried.

In 2007, Curfman, after carrying around the mental uncertainty for several years, came to me and advised he wanted to find out if the child was his or not. We filed a declaratory judgment in Clay County and included both April and Terry as parties. The Respondents took the position that paternity had already been established in the divorce, although I'm sure it was news to Terry Schwebach. Respondent's filed two motions to dismiss the case, both which were overruled. Respondents resisted, even though Commissioner Roberts ordered for genetic testing at my client's cost to determine paternity. The order was approved by family court judge, Elizabeth Davis. Respondents defied the order and I filed a motion to find them in contempt of court. Respondents filed requesting a Writ of Prohibition with the Western District Court of Appeals on September 8, 2008, claiming neither the Commissioner nor Judge had authority to order the genetic testing. I filed Suggestions in Support of Commissioner Roberts and Judge Davis. The Writ was denied.

Testing was conducted shortly thereafter and Curfman was found to be the

child's biological father. Respondent's continued to deny any type of informal establishment of the father-child relationship, so I asked for a trial setting and the matter was set for May 19, 2010. Shortly before trial, the parties finally settled all issues in the the matter after fighting it out for two and one-half years.

14. If you have appellate experience, provide a representative list of cases in which you served as the primary attorney on appeal. The list should include the style of each case, appellate court or administrative agency, identification of your client, and the nature and date of disposition.

A. **Hoit vs. Rankin (WD71159)** previously covered in question 13 above was appealed to the Western District by Defendants Rankin and Webb on June 19, 2009. I was counsel for the Hoits. The issues on appeal were whether the trial court had properly partitioned the property and whether the trial court should have found the Plaintiffs intended to give Defendants a gift by putting the Defendants' names on the deed. After both sides submitted briefs, the matter was set for oral argument on July 28, 2010. After hearing the arguments, the panel unanimously affirmed the trial court's decision and the case is cited at **320 SW3d 761**.

B. **Pamela McKown vs. Billy Joe McKown (WD61682)** was a dissolution of marriage action filed in Clay County on July 22, 2002 and designated as Case Number CV101-2144DR. I represented the Petitioner in both the divorce and in the appeal. Michael Svetlic represented the Respondent Husband in both cases. The Husband purchased a House in 1979 and the parties married two years later in 1981. The parties separated in 2002. During the course of the 21 year marriage, the majority of the indebtedness of the House was paid down with marital assets. The parties even refinanced the House twice, but Wife's name was never added to the warranty deed. In 2002, the Wife filed for divorce. She claimed a marital interest in the House. Husband claimed the House was non-marital property. Judge Elizabeth Davis, applying the "source of funds rule", found the House to be marital property and awarded Wife a $23,000.00 share of the equity. Husband appealed claiming "source of funds" rule did not apply. After hearing the arguments, the panel affirmed the trial court's decision on this issue, but remanded on a Form 14 child support issue. The case is cited at **108 SW3d 180**. This case was significant for me because it was the featured case in Missouri Lawyer's Weekly the following week.

C. **Braden Schwebach by NF Andrew Curfman vs. April Schwebach and Terry Schwebach (WD70111)** was cited in question 13 above. The Petition for the Court of Appeals to issue its Writ of Prohibition was filed by Attorney Brent Winterberg against Commissioner Roberts and Judge Davis after a judgment of contempt was entered and before punishment imposed on Respondent April Schwebach for failing to have the child and her (April Schwebach) submit to genetic testing. I represented Petitioner Andrew Curfman and wrote a Respondent's brief. The writ was denied without oral argument from the parties.

15. If you are serving or have served in a judicial capacity, describe the nature and extent of your judicial responsibilities, the types of dockets handled, and any special expertise developed. No judicial experience

16. If you do not have significant experience in litigation or in a judicial capacity, describe any other legal experience or accomplishments in the legal profession that may qualify you to serve in the office of Associate Circuit Judge.

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

A. Missouri Bar Association, member in good standing October 1988 to present.

B. Clay County Bar Association, member since April, 1990. Served on the Board of Directors for one term from 2004-2006.

C. Missouri Association of Trial Attorneys from October 1988-September 2008.

18. List any published articles or books you have authored and any significant programs or events for which you served as a primary speaker.

19. Do you now or have you ever held any elective or appointive public office or position? If so, please explain. No

20. Provide the branches and dates of any military service or other public service not otherwise covered in this application. If discharged from the military, state whether the discharge was other than honorable.

United States Marine Corps, Camp Pendleton, California
Active Duty: June 25, 1976-June 24, 1979
Inactive Reserve: June 25, 1979-June 24, 1982 (Honorable Discharge)

21. Describe your community and volunteer service activities, including any organizations (outside the legal profession) with which you are affiliated and any offices held.

A. Volunteer Attorney Project (VAP) through Legal Aid of Western Missouri. (1994-present) 1125 Grand Avenue, Suite 1900, Kansas City, Missouri 64106. Each year I donate time and legal experience for those in need. I receive referrals of one to three cases yearly from VAP for eligible persons who do not qualify for Legal Aid services, in various legal areas including domestic, debtor/creditor, etc.

B. John Newberry Medical Bills Trust (2008). In 2008, Clay County Attorney John Newberry, was without health insurance. He was diagnosed with Chronic Lymphocytic Leukemia (CLL) and diabetes mellitus (DM) caused by exposure to Agent Orange while John served in Vietnam in the 1960's. John filed disability claims with the Veteran's Administration (VA) for treatment for the CLL and DM. The VA contested whether the claims were service-connected and began investigating the claim. In the interim, John was given a life expectancy, without chemotherapy, of 12 months. John had no savings to pay for his chemotherapy. I created a trust fund and spearheaded a drive that raised over $22,000.00 from fellow bar members and friends to pay for John's chemotherapy until the V.A. determined the disability was service-connected. Once John's condition was declared by the V.A. to be service connected, his medical treatments thereafter were covered. The balance of the remaining donations were returned pro-rata to each contributor.

C. Jesucristo El Buen Pastor Church (2003 – present) is a Hispanic, Christian church located in the northeast area of Kansas City. The growing congregation, presently numbering approximately 260 members, consists primarily of newly arrived immigrants from Central America, South America, Mexico and the Carribean. I provide volunteer legal guidance and translation services to Pastor Leonardo Cabrera and the church on an as-needed basis. I assisted the church in the purchase of its present church building (the former Budd Park Christian Church) in 2008. I also assist with the many legal issues relating to operating the church. I give guidance to Pastor Cabrera in helping the church members in understanding the importance of assimilating into the American culture. I also provide legal counsel and legal referrals to the members who have immigration, housing, and employment issues. This church is located at 4925 St. John Avenue,

Kansas City, Missouri 64123.

D. Southwest Baptist University Medical Mission Trip (June, 2011), 1600 University Avenue, Bolivar, Missouri 65613. This endeavor involved a collaboration of SWBU nursing school students, led by Dr. Perry Tompkins, PhD, with a group volunteer private health care providers. We traveled to Ecuador at our own expense. For two weeks, we traveled to small villages in the Ecuadorian mountains to provide free health care and screening to indigent patients. I donated my time as a pharmacist, dispensing medications for the prescriptions ordered by the physicians and the nurse practitioners, and also served as a translator.

E. I have also volunteered feeding the needy through Hospitality House (Cathedral of Immaculate Conception) in Kansas City, Missouri and at the St. James Food Pantry in Kansas City, Kansas.

22. List any significant honors, awards, or recognition you have received that otherwise have not been covered in this application.

A. Jesucristo El Buen Pastor Church for my support and assistance (2004) and again in 2008 for assistance in purchasing the present church building.

B. Neireda ("Nettie") Benitez family for my assistance in helping their elderly mother to realize a home after a builder (Thomas James) took her life savings (approximately $65,000) in 1998, promising to build her a house and squandered it at the casinos. Builder later pled guilty to stealing by deceit and sentenced to four years in Missouri Department of Corrections. I worked closely with Christmas in October in Kansas City, Missouri (Attorney Richard Miller) and he located a contractor who enlisted numerous volunteer subcontractors to build Ms. Benitez a house, all with donated materials and donated services. I have a plaque in my office recognizing my efforts in collecting some of the money from Thomas James for Ms. Benitez and in helping her to realize a home.

23. Are you delinquent in the payment of any federal, state, county or city taxes? If so, please explain. No

24. Have you ever been convicted of a misdemeanor or felony or received a suspended imposition of sentence in any federal, state, or military court? If so, please explain and provide the style of the case (including case number), the court, the date of the conviction, and the sentence or fine imposed. No

25. Have you ever been held in contempt of court? If so, please explain. No

26. Have you ever been sued by a client or been a party to any litigation, other than as a guardian ad litem, plaintiff ad litem, or defendant ad litem? If so, please explain and provide the style of each case, the court, your role as plaintiff or defendant, and the nature and date of disposition. No

27. 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? If so, please explain. No

28. If you are or were a member of the judiciary 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 so, explain the details of such breach and the date, nature, and duration of the discipline imposed.

(b) Whether a reprimand or admonishment has ever been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Rule 12.07 of the Supreme Court Rules Governing the Judiciary. If so, explain the details of such cause and the date and nature of the discipline imposed.

(c) Whether, to your knowledge, you are the subject of a complaint that is currently under investigation by the Commission on Retirement, Removal and Discipline. If so, explain that nature of such complaint and the status of the investigation.

29. Provide any additional information that you consider relevant to your qualifications for the office of Associate Circuit Judge.

My family and I escaped from communist Cuba in July, 1960 and came to the United States when I was a young boy. We came to the U.S. to start a new life from scratch. As a first generation immigrant to the United States, I was raised in two cultures. Outside the home, I assimilated into the American culture through school and sports. Neither of my parents spoke English when we came to Missouri. My parents always spoke Spanish at home. As a result, I grew up bilingual, which has become a huge asset in communicating with and representing many Spanish-speaking clients.

As an attorney in Excelsior Springs (population approximately 11,000), I learned early on that practicing law in a small town, due to the limited population size to draw from, requires one to be a general practitioner. This circumstance has required me to

learn a diverse amount of law. At the same time, I became aware that more complicated cases have to be referred to or co-counseled with attorneys in larger cities whose practices were limited to those specific types of matters, i.e. immigration, professional licensure, catastrophic injuries, etc. As such and out of necessity, I have practiced and have become familiar with many areas of law which should be an asset for a judge.

I also have significant experience in dealing with difficult people as a result of my years as an attorney in one of the poorer cities in Clay County. Finally, during the years I worked as a pharmacist, I necessarily interacted with many ill and dying patients and their families. I counseled them on the nature of and proper use of their medications. I also learned to think on my feet when asking or responding to questions about medications from doctors and nurses. These experiences have helped sharpened my communication skills with a wide range of individuals and instilled confidence in dealing with formidable situations and difficult people.

30. List the names and contact information (title, mailing address, telephone, and email address) of the **five** persons whom you have requested to provide letters of reference regarding your character and judicial qualifications. Do not list as a reference any judge who currently sits in the Seventh Judicial Circuit.

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