

**APPLICATION OF CYNTHIA L. REAMS MARTIN
TO THE APPELLATE JUDICIAL COMMISSION FOR THE
JUDGES HOLLIGER, SPINDEN AND DANDURAND VACANCIES
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

***RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE
APPLICANT IS ONE OF THE NOMINEES FOR THE VACANCY***

1. Present principal occupation or title:

Attorney/Principal
Cindy Reams Martin, P.C.

2. Are you at least 30 years of age? Yes (X) No ()

3. (a) How many years have you been a citizen of the United States?

Forty nine (49) years

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

Thirty one (31) years

4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail.

September 15, 1984

License is in good standing

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

Kansas State Courts	10/05/88
Federal District Courts – Western District of Missouri	09/15/84
Federal District Courts – Kansas	10/05/88
Eighth Circuit Court of Appeals	09/08/86
Tenth Circuit Court of Appeals	04/12/93
U.S. Court of Appeals for the Federal Circuit	11/14/84
United States Tax Court	01/28/86

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

William Jewell College, Liberty, Missouri **1977- 1981**

Degrees: B.A. Communications May, 1981
 B.A. Psychology May, 1981

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

Activities/Awards:

Graduated Summa Cum Laude	May, 1981
Paneagis Mortar Board	1980-1981
College Union Activities Board	1980-1981
Alpha Delta Pi Sorority	1977-1981
• President	1980-1981
Pi Kappa Delta (Debate and Forensics Fraternity)	1977-1981
• President	1980-1981
William Jewell College Debate and Forensics Team	1977-1981
• Received numerous awards in CEDA and NDT Debate, Oratory and Extemporaneous Speaking from Regional, State and National Tournaments	
William Jewell College National Discussion Topic Team	1979-1981
• National Champion	1980-1981
Reporter for William Jewell College Newspaper	1980

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

University of Missouri at Kansas City School of Law **1981-1984**

Degrees: Juris Doctorate May, 1984

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

Activities/Awards:

Valedictorian	1984
Order of the Bench and Robe	1984
Order of Barristers	1984
Recipient of American Jurisprudence Awards for: Administrative Law; Business Organizations I; Business Organizations II; Civil Procedure II; Commercial Transactions I; Constitutional Law I; Constitutional Law III; Estates and Trusts I; Evidence; Insurance Law; Professional Responsibility	1981-1984
UMKC Law Review	1982-1984
• Associate Comments Editor	1983-1984
Thomas Deacy Memorial Trial Practice Award (presented to top third year student in Trial Practice Class)	1983-1984
John L. Sheridan Moot Court Award (presented to top speaker in Appellate Advocacy II Program)	1982-1983

National Moot Court Team	1983-1984
<ul style="list-style-type: none"> • Second Place team in Regional Round of National Moot Court Competition - - qualified for National Round of competition in New York. • American College of Trial Lawyers “Top Speaker” in Regional Moot Court Competition. • Advanced to Quarterfinal Round of National Moot Court competition in New York. • Appellate Brief placed fourth in nation in National Moot Court competition in New York. 	
National Trial Team	1983-1984
<ul style="list-style-type: none"> • Third place team in Regional Round of National Trial Competition 	
Student Assistant – Legal Bibliography	1982-1983

8. State, in chronological order (starting with the earliest employment) (a) significant non-law-related employment prior to law school and (b) all employment from the beginning of law school to the present. To the extent reasonably available to you, include the name and address of each employer and the dates of employment, and, for legal employment, describe the positions you have held, e.g., associate, partner, law clerk, general counsel.

(a) Non-law-related employment:

Zarda Dairy	1975-1981
291 Highway and Langsford Road	
Lee’s Summit, MO 64086	

(Began as fountain clerk and was promoted to Manager. Worked at Lee’s Summit store originally then at various locations where needed through college. This company is no longer in business as it merged with another dairy operation.)

(b) Employment from beginning of law school:

Law Clerk	Jackson, Dillard, Brouillette, Weisenfels, Phillips & Wood, P.C.	Summer 1982 - May, 1983
Law Clerk	Shook, Hardy & Bacon	Summer 1983
Law Clerk	Jackson, Dillard, Brouillette Weisenfels, Phillips & Wood, P.C.	Fall 1983 - May, 1984
Associate	Jackson, Dillard, Brouillette, Weisenfels, Phillips & Wood, P.C.	May, 1984 - March, 1987
Associate	Dillard & Weisenfels, P.C.	April, 1987 - Sept. 1987
Principal	Dillard & Weisenfels, P.C.	Oct., 1987 - Dec. 1989
Principal	Weisenfels & Vaughan, P.C. (a/k/a Weisenfels, Cofran & Martin, P.C.)	Jan. 1990 - August, 2000
Principal	Cindy Reams Martin, P.C.	Sept. 2000 - Present

9. If you were a student at any school from which you were suspended, placed on probation, or expelled by school authorities, for any reason, describe the circumstances.

N/A

10. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work. (*You either may take as much space as you need here or attach your response on separate sheets*).

My law school clerking experience provided two important benefits - one more immediate and obvious than the other. Clerking was a necessity to pay for my education. Clerking at firms on two ends of the size spectrum, however, left an indelible mark on my career. Elementary and junior high school oratory contests, and high school and college debate, taught me that confidence and a persuasive advocacy style are developed by being up on your feet, speaking. As a law clerk, I concluded that a small firm with a varied, yet sophisticated, practice mix presented the best opportunity for similar front line experience for me.

I accepted my first associate position as a trial lawyer with Jackson, Dillard, Brouillette, Weisenfels, Phillips & Wood. I have never regretted my decision. From the beginning, I was allowed to bear substantial, and soon complete, responsibility for a variety of litigation matters. Through my first few years of practice I handled varied litigation matters, ranging from plaintiff's personal injury cases to complex commercial disputes. With the competitive spirit developed through years of forensic competitions, I tackled the litigation files assigned to me and relished the responsibility.

In April, 1987, two partners (John Weisenfels and Wayne Dillard) formed their own firm and invited me to join them. I accepted enthusiastically, though I would be the only trial lawyer in the new firm. The firm grew over the years to include four partners, four associates, and one of counsel affiliate. The firm emphasized commercial and real estate litigation and transactional matters, and also handled select plaintiff's personal injury matters.

In September, 2000, I embarked on a new and exciting enterprise – opening my own practice. My core clients and practice base remained unchanged. I continued to enjoy a diverse and challenging blend of business and commercial litigation matters and general business and commercial transactions and projects.

Over my nearly twenty-five years in practice, I have enjoyed principal responsibility for hundreds of litigation matters. These matters have included construction litigation, varied contract disputes, complex real estate, construction and limited partnership disputes, and personal injury and employment matters. I have tried numerous cases to a jury, to the Court or before arbitrators. I have enjoyed principal responsibility for numerous appeals in Missouri and Kansas State and Federal Appellate Courts. In addition, and as a result of my business and commercial trial experience, I have developed a core client base for whom I provide diverse business, commercial and transactional services.

I have been blessed with professional opportunities and appreciative clients. As attorneys, we each have unique skill sets, strengths and interests which guide our professional pursuits. I believe my strengths include strong research and writing skills and an aptitude for, (in fact, a great love of,) appellate work. My interest in serving on the Court of Appeals is the result.

- a) **Appellate Experience:** Please include a representative list of cases you have briefed and/or argued (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court and, if published, the citation; identify the client(s) you represented and opposing counsel; give a one-paragraph description of the case and your role.

- (i) Coventry Manor Phase II Associates, L.P. v. Hainen
Case No. CV891-39AC
Moniteau County, Missouri
Honorable Gary Schmidt
Opposing Counsel: James F. Crews

Represented Plaintiff limited partnership in a claim against limited partner to recover unpaid additional capital contributions required by limited partnership agreement to cover partnership's operating deficits. Defendant argued additional capital contributions to cover partnership operating deficits were not enforceable because to enforce same would be tantamount to treating limited partners as general partners. Defendant counter-claimed for mismanagement of the partnership. At the close of the evidence, the trial court

granted Plaintiff's Motion to Dismiss Defendant's counterclaims, but granted Defendant's previously filed Motion for Summary Judgment, deeming the additional capital contribution obligation unenforceable.

APPEAL:

Plaintiff successfully appealed to the Missouri Court of Appeals for the Western District (Case No. WD-8840) which remanded the case for entry of judgment for Plaintiff because of its ruling that additional capital contribution obligations in a limited partnership agreement designed to cover operating deficits of the partnership are enforceable.

Citation: 904 S.W.2d 279 (Mo.App. W.D. 1995)

- (ii) Williamson v. Kay v. Burns, et al. (In re Villa West Associates)
Case No. 88-40614-7C and Adversary No. 89-7005
United States Bankruptcy Court for the District of Kansas
Honorable James Pusateri
Opposing Counsel: Robert J. Bjerg; Patricia Reeder

Represented Defendant/Third Party Plaintiff Fred C. Kay in complex limited partnership litigation. Villa West Associates, L.P. filed for bankruptcy protection. The Partnership's principal creditor was Metro North State Bank which held two Notes totaling \$525,000.00. After Villa West Associates L.P. filed bankruptcy, General Partner Fred C. Kay made a call for an additional capital contribution on all the partnership's limited partners, pursuant to the limited partnership agreement, to allow the partnership to pay the operating deficit created by the difference between the Metro North State Bank Notes and the available assets in the partnership's estate. Most of the limited partners ignored the capital call. Instead, they surreptitiously formed a general partnership, MN Associates, purchased the Metro North State Bank Notes, and became the holder of the principal claim against the bankrupt partnership. Williamson, the Bankruptcy Trustee, filed suit against Fred C. Kay, as general partner, for the deficiency in the bankruptcy estate. Fred C. Kay filed a third party action against all of the limited partners who had

failed to pay their additional capital contributions, thus preventing the partnership from having sufficient funds to pay the partnership debts. Kay further claimed the limited partners who formed MN Associates breached a fiduciary duty to the Partnership and to the limited partners excluded from participation in MN Associates. The Bankruptcy Court entered judgment for Fred C. Kay ruling the additional capital contribution obligation set forth in the Limited Partnership Agreement was enforceable, and finding the limited partners who formed MN Associates did breach a fiduciary duty owed to the Partnership and to the excluded limited partners.

APPEAL:

Case was appealed twice by the limited partners to the District Court of Kansas. On the first occasion, the District Court reversed judgment for Kay and remanded to the Bankruptcy Court. The Bankruptcy Court again entered judgment for Kay. On the second appeal, the District Court again reversed the Bankruptcy Court. Kay appealed to the Tenth Circuit Court of Appeals. The judgments entered by the District Courts were affirmed. (Case Nos. 96-3133, 96-3135 and 96-3425)

Citation: 146 F.3d 798, 98 CJ C.A.R. 3087, 15 Colo. Bankr. Ct. Rep. 282 (10th Cir. Kan.)

- (iii) Burns, et al. v. Plaza West Associates, et al.
Case No. CV94-0888
Circuit Court of Jackson County, Missouri
Honorable Edith Messina
Opposing Counsel: Fred Walters

Represented Defendants/Counterclaim Plaintiffs in a limited partnership dispute. Plaintiffs were limited partners in a partnership who paid their pro rata share of a Note owed by the Partnership to a bank and guaranteed by the limited partners. Plaintiffs sued the Partnership and its general partner, Fred C. Kay for reimbursement. The Partnership defended on the basis the limited partners would have been required to make additional capital contributions to the

Partnership to cover the operating deficit created by the Partnership's inability to pay the Note. The limited partnership agreement had an additional capital contribution clause, identical to the one ruled enforceable in Coventry Manor v. Hainen. The Partnership argued the additional capital contribution clause constituted a contractual waiver of the right to reimbursement. The Partnership also sued the limited partners for unrelated calls for additional capital contributions, unpaid by the limited partners. The case was submitted on stipulated facts. The trial court entered judgment for the limited partners on the claim for reimbursement and judgment for the partnership and general partner on the claim for unpaid additional capital contributions.

APPEAL:

On cross appeals to the Missouri Court of Appeals for the Western District, judgment affirmed. (Case Nos. WD-54911 and WD-54958).

Citation: 979 S.W.2d 540 (Mo.App. W.D. 1998)

(iv) Malan Realty Investors, Inc. v. Bea Harris, d/b/a Busy Bee Creative Ceramics

Case No. 95 AC 00288

Associate Circuit Court of Platte County, Missouri

Honorable James W. Van Amburg

Opposing Counsel: David Rauzi

Represented Plaintiff, landlord, in a commercial landlord/tenant dispute claiming unpaid rent and common area maintenance charges. Defendant counterclaimed for fraud, claiming fraudulent assessment of common area maintenance charges. Judgment was entered for Plaintiff after a trial to the Court.

APPEAL:

On Defendant's appeal to the Missouri Court of Appeals for the Western District, (Case No.

WD-52294) Plaintiff defended the trial court's determination that Defendant consented in writing to waiver of jury trial, consistent with Mo.S.Ct. Rule 69.01(b)(2) in that Defendant admitted the written lease and used the lease to support her counterclaim. The waiver of jury trial provision in the lease was the last paragraph of the lease, immediately above the signature line. Defendant had assistance of counsel in negotiating the lease, and other provisions of the lease had been changed at Defendant's request. The Court of Appeals affirmed the trial court's judgment and held that the right to jury trial can be contractually waived, under limited defined circumstances, independent of compliance with Mo.S.Ct. Rule 69.01(b). The Supreme Court granted the Motion for Transfer, and unanimously affirmed the judgment of the trial court and held that the right to jury trial can be contractually waived under certain circumstances. (Case No. SC-79742)

Citation: 953 S.W.2d 624 (Mo. 1997)

- (v) MIF Realty v. Pickett
Case Nos. CV96-4210 and CV96-12673 (Consolidated)
Circuit Court of Jackson County, Missouri
Honorable Preston Dean
Opposing Counsel: David Greis

Represented Plaintiff lender in suit for breach of assignment of leases and rents and for appointment of a receiver against Defendant borrower, the owner of a commercial office building. Receiver was appointed. After denial of Defendant's Motion to Discharge Receiver, Defendant appealed.

APPEAL:

On appeal to the Missouri Court of Appeals for the Western District (Case No. WD-53655) Defendant argued that the contractual right to

appointment of a receiver set forth in the assignment of leases and rents was not independently enforceable in the absence of proof of a statutory basis to appoint a receiver. The Court of Appeals disagreed, affirming the trial court's appointment of a receiver.

Citation: 963 S.W.2d 308 (Mo.App. W.D. 1997)

- (vi) Linn Valley Lakes Property Owners Association v. Real Equities, L.L.C.
Case No. 96 C 16
District Court of Linn County, Kansas
Honorable Richard Smith
Opposing Counsel: Sheila Schultz; Darcy Domoney

Represented Defendant Real Equities, L.L.C., the purchaser of hundreds of Linn Valley Lake lots at the foreclosure sale of the original developer. Recorded restrictions exempted the developer from payment of homeowners' dues and assessments. Real Equities, L.L.C. believed it was exempt from payment of homeowners' dues and assessments as the successor to the developer. Linn Valley Lakes Property Owners Association sued Real Equities, L.L.C. for assessed and unpaid dues. The parties stipulated to the facts. After oral argument, the Court entered judgment for Defendant Real Equities.

APPEAL:

On appeal to the Kansas Court of Appeals (Case No. 97-78354-A), judgment affirmed for Real Equities.

Citation: Unpublished Opinion

- (vii) State of Missouri v. K.R.
Case No. TR No. 96-00100
Circuit Court of Jackson County, Missouri
Family Court Division
Honorable Jay Daugherty
Opposing Counsel: Rob Scheiber

Pro bono appointment resulted in representation of Defendant mother, a victim of domestic violence, in a six day termination of parental rights action involving complex allegations that Division of Family Service's misconduct and inaction lead to the ultimate basis relied on by the State to attempt to terminate parental rights - - lack of bonding. Trial court entered judgment for the State.

APPEAL:

Plaintiff appealed to the Missouri Court of Appeals for the Western District. (Case No. WD-54984)
Judgment affirmed.

Citation: Unpublished Opinion

- (viii) Kansas City Renaissance Festival v. City of Bonner Springs
Case No. 98 C 2266 Consolidated Action
District Court of Wyandotte County, Kansas
Honorable John Bukaty
Opposing Counsel: Neil R. Shortlidge; Joseph P. Perry

Represented Plaintiff, the operator of the Renaissance Festival after the City of Bonner Springs adopted, via an ordinary ordinance, an amusement tax assessing a fifty cent surcharge on each ticket sold by the Festival. Kansas law prohibited cities from adopting excise taxes. Court granted Plaintiffs' Motion for Summary Judgment, holding the City's ordinary ordinance violated the Home Rule Amendment in Kansas.

APPEAL:

On appeal to the Kansas Supreme Court, judgment affirmed. (Case No. 99-82996-A)

Citation: 269 Kan. 670, 8 P.3d 701 (Kan. 2000)

- (ix) Union Hill Homes Association v. RET Development Corporation, et al.
Case No. 99CV-216360
Circuit Court of Jackson County, Missouri
Honorable Kelly J. Moorhouse
Opposing Counsel: Russell C. Ashley

Represented Defendant RET Development in dispute with Plaintiff Homeowner's Association regarding approval of construction of residential structure. Case settled, but Homeowner's Association refused to perform settlement. Represented Defendant in contempt proceeding and successfully secured Order of Contempt.

APPEAL:

On Plaintiff's Appeal of Order of Contempt to Missouri Court of Appeals for the Western District, judgment for Defendants affirmed. (Case No. WD-60091)

Citation: 83 S.W.3d 87 (Mo.App. W.D. 2002)

- (x) Cass County, Missouri v. Aquila, Inc.
Case No. CV104-1443CC
Circuit Court of Cass County, Missouri
Honorable Joseph P. Dandurand
Opposing Counsel: J. Dale Youngs; Karl Zobrist

Represented Plaintiff in dispute involving construction of a power plant and substation without compliance with or submission to Cass County zoning authority. Secured permanent injunction prohibiting construction of power plant and substation, and ordering dismantling of the facilities if constructed pending appeal.

APPEAL:

On appeal to the Missouri Court of Appeals for the Western District, judgment affirmed. (Case No. WD-64985)

Citation: 180 S.W.3d 24 (Mo.App. W.D. 2005)

(xi) On the Application of Aquila, Inc. to the Missouri Public Service Commission

Case No. EA-2006-0309

Administrative Proceeding Before the Public Service Commission

Opposing Counsel: Nathan Williams; J. Dale Youngs

Represented Cass County, Missouri, an intervenor in a proceeding filed by Aquila, Inc. with the Public Service Commission (PSC) to secure retroactive certificates of convenience and necessity (CCN's) for a power plant and substation constructed in Cass County, and subject to a final dismantling order issued in Case No. CV104-1443CC and affirmed on appeal in WD-64985. PSC issued Report and Order granting Aquila post-construction CCN's for the power plant and substation following six day evidentiary hearing.

WRIT OF CERTIORARI OR REVIEW:

State ex rel. Cass County v. Public Service Commission

Case No. 06CA-CV01698

Circuit Court of Cass County, Missouri

Honorable Joseph P. Dandurand

Opposing Counsel: J. Dale Youngs; Nathan Williams

Represented Cass County on its Writ of Certiorari or Review taken to the Circuit Court of Cass County, Case No. 06CA-CV01698. The Honorable Joseph P. Dandurand entered Judgment in favor of Cass County and against the Public Service Commission finding the Public Service Commission's Report and Order issuing post construction CCN's to Aquila exceeded the Commission's statutory authority.

APPEAL:

On appeal to the Missouri Court of Appeals for the Western District, the Court affirmed the trial court findings and entered judgment in favor of

Cass County, concluding the Public Service Commission exceeded its statutory authority when it issued post construction CCN's authorizing construction of the South Harper Plant and the Peculiar Substation. (Case No. WD-67739)

Citation: 259 S.W.3d 544 (Mo.App. W.D. 2008)

- (xii) South Metropolitan Fire Protection District v. City of Lee's Summit
Case No. 0716-CV31962
Circuit Court of Jackson County, Missouri
Honorable Marco A. Roldan
Opposing Counsel: Paul Campo; Robert Handley

Represented South Metropolitan Fire Protection District in Declaratory Judgment and Injunction action regarding application of conflicting Missouri statutes addressing the continuing jurisdiction of fire protection districts over the provision of fire protection and emergency ambulance services following annexation of a portion of the fire protection district's geographic territory by a city having its own fire department. Parties agreed to try the dispute to the Court on a stipulated record. Trial court entered declaratory judgment and permanent injunction in favor of South Metropolitan.

APPEAL:

Defendant City of Lee's Summit appealed to the Missouri Court of Appeals for the Western District (Case No. WD-69502). Case was transferred to the Supreme Court on South Metropolitan's Motion because the constitutionality of the statute relied on by South Metropolitan had been raised by Defendant at trial, and ruled on, in South Metropolitan's favor, by the trial court. Case was argued on November 6, 2008. A decision is pending. (Case No. SC-89558)

Citation: (decision pending)

b) **Trial-Level Experience:** Please include a representative list of cases and/or administrative hearings you have handled (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court; identify who you represented and opposing counsel; state whether the case was disposed of following a jury trial, bench trial or at what other stage; give a one-paragraph description of the case and your role.

- (i) Cathy A. Sloan v. Research Medical Center
Case No. CV83-10664
Circuit Court of Jackson County, Missouri
Opposing Counsel: Unable to recall.

Assisted in the representation of Plaintiff in medical malpractice action. Plaintiff claimed loss of a chance for recovery after pathologists incorrectly read lymph node tests after radical mastectomy. Pathologists reported no affected nodes when in fact, several nodes were affected. As a result, Plaintiff did not receive post-mastectomy chemotherapy regimen. Case was successfully settled for Plaintiff shortly before her death.

- (ii) James Daniel Honsinger v. William Henry Miller
Case No. CV84-20294
Circuit Court of Jackson County, Missouri
Opposing Counsel: Unable to recall.

Represented Plaintiff who was injured in a head on collision with Defendant which resulted in the death of the driver of the vehicle in which Plaintiff was a passenger. Defendant claimed a sudden unanticipated mechanical failure caused the steering mechanism of his vehicle to fail, causing him to lose control and cross into Plaintiff's lane of travel. Successfully settled for Plaintiff.

- (iii) Jeannie Jordan, et al. v. Kansas City Area Transportation Authority
Case No. CV85-019065
Jennifer Coleman, et al. v. Kansas City Area Transportation Authority
Case No. CV85-19066
Circuit Court of Jackson County, Missouri
Opposing Counsel: Bill Sanders

Represented multiple Plaintiffs injured when KCATA bus crossed the center line on icy streets and collided head on with a van. Negotiated three minor settlements, settlement for mother, and substantial structured settlement due to wrongful death of father.

- (iv) Lula Rose v. Ride-Away Credit, Inc.
Case No. CV85-016230
Circuit Court of Jackson County, Missouri
Opposing Counsel: Unable to recall.

Represented Plaintiff who was injured in a head on automobile accident. Case was successfully settled for Plaintiff.

- (v) Thomas P. Klein, et al. v. Floyd L. Huggins, et al.
Case No. 85C8263
District Court of Johnson County, Kansas
Honorable Janice D. Russell
Opposing Counsel: Alan Rosenak

Represented Plaintiffs in a claim for specific performance/breach of contract relating to Defendants' failure to close on a residential real estate contract. Plaintiffs' verdict was entered following jury trial.

- (vi) Lawrence Groves, et al. v. Hearst Corp., d/b/a KMBC TV-9
Case No. CV85-4726
Circuit Court of Jackson County, Missouri
Opposing Counsel: James Snyder

Represented Plaintiffs, an elderly couple, through the Volunteer Attorney Project. Plaintiffs lived near the KMBC

TV-9 tower and suffered substantial damage to their home and other personal property when large chunks of ice fell from guy wires supporting the tower. Successfully settled for Plaintiffs.

(vii) LaVonna Johnson v. Earl Johnston

Case No. CV87-11719

Circuit Court of Jackson County, Missouri

Honorable Donald Mason

Opposing Counsel: Unable to recall.

Represented Plaintiff whose vehicle was broad sided in an intersection at the base of an interstate off ramp. Plaintiff's verdict was entered following jury trial.

(viii) Wayne Dalton, Co. v. A.E.C.

Case No. CV188-2732 CC

Circuit Court of Clay County, Missouri

Honorable Kenneth Elliott

Opposing Counsel: Unable to recall.

Represented Plaintiff in an action on a commercial account. Defendant claimed defective parts for overhead garage doors were provided by Plaintiff. Plaintiff's verdict was entered following jury trial.

(ix) Lutheran Brotherhood v. Ted Ehney

Case No. CV189-2001RC

Circuit Court of Platte County, Missouri

Honorable Dan Czamansky

Opposing Counsel: N/A

Represented Plaintiff lender in suit alleging fraud against borrower who misrepresented the identity of tenants and the terms of tenants' leases in connection with borrowing several millions of dollars from Plaintiff secured by a Deed of Trust on commercial office buildings. Received multi-million dollar Plaintiff's judgment against Defendant following evidentiary hearing.

(x) Antonnucci v. Union Bank, et al.

Case No. 89C-11403

District Court of Johnson County, Kansas

Honorable Gerald Elliott

Opposing Counsel: Eugene T. Hackler; Melanie D. Busse;
Ernest C. Ballweg; Steven K. Coffin

Represented Defendant Union Bank in complex dispute involving Plaintiff's inability to close on sale of land encumbered by mortgage in favor of Defendant Union Bank. Plaintiff argued that Union Bank prevented/impeded closing by withholding permission for title company to record release of Defendant's mortgage. Plaintiff's property was thereafter foreclosed by Union Bank. Union Bank argued Plaintiff had not properly tendered sufficient funds to satisfy Union Bank's mortgage lien. On Defendant's Motion, Defendant Union Bank was dismissed at the close of Plaintiff's case.

(xi) Walnut Creek Associates, L.P v. Land Improvement

Case No. CV189-2067

Circuit Court of Clay County, Missouri

Honorable Kenneth Elliott

Opposing Counsel: Fred Walters

Represented Plaintiff, developer of a multi-family apartment project, in suit against earth work sub-contractor for substantial damages due to delays in construction. Case was transferred to retired Judge Frank Conley sitting as a Master. Master entered advisory judgment for Defendant. Judge Elliott, who had handled all of the pretrial matters in the case, did not follow the Master's recommendation and entered judgment for Plaintiff. Judge Elliott retired while Defendant's Motion for Reconsideration was pending. Motion for Reconsideration was assigned to Judge John Hutcherson. At the hearing, Judge Hutcherson referenced ex parte discussions had with Defendant regarding the case, then entered an Order reversing Judge Elliott's judgment for Plaintiff. Case thereafter favorably settled for Plaintiff pending appeal.

- (xii) Suzette Rose v. Figgie International, Inc. et al.
Case No. 92-CV-2222-GTV
United States District Court for the Western District of Missouri
Opposing Counsel: Dan Crabtree; Paul Hoffman

Assisted in the representation of Plaintiff, a female employee at a major manufacturing company. Plaintiff claimed a hostile work environment forced her to leave her employment and that she was discriminated against on the basis of her sex. Case was successfully settled for Plaintiff.

- (xiii) FDIC v. John Caster
Case No. 93-40120 and Adversary No. 93-07041
United States Bankruptcy Court for the District of Kansas
Honorable James Pusateri
Opposing Counsel: Unable to recall.

Represented Defendant John Caster, a sole proprietor who owned a car dealership. Defendant often sold cars financed by the dealership and then sold the loans to a local bank, using the bank's standard loan forms. Many times, dealer rebates were used by customers for part of their down payment, a customary practice. The local bank was taken over by the FDIC. The FDIC sued Defendant claiming fraud. The FDIC claimed Defendant failed to make it clear on the loan applications that the customer's down payment included dealer rebates. The FDIC argued that lack of knowledge that the source of a customer's failure to disclose down payment included dealer rebates artificially affected the defunct bank's evaluation of a customer's creditworthiness. Defendant argued that the defunct bank's officers knew about the practice of applying dealer rebates to down payments, and that such a practice was very common. The Defendant had to declare bankruptcy. The FDIC's lawsuit was transferred from the United States District Court for the District of Kansas to the Bankruptcy Court. The Bankruptcy Court entered judgment for Defendant after a three day trial.

- (xiv) Union Bank v. Pickett
Case No. CV93-24853
Circuit Court of Jackson County, Missouri
Honorable Charles Shangler
Opposing Counsel: Lee Corley

Represented Plaintiff Union Bank in complex commercial landlord/tenant dispute. Plaintiff was a tenant in a building owned by Defendant. Plaintiff was obligated to pay rent and estimated common area maintenance (CAM) charges in an amount equal to its pro rata share of Defendant's expenses in operating the building to the extent they exceeded an agreed baseline. Plaintiff complained improper CAM charges, and tendered the amount it believed it owed. The amount tendered was deposited by Defendant, but Defendant continued to claim the difference. In the mean time, Plaintiff attempted to sublet its space to a Credit Union. Defendant refused to consent to the sublease, claiming the Credit Union would have used the premises in a manner substantially different from the use by the Plaintiff Bank. The parties bifurcated certain of the issues for the first phase of trial. Judge Shangler found in favor of Plaintiff on the issue of accord and satisfaction regarding the payment of CAM. The Court found that though Defendant did act in bad faith in refusing to consent to the sublease, Plaintiff could not prevail on its claim of breach of implied covenant of good faith and fair dealing because Defendant had stricken language in the lease stating his consent to any sublease could not be unreasonably withheld. Remaining issues were resolved by stipulated findings of fact and conclusions of law. Prior to appeal of the final judgment, the parties reached a favorable settlement.

- (xv) Northtown Devco v. KPERS (Kansas Public Employee Retirement System)
Case No. CV194-5801CC
Circuit Court of Clay County, Missouri
Honorable Larry Harman
Opposing Counsel: Leonard B. Rose

Represented Defendant/Counterclaim Plaintiff KPERS in complex dispute between borrower, Northtown Devco and lender, KPERS. After a significant evidentiary hearing, the

Court granted a preliminary mandatory injunction in favor of KPERS. A favorable settlement for KPERS was reached soon thereafter.

- (xvi) Schatz Distributing Company, Inc. v. Raymond Freeman
Arbitration No. 57-199-0036-95
American Arbitration Association
Arbitrators: Honorable Marion Chipman (retired – District
Court of Johnson County, Kansas)
Richard Adams
Paul Scott Kelly
Opposing Counsel: Unable to recall.

Represented Plaintiff in a complex dispute arising out of a Put/Call Agreement. Plaintiff claimed Defendant violated conditions precedent to right to put stock held by Defendant. Award entered for Plaintiff following multiple day arbitration.

- (xvii) Jana Nye v. HealthNet
Administrative Claim filed with Department of Insurance (1999)
Opposing Counsel: Doug Laird

Represented Plaintiff, a cancer patient, in claim under Missouri statute allowing filing of a Complaint against HMOs after insurer's internal grievance procedure results in denial of coverage. Successfully settled for Plaintiff.

- (xviii) The Chandni Corporation v. R.N.E. Corporation
Case No. 01CV200708
Circuit Court of Jackson County, Missouri
Honorable Jon R. Gray
Opposing Counsel: Dennis Muller

Represented Plaintiff, The Chandni Corporation, who was the tenant under a commercial lease involving hotel property. Successfully settled case for Plaintiff after protracted litigation.

- (xix) Spectrum Resource Development, LLC v. Children's Choice Missouri Corporation and Children's Choice Learning Centers, Inc.
Case No. 01-CV-219626
Honorable Jon R. Gray
Opposing Counsel: Paul Sinclair

Represented Defendants in complex commercial dispute involving joint venture to construct and operate a daycare facility in a casino. Negotiated favorable settlement on eve of trial.

- (xx) Building Erection Services Company, Inc. v. The Bratton Corporation, et al.
Case No. 04-CV-07121
District Court of Johnson County, Kansas
Honorable Gerald T. Elliott
Opposing Counsel: Jennifer Hannah; Scott Beeler

Represented Defendant The Bratton Corporation in suit alleging multi-million dollars in damage due to Defendant's alleged tortious interference with Plaintiff's contract and/or business expectancy involving a contract for the installation of glass in connection with the KCI Airport remodeling project. Received judgment for Defendant after five day trial to the Court.

- (xxi) Elaine Kaifes, et al. v. Ed Davenport, et al.
Case No. 04-CV-209418
Honorable Michael W. Manners
Opposing Counsel: Jeffrey Bay; Derek Moorhead

Represented Plaintiff who alleged fraudulent misrepresentation by Defendant Sellers in the sale of a movie rental business to Plaintiff. Negotiated favorable settlement on eve of trial.

(xxii) Prairie Township Fire Protection District v. City of Blue Springs, Missouri

Case No. 0616-CV16493

Circuit Court of Jackson County, Missouri

Honorable Michael W. Manners

Opposing Counsel: Bob McDonald

Represented Plaintiff Prairie Township Fire Protection District and secured Preliminary Injunction prohibiting City of Blue Springs, Missouri from interfering with Prairie Township's provision of emergency ambulance services within its fire protection district boundaries following the City's annexation of a portion of the fire district's territory. Shortly thereafter, the parties agreed to a stipulated Permanent Injunction.

(xxiii) Charles Watson v. Bratton Corporation

Case No. 0716-CV05476

Circuit Court of Jackson County, Missouri

Honorable Jay A. Daugherty

Opposing Counsel: Pro se litigant

Represented Defendant The Bratton Corporation in an employment discrimination lawsuit where Plaintiff claimed he was discharged due to his race. Court entered judgment for Defendant The Bratton Corporation at the close of Plaintiff's case.

(xxiv) First Community Bank v. Bank of Belton, et al.

Case No. 06CA-CV01986

Circuit Court of Cass County, Missouri

Honorable Jacqueline A. Cook

Opposing Counsel: Joseph S. Gall; David R. Nachman;
Meryl L. Lange

Represented Plaintiff First Community Bank in a complex dispute involving the priority of deeds of trust. Defendant Bank of Belton mistakenly released a deed of trust on residential property, then attempted to unilaterally reinstate the released deed of trust. First Community Bank extended a

new loan secured by the same residential property which had since been sold. First Community Bank sought a declaratory judgment that Bank of Belton did not hold a valid deed of trust on the property and that Bank of Belton could not equitably reform its mistakenly filed deed of release because First Community Bank was a bona fide purchaser. Trial court entered summary judgment for First Community Bank.

- c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, please describe the nature and extent of your judicial responsibilities, including the dates you have served as a judge at each level, the types of dockets you have handled, and any special expertise you have developed that you believe is relevant to your qualifications for the position for which you are applying.

N/A

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

Assisted in development of the Fundamentals of Trial Advocacy Program at UMKC School of Law (now known as Trial Advocacy I) 1984

Adjunct Professor at UMKC School of Law for Fundamentals of Trial Advocacy Program 1984 - Present

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

Missouri Bar Association	1984 - Present
• Law School Committee	1994 - 1997
• Annual Meeting Planning Committee	1999
• Committee to Review Specialization	2000 - 2001
• Committee to Review the Independence of the Judiciary	2005
• Professionalism Committee	2008 - Present

Kansas Bar Association	1987 - 2001
Kansas City Metropolitan Bar Foundation	1994 - Present
<ul style="list-style-type: none"> • President • Vice President • Board Member • Planned and implemented the inaugural Liberty and Justice Gala, a significant fundraiser for the Foundation 	2002 - 2004 2000 - 2001 1991 - 2006 2003
Kansas City Metropolitan Bar Association	1984 - 2001
<ul style="list-style-type: none"> • President • President-Elect • Treasurer • Member at Large • Bar Legal Advisor • President of Young Lawyers Section • Executive Committee of Young Lawyers Section • Minority Clerkship Program Steering Committee • Voice of Justice Program Steering Committee • Bench/Bar Committee • Long Range Planning Committee • Technology Task Force • Elwood Thomas Appellate Workshop Steering Committee • Served on Nominating Committee for Michael Coburn Community Service Award presented by Legal Aid for the Western District of Missouri • Jackson County Circuit Court Advisory Committee • Strategic Vision Committee 	1999 1998 1997 1994 - 1996 1993 1990 1986 - 1991 1989 - 1990 1994 - 1995 1992 - 2001 1995 - 2001 1999 1999 1999 2001 - 2003 2005 - Present
American Bar Association	1984 - 2001
Missouri Association of Trial Attorneys	1989 - 2003
Association of Women Lawyers	1995 - Present
<ul style="list-style-type: none"> • Participation in Pilot Mentoring Program known as AWL Connections 	2009

University of Missouri at Kansas City Law Alumni Association

- President 2000 - 2001
- Vice President 1999 - 2000
- Board Member 1997 - Present

Interest on Lawyers' Trust Account Foundation (IOLTA)

- President 1994
- Treasurer 1993
- Board Member 1991 - 1995

Missouri Supreme Court Ad Hoc Committee to Study Methods of Conducting and Grading Bar Examinations 1996 - 1998

- Wrote Committee's majority report for submission to Supreme Court

Missouri Institute for Justice

- President 2002 - 2003
- Board Member 2000 - Present

13. List any professional articles or books authored by you that have been published or any special recognition or award of a professional nature you have received.

“Putting a Halt to Judicial Limitations on Civil RICO” 52 *UMKC Law Review* 56 1983 - 1984.

“Admission on Motion in the Era of Multi-jurisdictional Practice: Missouri’s Experience with ‘Lawful Practice’ vs. ‘Practice Where Admitted’ as Fulfilling the ‘Active Practice’ Requirement” *The Bar Examiner*, Vol. 75, No. 3 (August 2006)

Recipient of Kansas City Metropolitan Bar Association’s 9th Annual President’s Award 1995

William Jewell College Law Society Alumni Award Recipient 2000

Recipient of the University of Missouri Kansas City Law Alumni Achievement Award	2004
Recipient of Kansas City Metropolitan Bar Foundation's President's Award	2004
Recipient of Missouri Bar Association President's Award	2005
Recipient of University of Missouri at Kansas City School of Law/Law Alumni Association Practitioner of the Year Award	2005
Recipient of the Rotary Club of Lee's Summit Service Above Self Award	2006
Kansas City Business Journal "Best of the Bar" Recognition	2003, 2005, 2006, 2007, 2008
Kansas/Missouri "Super-Lawyer" Recognition	2006, 2007, 2008

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

Committee Chair – Pack 93 Cub Scouts Cornerstone Baptist Church – Lee's Summit, Missouri	1996 - 2000
<ul style="list-style-type: none"> Organized and implemented numerous cub scout programs and activities, including annual food drive, Adopt-A-Family campaigns, Pinewood Derby and Blue and Gold Banquet. 	
Lee's Summit North Music Parents	2000 - 2007
<ul style="list-style-type: none"> President Treasurer 	2005 - 2007 2002 - 2005
Southeastern Jackson County Citizens Association	
<ul style="list-style-type: none"> Secretary 	2002-Present

Chairperson – Building Our Future No Tax Increase	2005 - 2006
School Bond Campaign for the Lee’s Summit R-7 School District	2007 - 2008

Lee’s Summit Educational Foundation	
• Voting Board Member	2008-Present
• Advisory Board Member	2006 - 2008

Citizen Member - Audit Committee for the Lee’s Summit R-7 School District	2007-Present
---	--------------

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

Yes.

Industrial Development Authority – City of Lee’s Summit (Appointed by Mayor)	1992 - 1998
---	-------------

Missouri Board of Law Examiners (Appointed by Missouri Supreme Court)	2001-Present
--	--------------

Member of the Sixteenth Judicial Circuit Nominating Commission (Elected by Attorneys)	2004-Present
--	--------------

16. Provide the branches and dates of (a) military service or (b) other public service not otherwise disclosed in this application. If discharged from the military, state whether the discharge was other than honorable.

N/A

17. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of being an appellate judge, including participating in oral argument; performing legal research; communicating clearly and effectively, both orally and in writing; supervising the lower courts, serving on court committees and performing other administrative functions; and expeditiously deciding issues coming before the court.

Yes

18. Were you ever refused admission to the bar of Missouri or the bar of another state or the federal courts? If yes, provide details.

No

19. Have you ever been disciplined, admonished or cited for breach of ethics or professional conduct by the Supreme Court of Missouri or by any court or bar association or committee thereof? If yes, provide details.

No

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

a) Whether an order of discipline ever has been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct. If yes, provide details.

N/A

b) Whether a reprimand or admonition ever has been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Supreme Court Rule 12.07. If yes, provide details.

N/A

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

No

22. Have you ever been sued by a client or been a party to any other litigation, other than as guardian ad litem, plaintiff ad litem, or defendant ad litem?

If your answer is yes, state the style of the case, where it was filed, and explain in detail. If you are a judge and you have been sued in your judicial capacity, list only those cases where you are or were other than a nominal party.

I have never been sued by a client. I have not been a party to or personally

involved in any other litigation, other than my divorce proceedings.

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

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

No

24. Are you delinquent in the payment of any federal, state, county or city taxes? If yes, provide details.

No

25. You must attach to this application at least one, but not more than three, writing samples that comply with the requirements set out in the instructions for applicants.

Attached

26. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above that demonstrates the quality of your work as an attorney or that you otherwise believe is relevant to the commission's decision.

I am the product of a hard working, blue collar family. I have never forgotten my roots. I appreciate all I have been provided and all I have been blessed to achieve. As such, I view my license to practice law as a mechanism by which a burden can be lifted for those who require assistance. It is not uncommon for me to devote 100 or more pro bono hours a year to clients who need a bit of advice or guidance, or who simply need a break. My professional satisfaction has always been measured by an expression of gratitude, or by the relief evidenced on a client's face when a problem has been solved. Though the professional path I have taken has not been the common one pursued by a law student with my academic background, my career choices have been carefully made, and are indicative of my core values, and of my commitment to service over self. I would be honored and humbled to be afforded the opportunity to continue to serve my profession and the citizens of the State of Missouri as a member of the Missouri Court of Appeals.

Please list the names of *five* persons whom you will ask to provide letters of reference for you with respect to your judicial qualifications. Do **not** list as a reference a judge of the court involved. As to each of the (5) references, **please provide name, title, mailing address, telephone and e-mail address. Please note that it is your responsibility to contact your references**, although if you intend to use as a reference a federal judge or other individual who only can provide a reference upon a specific request by the interviewing authority, please advise the commission and it will send that reference such a request. As to all references, it is your responsibility to see that they send the requested letters in a timely manner.

Provide your references with the attached Guidelines for References. The commission must receive your letters of reference, **via e-mail**, to judgevacancy@courts.mo.gov, by the date indicated in the Instructions to Applicants.

1)

Thomas B. Weaver
Attorney
ARMSTRONG TEASDALE, LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740

Telephone Number: (314) 621-5070
Facsimile Number: (314) 621-5065
E-Mail Address: tweaver@armstrongteasdale.com

2)

John S. Johnston
Attorney
SHOOK HARDY & BACON
2555 Grand Boulevard
Kansas City, Missouri 64108-2613

Telephone Number: (816) 474-6550
Facsimile Number: (816) 421-4066
E-Mail Address: jjohnston@shb.com

3)

Jennifer Gille Bacon
Attorney
POLSINELLI SHUGHART, P.C.
120 West 12th Street
Twelve Wyandotte Plaza
Kansas City, Missouri 64105

Telephone Number: (816) 374-0573
Facsimile Number: (816) 817-0095
E-Mail Address: jbacon@stklaw.com

4)

J. Dale Youngs
Attorney
HUSCH BLACKWELL SANDERS, LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112

Telephone Number: (816) 983-8260
Facsimile Number: (816) 983-8080
E-Mail Address: dale.youngs@huschblackwell.com

5)

Becky Moyer
Owner/Agent
MOYER & MOYER INSURANCE AGENCY, INC.
220 NE Tudor Road
Lee's Summit, Missouri 64086

Telephone Number: (816) 525-0765
Facsimile Number: (816) 525-0866
E-Mail Address: becky@moyerinsuranceagency.com