

**APPLICATION OF KAREN KING MITCHELL 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 NOMINATED FOR ANY OF THESE THREE VACANCIES***

1. Present principal occupation or title:
Director of the Missouri Department of Revenue
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? 50

(b) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri? 32
4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail.

October 1984. My license is in good standing.
5. List any other states, courts, or agencies in which you are licensed as an attorney
 - U.S. Supreme Court
 - U.S. Court of Appeals for the Eighth Circuit
 - U.S. District Court for the Western District of Missouri
 - U.S. District Court for the Eastern District of Missouri
6. (a) State the name and address of all colleges and universities attended, other than law school, together with the dates and degrees received.

University of Missouri – Columbia
230 Jesse Hall
Columbia, Missouri 65211
August 1977 – May 1981
Bachelor of Arts, Political Science

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

- Phi Beta Kappa, member
Selection based on academic achievement, with particular emphasis on performance in liberal arts courses;
- Mortar Board, member
National honor society that recognizes college seniors for scholarship, leadership and service;
- University Scholars, scholarship recipient, three years
Awarded each semester to the top 5% of undergraduate students based on cumulative grade point average;
- Missouri Students' Association, Director of City Affairs;
- University Orchestra, cellist.

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

University of Missouri – Kansas City School of Law
5100 Rockhill Road
Kansas City, Missouri 64110
August 1981 - May 1984
Juris Doctor

Exeter University, England
Summer law program in international business and trade, 1983
Offered through the William & Mary School of Law
P.O. Box 8795
Williamsburg, Virginia 23187

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

Law Review, member
The Urban Lawyer, staff writer
Women's Law Caucus

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) Significant non-law-related employment

None

(b) All employment from the beginning of law school to the present

January 1983 – May 1984

Richard J. Koury II, Attorney
315 West Kansas Avenue
Independence, MO 64050
Law Clerk

June 1984 – July 1985

Judge Fernando J. Gaitan, Jr.,
Missouri Circuit Court,
Sixteenth Judicial Circuit,
415 East 12th Street
Kansas City, MO 64106
Law Clerk

August 1985 – July 1986

Judge Charles B. Blackmar
Supreme Court of Missouri
207 West High Street
Jefferson City, MO 65101
Law Clerk

July 1986 – April 1987

U.S. Department of Health
and Human Services
601 East 12th Street
Kansas City, MO 64106
Assistant Regional Counsel

May 1987 – January 2009

Mo. Attorney General's Office
Supreme Court Building
207 West High Street
Jefferson City, MO 65101
Assistant Attorney General

January 2009 - Present

Department of Revenue
Truman State Office Building
307 West High Street
Jefferson City, MO 65101
Department Director

My legal career spans nearly 25 years. Since graduating from law school, all of my experience has been in the public sector. The vast majority of that time was spent at the Missouri Attorney General's Office, where I acquired a wide variety of experience. I litigated bench and jury trials in state and federal courts, in addition to actions before administrative tribunals. I handled more than 120 appeals (both civil and criminal), including cases before the Supreme Court of Missouri, all three districts of the Missouri Court of Appeals, the U.S. Court of Appeals for the Eighth Circuit and the U.S. Supreme Court. During the 21 years I served as an assistant attorney general, I worked at every level of the office, beginning as a line lawyer and working my way up to Chief Deputy Attorney General, the senior appointed legal officer for the State.

I spent the first two years of my legal career clerking for a circuit court trial judge and a judge of the Supreme Court of Missouri. First, I clerked for Judge

Fernando J. Gaitan, Jr., at the Missouri Circuit Court, Sixteenth Judicial Circuit. There I had the opportunity to review motions, assist with the preparation of orders and findings of fact and conclusions of law, attend pre-trial conferences, observe trials, and interact with juries. I then clerked for Judge Charles B. Blackmar at the Supreme Court of Missouri, where my duties included research and writing, reviewing briefs, evaluating applications for transfer and requests for extraordinary writs, and assisting the judge in preparing for oral arguments. I also observed numerous arguments. Both of these clerkships were excellent learning experiences.

Following these clerkships, I spent nearly a year in the regional counsel's office for the U.S. Department of Health and Human Services in Kansas City, handling Social Security disability litigation. Although I conducted discovery, negotiated settlements, and continued to do extensive research and writing, I did not have the opportunity to litigate in the courtroom. Therefore, in 1987, I joined the Missouri Attorney General's Office.

During my early years as an assistant attorney general, I took advantage of an office policy allowing attorneys annually to seek a change of division. In my first four years in the office, I served in three different divisions. I handled civil and criminal appeals in both state and federal courts, federal jury and state bench trials and administrative hearings.

I began in the criminal division, where I handled approximately 80 felony appeals and all extraditions and detainers for the State. I then moved to the governmental affairs division, where I served as general counsel to various boards and commissions that license professionals and, in addition, handled those entities' litigation before the Administrative Hearing Commission. Then I transferred to the litigation division, where I litigated cases in state and federal court. I routinely carried a large caseload, in excess of 50 cases at a time. Although most cases were resolved before trial, I had the opportunity to litigate federal jury and state bench trials and state and federal appeals.

Next, I returned to the governmental affairs division in a leadership role, first as the head of a unit of 10 attorneys providing general counsel and litigation services to the Department of Mental Health and then as chief counsel, leading what was then the largest division in the office (42 attorneys, plus paralegals and administrative assistants). In total, I served in these capacities for approximately five years. While part of my role was to assist less experienced attorneys by reviewing pleadings and helping them prepare for, and second-chairing, hearings and trials, I also had my own clients and caseload.

The work was extremely diverse. I acted as counsel to the Department of Mental Health, the Office of Administration (which handles most purchasing and contracts for the State), the Governor's Office, the Office of the Secretary of State, and the Missouri Health Facilities Review Committee (which issues a certificate before any major health facility or nursing home can be built or expanded). During this time in the governmental affairs division, I also acted as lead counsel in a variety of state and federal trial level cases and appeals, including a number of cases involving election and ballot issues and cases challenging the constitutionality of statutes.

In 1996, I became the Chief Appellate Counsel (later renamed State Solicitor) and served in this capacity for approximately three years. During that time, I supervised all civil appellate litigation handled by the office. My responsibilities included reviewing all briefs and participating in moot courts to ensure consistent, high-quality legal work product before state and federal appellate courts. I also made strategic decisions as to whether to appeal cases or file amicus briefs in state appellate courts and the U.S. Court of Appeals for the Eighth Circuit, and assisted the Attorney General in deciding whether to seek certiorari or file or join amicus briefs filed by other states in the U.S. Supreme Court. During these years, I personally handled approximately 20 appeals (half of those in the Supreme Court of Missouri) and continued to litigate election, ballot title, and constitutional issues at the trial court level.

In 1999, I was asked to become the Chief Deputy Attorney General. I served in that position until January 2009. In that role I was responsible for supervising all of the traditional legal work of the office, including the litigation of criminal and civil matters, whether in state or federal courts or before administrative tribunals, and the preparation of attorney general opinions.

The chief counsels (who lead the office's various divisions), the senior special litigation attorneys, and the State Solicitor reported directly to me. I worked with them on developing strategies for handling legal matters. When the State was a plaintiff in state or federal court I often reviewed and approved the pleadings before they were filed. In the same way, I reviewed proposed criminal charges before filing. In other words, it was my role to help define and shape the office's strategy when the State initiated litigation.

Similarly, I approved the voluntary resolution of cases handled by the office. I reviewed and approved plea bargains offered in criminal prosecutions. I also approved settlements in civil cases (with the exception of administrative licensing and workers' compensation cases). My role in the settlement of monetary claims against the State was particularly significant. The State is self-insured through the Legal Expense Fund (LEF). By statute, the Attorney General must approve all payments out of the fund. During my tenure as chief deputy, the Attorney General delegated this duty to me. This meant that for the past 10 years, no case was settled using LEF funds without my approval.

I worked closely with litigation counsel in preparing for mediation and other settlement negotiations. I also collaborated with the state risk management office and was responsible for determining when outside counsel was needed, and retaining and supervising those attorneys.

In addition, I was often directly involved in negotiating the settlement of large or complex cases that did not involve the LEF, including:

- I was one of the leaders of a multi-state team that settled a consumer action brought against Publisher's Clearing House (PCH) for deceptive advertising. In settling the case, PCH paid \$34 million in restitution and

agreed to change its business practices in a way that made it much less likely that consumers (particularly the elderly) would be deceived about their odds of winning or believe that they had to purchase products to participate in the company's sweepstakes;

- I led a team that settled hundreds of consolidated cases filed by Missouri inmates, alleging mistreatment in out-of-state private contract facilities; and
- I settled, for \$500,000, a claim against IKON Office Solutions, Inc. based on the company's failure to comply with an agreement to create jobs in Missouri in return for a state community development block grant.

In addition, while chief deputy, I continued to litigate cases, primarily large policy matters involving bench trials and appeals, and I handled other special legal projects. For example, I litigated *Missouri Merchants and Manufacturers Ass'n v. State* (an appeal of a taxpayers' class action claiming approximately \$500 million in additional refunds because of an alleged failure to include certain funds in calculating the constitutional revenue cap established by the Hancock Amendment to the Missouri Constitution) and *State ex rel. Nixon v. Childers* (State claimed that a contract to allow the conversion of a railroad corridor to use for the MKT Trail gave the State a property interest in the Boonville River Bridge that prevented the railroad from removing the structure). I also argued before the U.S. Supreme Court the case of *Missouri v. Seibert* (murder case addressing whether a police officer's intentional decision not to give *Miranda* warnings before initiating questioning rendered a subsequent warned statement inadmissible). (Citations for and a lengthier summary of these cases is provided in attachment 1.)

Finally, as the Chief Deputy Attorney General I remained the principal point of contact for advice for the Governor's Office, Secretary of State's Office, Supreme Court of Missouri, Court of Appeals, Circuit Courts and Office of State Courts Administrator. I also worked with the legislature, providing advice to help avoid constitutional challenges (both procedural and substantive) to legislation.

In January 2009, the Governor appointed me to his cabinet. As Director of the Department of Revenue, I oversee approximately 1,400 employees, including

attorneys, auditors, investigators and other staff. Immediately upon taking office I was tasked with organizing the competitive bidding of 183 local fee offices, thus abolishing a long-established patronage system. This included overseeing the preparation of a request for proposal and establishing guidelines for evaluating and awarding contracts. The Department of Revenue has one of the largest legal divisions of any department in state government. I have also created a new group of lawyers that will work with the department's criminal investigative bureau and auditors to develop new collection methods.

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.

Not applicable

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

Over the last 21 years I have acquired significant litigation experience, gained primarily through acting as sole or lead attorney in many cases, including cases of wide-ranging public importance. Although I have always represented the government, I have handled a broad variety of civil and criminal litigation at all levels of the state and federal courts, and before administrative tribunals.

I have handled approximately 120 appeals and writs, including more than 90 cases before the Missouri Court of Appeals (of which I argued approximately half), 20 cases before the Supreme Court of Missouri (of which I argued all but two), 8 cases before the U.S. Court of Appeals for the Eighth Circuit (of which I argued at least half) and one case before the U.S. Supreme Court. I briefed, alone or with others attorneys, all but a handful of these cases.

I also handled numerous cases in state and federal trial level courts (principally the Cole County Circuit Court and U.S. District Courts) and cases

before administrative tribunals (principally the Administrative Hearing Commission). Although many of these cases were resolved without a trial (through motions or settlement) I have litigated six jury trials and numerous bench-trying cases.

The sampling of cases set out in Attachments 1 and 2 reflects the broad and varied nature of my practice over the last 20-plus years. The quality of my legal work is reflected by the escalating importance and complexity of the matters I have handled as my career has progressed.

- 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.

A representative sampling of cases I have litigated in state and federal appellate courts is provided in Attachment 1.

- 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.

A representative sampling of cases I have handled in state and federal trial courts and before administrative tribunals is provided in Attachment 2.

- 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.

Not applicable

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).

Although I have spent the majority of my career in leadership roles, on average no more than 5 percent of my time has been spent on administrative tasks (e.g., hiring and training of attorneys and budget matters). The vast majority of my time has been spent either personally handling litigation and other legal duties, providing legal advice, or working directly with other attorneys in developing and implementing strategies for handling litigation and other legal duties.

Through my work with the National Association of Attorneys General (NAAG), I helped to develop policies and handled projects with regional and national implications. For example, I was one of four chief deputies who drafted a “Best Practices Protocol” to be used in multi-state consumer litigation by the offices of attorneys general, and I co-chaired a Midwestern multi-state working group that researched and prepared a report on the causes of natural gas price increases in 2005 (see additional discussion of NAAG activities below).

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

In 2008, I was elected to fill one of three newly created positions on the Board of Governors for the Missouri Bar. Since becoming a member of the Board I have been appointed the liaison to the Missouri Bar’s Government Practice Committee, where I am working to develop educational programming for government lawyers and to increase the participation of government attorneys in the Missouri Bar. I was recently appointed to a newly created committee to look at ways to assist attorneys who have lost a job or whose practice has been negatively affected by the economy.

Because my seat on the Board represents attorneys throughout the western district of the State, I have joined several of the larger local bar associations in the region, including:

- Cole County Bar Association;
- Boone County Bar Association;
- Kansas City Metropolitan Bar Association; and
- The Women Lawyers' Association of Mid-Missouri.

In 2007 I became a founding member of the Elwood L. Thomas Inn of Court. The Inn is made up of judges, law professors, and practicing attorneys from Boone and Cole Counties. We seek to improve the skills and professionalism of our members through training and mentoring.

From 1999 to 2008, I was the liaison for the Missouri Attorney General's Office to the National Association of Attorneys General. I assisted that organization in a number of different capacities, including serving as:

- A member of four management review teams assisting newly elected attorneys general as they transitioned into office, 1999–2007;
- One of three chief deputies from around the country who helped to train newly elected attorneys general and incoming chief deputies, December 2006 and January 2007; and
- Served on two and chaired one planning committee for the annual chief deputies meeting, 2003-2006.

Based on my work with the NAAG, I received the Ray Marvin Award for furthering the goals of the association (see response to question 13).

Early in my career, I was involved in both Missouri Bar and the American Bar Association (ABA) young lawyer activities. I was the elected representative for Boone County on the Young Lawyers' Section Counsel of the Missouri Bar for six years (1989 to 1995). From 1992 to 1993 I served as the Vice-Chair of the Young Lawyers' Division Health Care Law Committee of the ABA and also as a member of the planning board of the Young Lawyers' Division of the ABA Inns of Court Committee.

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.

I have received the following awards in recognition of my legal work:

- **David J. Dixon Appellate Advocacy Award, Missouri Bar Foundation, 1989**
Presented in recognition of achievements in appellate advocacy by a young lawyer; and
- **Ray Marvin Award, National Association of Attorneys General, 2007**
Presented annually to no more than three assistant attorneys general nationally in recognition of outstanding work that furthers the goals of the association.

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

I am presently, or have been in the past, involved in the following community activities:

- **Saint Andrews Lutheran Church, ELCA, Columbia Missouri**, member
Serve as an assistant to the Pastor, host and on the new member outreach committee;
- **Heisinger Bluffs Lutheran Home Auxiliary**, member
Serve on a committee that raises funds to aid residents that would not otherwise be able to afford to live at the facility and operates a store on site;
- **Alpha Phi Social Sorority**, alumna member
Served as scholarship and chapter advisor for chapters at the University of Missouri and the University of Kansas and currently serve as a member of the House Corporation Board at the University of Missouri;
- **Christian Chapel Academy**, volunteer assistant math teacher
Taught weekly enrichment math program for first-grade students; and
- **Jefferson City Symphony Orchestra**, cellist.

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

I have been appointed to the following public offices or positions:

- Director, Missouri Department of Revenue, January 2009- Present; and
- Chief Deputy Attorney General, February 1999-January 2009
(positions discussed in greater detail in response to question 8).

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.

Not applicable

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.

I am able to perform the essential functions of being an appellate judge.

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.

Not applicable

- 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.

Not applicable

21. Have you 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?

I have never been sued by a client or in my personal capacity. As Director

of the Department of Revenue I have been sued in my official capacity.

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 can provide a list of cases naming the Director of Revenue upon request.

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.

- An excerpt from a brief prepared for *Missouri v. Seibert*, 542 U.S. 600 (2004).
- An excerpt from an article, “Three Constitutional Rules of Legislative Procedure: Missouri’s Single Subject, Clear Title and Original Purpose Requirements,” featured in the Missouri Bar’s weekly electronic newsletter, ESQ. (forthcoming February 2009).

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.

In addition to participating in the various professional associations and societies mentioned in response to question 12, I have been appointed by members of the judiciary to several committees, including:

- Missouri Supreme Court Appellate Practice Committee, 2002-present
One of 15 judges and practitioners appointed by the Supreme Court to recommend changes to Missouri’s appellate practice rules;

- Committee to Review Retention of Federal Magistrate, 2000
Appointed by the judges of the United States District Court for the Western District of Missouri to serve on a panel assigned to gather information and make a recommendation as to reappointment of Magistrate William Knox; and
- Judicial Task Force for Gender and Justice, 1990-1993
Appointed by the Missouri Supreme Court and elected as chair of the Criminal and Juvenile Justice Subcommittee.

I have been a presenter at more than 20 continuing legal education and other legal programs, including:

- **“Contempt of Court: A Lesson from Legal History,”** Missouri Bar continuing legal education program, January 2008;
- **“Ethics for Government Lawyers,”** National Association of Attorneys General, annual chief deputies meetings, May 2001, 2003, 2004, 2005;
- **“Constitutional Constraints on Legislative Enactments,”** Harry S Truman School of Public Affairs, University of Missouri, training for newly elected senators, 2004;
- **“Preparing to Argue before the U.S. Supreme Court,”** National Association of Attorneys General, annual chief deputies meeting, May 2004;
- **“Appellate Issues from the Practitioner’s Prospective,”** The Missouri Judicial College, 2002;
- **“Avoiding Sexual Harassment in the Workplace,”** Training for all assistant attorneys general and departmental general counsel, 2001;
- **“Sunshine Law Update,”** Missouri Press Association annual meeting, 2000;
- **“Procedural Requirements for Legislative Enactments,”** Presentation to Senate and House leadership regarding recent decisions addressing procedural requirements for passage of a bill, spring 1997 and summer 2003;
- **“Appellate Practice,”** Planned and presented a two-day training program for new assistant attorneys general, involving classroom style presentations on brief writing, participating in and moderating panel discussions, judging moot court arguments and conducting post argument video reviews, 1997, 1998, 1999;
- **“How to Avoid Sexual Harassment Claims,”** Ethics and Government for Elected Officials Conference, 1995;
- **“Bidding and Purchasing for Public Offices,”** Ethics and Government for Elected Officials Conference, 1994; and

- **“Appellate Practice and Civil Procedure,”** Missouri Bar continuing legal education program, June 1990, 1991, 1992.

In addition, I served as an adjunct instructor of research and writing at the University of Missouri – Kansas City School of Law (1986).

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.

The Honorable Duane Benton
U.S. Court of Appeals, 8th Circuit
400 East 9th Street, Room 1020
Kansas City, MO 64106
816-512-5815
Duane_benton@CA8.uscourts.gov

Don Downing
Partner
Gray, Ritter & Graham, P.C.
701 Market Street, Suite 800
St. Louis, MO 63101
314-241-5620
ddowning@grgpc.com

The Honorable Fernando Gaitan
U.S. District Court, Western District
400 East 9th Street, Room 7552
Kansas City, MO 64106
816-512-5630
Fernando.gaitan@mow.uscourts.gov

Dale Doerhoff
Partner
Cook, Vetter, Doerhoff &
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573-635-7977
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Charles Hatfield
Partner
Stinson, Morrison, Hecker LLP
230 West McCarty Street
Jefferson City, MO 65101
563-636-6827
chatfield@stinsonmoheck.com

Judges Benton and Gaitan have agreed to provide references on my behalf. I respectfully ask that the Commission request a reference from each of them.

APPELLATE EXPERIENCE

CIVIL APPEALS

Throughout my career I have handled more than 35 civil appeals before the Supreme Court of Missouri, Missouri Court of Appeals and the U.S. Court of Appeals for the Eighth Circuit. These cases have addressed a wide variety of substantive legal issues. In addition, I served as the State Solicitor for three years, supervising all civil appellate litigation handled by the Missouri Attorney General's Office. Below is a sampling of the appellate cases I have litigated.

Health and Insurance Law

- ***Blue Cross Blue Shield of Missouri v. Angoff, et al.***, Missouri Court of Appeals, Western District, 1998 WL 435697 (Mo. App. W.D. 1998) (unpublished opinion). Don Downing and David Everson (opposing counsel)
The Attorney General filed a claim to dissolve the nonprofit health care services corporation on the ground that by creating a for-profit subsidiary it exceeded its purposes, as set out in its articles of incorporation and by statute, and thus the act was "ultra vires." I worked with trial counsel to develop the record for appeal and to prepare the appellate brief. I argued successfully on appeal that the insurance company was prohibited from converting not-for-profit assets to for-profit use. The Court rejected the company's claims that the Attorney General's action was really a delinquency proceeding over which the Court had no jurisdiction and that the State was equitably estopped from bringing its claim. The case was later transferred to the Supreme Court of Missouri, where I assisted with preparation of the substitute brief. This case resulted in the creation of a large nonprofit health care foundation.
- ***SSM Healthcare v. Missouri Health Facilities Review Committee***, Supreme Court of Missouri, 894 S.W.2d 674 (Mo. banc 1995). David Harris and Charles Seigel (opposing counsel)
A hospital challenged the committee's denial of a certificate of need for the operation of an outpatient radiation therapy service. At issue was whether the equipment purchased met capital expenditure minimums and whether the operation of the service in a commercial office building in close proximity to the hospital was "in" the hospital so as to be subject to the certificate of need law. I briefed and argued the appeal on behalf of the committee. (I also handled the case at the trial level. The case was resolved at trial on joint stipulation and written memorandum. Cole County Circuit Court, Case No. CV191-0396CC).

State and Federal Constitutional Claims

I handled numerous state and federal constitutional challenges to state legislation and actions, including:

- ***Missouri Merchants and Manufacturers Association, et al., v. State, et al.***, Supreme Court of Missouri, 42 S.W.2d 628 (Mo. banc 2001).
James Owen, James Deutsch, and Marc Ellinger (opposing counsel)
This taxpayer class action challenged the calculation of income tax refunds under the Hancock Amendment to the Missouri Constitution. At issue was whether the State violated article X, section 18 by excluding voter-approved taxes and tax credits from the definition of “total state revenues” subject to Hancock Amendment refunds. Appellants sought approximately \$500 million in additional refunds. I worked with the trial counsel to develop the record for appeal and to prepare the appellate brief. I argued the appeal on behalf of the State and the Governor.
- ***Planned Parenthood of Mid-Missouri and Eastern Kansas v. State, et al.***, U.S. Court of Appeals, Eighth Circuit, 176 F.3d 458 (8th Cir. 1999).
Arthur Benson and Rodger Evans (New York) (opposing counsel)
Appellant challenged the constitutionality of a statute limiting funding for health care services, claiming numerous constitutional violations, including that the statute was unconstitutionally vague and violated the equal protection clause. Also at issue was whether, if found unconstitutional, the offending provisions should be severed and the remainder of the appropriations bill remain intact. I briefed and argued the appeal on behalf of the State and the Director of the Department of Health (Maureen Dempsey, M.D). (I also handled the case at the trial court level. U.S. District Court, Western District, Case No. 99-4145-CV-C-5).

Employment Law

- ***Synder v. Department of Elementary and Secondary Education***, Missouri Court of Appeals, Western District, 952 S.W.2d 764 (Mo. App. W.D. 1997).
Lori Levine (opposing counsel)
I argued the department’s appeal of a trial court’s judgment overturning the termination of a nonmerit employee. At issue was whether the employee had a property right in his employment that entitled him to judicial review of the Commissioner of Education’s decision to terminate, whether competent and substantial evidence supported the decision, and whether certain evidence of prior improper behavior was barred from consideration by the doctrine of res judicata.

Property Law

- ***State ex rel. Nixon v. Childers***, Missouri Court of Appeals, Western District, 243 S.W.3d 403 (Mo. App. W.D. 2007).
J. Kent Lowry and Mary Bonacorsi (opposing counsel)
The Missouri Department of Natural Resources contracted with a railroad to use a rail corridor to develop the MKT Trail. The Attorney General appealed the trial court's finding that the State had no property interest in a railroad bridge crossing the Missouri River, which was part of the rail corridor, and the respondent cross appealed the court's denial of a motion to disqualify the Attorney General. I briefed portions and argued all of the issues on appeal, including whether the contract, entered into pursuant to the National Trails System Act, 16 U.S.C. section 1247(d) (Rails-to-Trails Act), gave the State a presently existing property right (an easement) to the bridge that would prevent the railroad from removing it. The case involved a number of complex property and contract law and federal regulatory issues. (I also litigated the case at trial. Cole County Circuit Court, Case No. 05AC-CC00673 (2005)).

Administrative Law

- ***Corvera Abatement Technologies, Inc. v. Air Conservation Commission, et al.***, Supreme Court of Missouri, 973 S.W.2d 851 (Mo. banc 1998).
Stephen Jeffery (opposing counsel)
A company challenged the authority of the commission to promulgate regulations concerning asbestos abatement projects. Also at issue was whether the promulgation of the regulations was procedurally defective and whether a statute, allowing for correction of invalidly promulgated rules, was an unconstitutional exercise of executive power. I argued the appeal on behalf of the Air Conservation Commission and the Department of Natural Resources.

Mental Health Law

- ***State v. Revels***, Supreme Court of Missouri, 13 S.W.3d 293 (Mo. banc 2000).
Randall Schlegel, Assistant Public Defender (opposing counsel)
At issue was whether a trial court had properly denied a triple murderer insanity acquittee's petition for unconditional release. I briefed and argued various issues, including whether the trial court had made adequate findings in denying the release, the appropriate standard for evaluating a petition for release (whether the acquittee was likely to have, in the reasonable future, a mental disease or defect rendering him dangerous to himself and others) and whether Revels had met his burden of proof to rebut the presumption of continuing mental illness.

Election Law

I defended ballot language (including ballot summaries, fiscal notes and fiscal note summaries) for initiative petitions proposing constitutional and statutory amendments, including:

- ***Cures without Cloning v. Carnahan***, Missouri Court of Appeals, Western District, 259 S.W.3d 76 (Mo. App. W.D. 2008).

Edward Greim and Randall England (opposing counsel)

At issue was whether the summary statement, prepared for an initiative petition proposing a revision to the Missouri Constitution, fairly and sufficiently described the proposed amendment and, if not, whether the trial court had the authority to totally rewrite the summary. I briefed and argued the Secretary of State's appeal of the trial court's rewrite of the language. On appeal, the Court found that one word in the summary was insufficient and that the trial court could modify the summary to correct that deficiency but was not authorized to rewrite the entire summary, given that the remainder of the summary was acceptable. (I also handled the case at the trial level, where summary judgment was granted after extensive briefing and argument. Cole County Circuit Court, Case No. 07AC-CC00966).

- ***Committee on Legislative Research, et al., v. Mitchell***, Missouri Court of Appeals, Western District, 886 S.W.2d 662 (Mo. App. W.D. 1994).

Louis Green and Kathleen Henry (opposing counsel)

At issue was the sufficiency of a fiscal note summary prepared by the Oversight Division of the Committee on Legislative Research. I briefed the appeal on behalf of the committee and all of its members. The Court reversed the trial court's decision that the fiscal note summary was insufficient and unfair because it did not indicate that the proposed constitutional amendment, concerning campaign finance disclosure, would have no costs. The Court concluded that costs must be addressed only if present. (I also handled the case at the trial level, where it was submitted on stipulated facts and briefs. Cole County Circuit Court, Case No. CV194-1147CC).

Legislative Procedures and Issues

- ***Weinstock v. Holden, et al.***, Supreme Court of Missouri, 995 S.W.2d 411 (Mo. banc 1999).

Louis Basso (opposing counsel)

A retired judge challenged the validity of the General Assembly's rejection of a compensation schedule adopted by the Missouri Citizen's Commission. I briefed and argued the appeal on behalf of the Treasurer and Attorney General. At issue was whether the legislature had followed constitutionally mandated procedures for passage of a resolution and whether the commission's salary schedule had the force and effect of law absent an appropriation by the General Assembly. The Court found that the compensation schedule was valid but that it did not create an enforceable right to increased compensation in the absence of an appropriation.

- ***Thompson v. Committee on Legislative Research***, Supreme Court of Missouri, 932 S.W.2d 392 (Mo. banc 1996).

Simon (Chip) Buckner (opposing counsel)

The appellant challenged a statute charging the committee with the duty to provide the fiscal note summaries for proposed initiative measures. Appellant alleged that the statute violated the state constitutional provision creating the committee, which only authorized it to take actions “advisory” to the General Assembly. I briefed and argued the appeal on behalf of the Committee on Legislative Research and the Secretary of State. (I also handled the case at the trial level. Cole County Circuit Court, Case No. CV196-1317CC).

I also briefed and/or argued multiple challenges to the constitutionality of statutes based on alleged violations of state constitutional requirements that legislation have a single subject and clear title and that the purpose of the legislation not change during passage, including:

- ***Stroh Brewery Co. v. State***, Supreme Court of Missouri, 954 S.W.2d 323 (Mo. banc 1997).

Kent Brown (opposing counsel)

Whether a bill, which as originally introduced added one section relating to the auction of vintage wine but as passed amended and/or added multiple sections regulating the sale of intoxicating beverages, had been so amended during its passage as to change its original purpose.

- ***Missouri Health Care Association v. Attorney General***, Supreme Court of Missouri, 953 S.W.2d 617 (Mo. banc 1997).

Harvey Tettlebaum and Lowell Pearson (opposing counsel)

Whether a bill regulating long-term care facilities, which defined its subject as “the department of social services,” violated the single subject requirement, insofar as it enacted an unlawful trade practices provision, enforceable by the Attorney General. Also at issue was associational standing.

- ***St. Louis Health Care Network v. State, et al.***, Supreme Court of Missouri, 968 S.W.2d 145 (Mo. banc 1998).

David Harris and Jane Eilermann Dueker (opposing counsel)

Whether the bill title “relating to certain incorporated and non-incorporated entities” was sufficiently narrow to satisfy the clear title requirement.

- ***National Solid Waste Management Association, et al. v. Director of the Department of Natural Resources***, Supreme Court of Missouri, 964 S.W.2d 818 (Mo. banc 1998).

Alex Bartlett and Lowell Pearson (opposing counsel)

Whether the bill title “relating to solid waste management” was underinclusive, and thus violated the clear title requirement, because the bill addressed both solid and hazardous waste management. Also at issue was taxpayer standing.

CRIMINAL AND INMATE APPEALS

Felony Criminal Appeals

I spent a year of my career with the Missouri Attorney General's Office working in the criminal division handling felony criminal appeals. Based on my work in the criminal division, I received the David J. Dixon Appellate Advocacy Award from the Missouri Bar Foundation for achievement in appellate advocacy by a young lawyer. After leaving the criminal division I continued to handle criminal appeals periodically. In total, I litigated more than 85 felony criminal appeals, including:

- ***Missouri v. Seibert***, U.S. Supreme Court, 542 U.S. 600 (2004).
Amy Bartholow, Assistant Public Defender (opposing counsel)
At issue was whether an officer's failure to give warnings before initially questioning the murder suspect renders a subsequent warned statement inadmissible. The legal issue focused on whether the subsequent statement was rendered involuntary as a result of taint from the original unwarned statement or whether the subsequent statement was inadmissible under a fruit of the poisonous tree analysis. I briefed and argued the case. It resulted in a plurality opinion holding that the warned statement was inadmissible.
- ***State v. Hutchison***, Supreme Court of Missouri, 957 S.W.2d 757 (Mo. banc 1997).
J. Christopher Spangler (opposing counsel)
I briefed a murder case in which appellant claimed that his conviction was invalid on multiple grounds, including that the trial court erred in admitting testimony regarding appellant's failure to answer questions after he had waived the right to remain silent, allowing testimony in the penalty phase of a witness not endorsed until the first day of trial, and excluding a hearsay statement by a co-defendant that was allegedly a declaration against interest that would tend to exonerate the appellant.
- ***State v. Hornbuckle***, Missouri Court of Appeals, Eastern District, 1988 WL 156120; Supreme Court of Missouri, 769 S.W.2d 89 (Mo. banc 1989).
Daniel Sayle, Assistant Public Defender (opposing counsel)
After the Missouri Court of Appeals reversed robbery, armed criminal action, and kidnapping convictions arising from a carjacking, I obtained transfer to the Supreme Court of Missouri, which affirmed the convictions. The primary issues were whether photo and live line-up identifications were the result of impermissibly suggestive procedures and thus inadmissible. I briefed and argued both appeals.
- ***State v. Lockett***, Missouri Court of Appeals, Eastern District, 165 S.W.3d 199 (Mo. App. E.D. 2005).
Nancy McKerrow, Assistant Public Defender (opposing counsel)
I briefed the appeal of convictions for burglary and stealing a firearm. The primary issues were whether out-of-court statements made to police officers were hearsay or violated the U.S. Supreme Court's ruling in *Crawford v. Washington*,

barring admission of out-of-court testimonial statements, and whether the prosecutor misstated the law of accomplice liability during his closing argument so as to prejudice the appellant.

- ***State v. West***, Missouri Court of Appeals, Eastern District, 766 S.W.2d 103 (Mo. App. E.D. 1989).
Henry Robinson, Assistant Public Defender (opposing counsel)
Appellant challenged a robbery conviction raising a number of issues, including whether the officer had probable cause to arrest or sufficient reasonable suspicion for a legal investigative stop and whether appellant was entitled to a mistrial based on prosecutor's statement, within the hearing of the jury, that he intended to return money seized from defendant to victim (appellant argued the comment reflected the prosecutor's opinion of his guilt). Appellant also challenged the application of a statute, passed after the offense was committed, that required he serve at least 40 percent of his sentence. I briefed and argued the appeal on behalf of the State. The Court affirmed the conviction but found an ex post facto law violation in the application of the sentencing statute. The case was remanded for resentencing.
- ***State v. Wright***, Supreme Court of Missouri, 751 S.W.2d 48 (Mo. banc 1988).
JoAnn Arnold, Assistant Public Defender (opposing counsel)
This appeal of rape and sodomy convictions raised multiple claims of error, including whether the MAI-CR instruction properly defined "reasonable doubt," whether the confrontation clause was violated by admission of child-victim's out-of-court statement and whether the child was a competent witness. I briefed and argued the appeal on behalf of the State.

Habeas Corpus and Other Inmate Appeals

- ***William Seltzer-Bey, et al., v. Missouri Board of Probation and Parole, et al.***, U.S. Court of Appeals, Eighth Circuit, 938 F.2d 184 (unpublished opinion).
J.R. Hobbs (opposing counsel)
Inmates claimed that their due process rights, as guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution, were violated when the board refused to follow certain rules and practices during their parole hearings. The central issue was whether the board had created a liberty interest in parole that would entitle the appellants to due process. Also at issue was appellants' claim that the board improperly relied on a statute that took effect after they were convicted in violation of the ex post facto clause. I briefed and argued the appeal on behalf of the board and its members. (I also handled the case at the trial level. United States District Court, Western District, consolidated cases, #s 85-4182-CV-C-5, 86-4087-CV-C-5, 86-4279-CV-C-5).

- ***Brown v. Schweitzer, et al.***, U.S. Court of Appeals, Eighth Circuit, 915 F.2d 1579 (unpublished opinion).

Appellant claimed that he had been illegally incarcerated in the Missouri Department of Corrections because the plea of guilty he entered in state circuit court was conditioned on him serving his sentence in a federal correctional facility (he was on probation from an earlier federal conviction). I briefed various issues including that the appellant failed to state a claim against the named Missouri corrections officials and that they were immune from suit because of their reliance on the circuit court's order. (I also handled the case at the trial level. United States District Court, Eastern District, Case No. 89-142-C-2).

TRIAL LEVEL EXPERIENCE

STATE AND FEDERAL COURT

Constitutional Claims

- ***Shrink Missouri Government PAC, et al. v. Maupin, et al.***, U.S. District Court, Eastern District of Missouri, 922 F. Supp. 1413 (E.D. Mo. 1996). James Deutsch and Nelson Mitten (opposing counsel)
Plaintiffs, a political action committee and candidates for office, alleged that a state statute prohibiting certain elected officials from accepting campaign contributions during the legislative session violated their First Amendment rights to free speech and free association, and their due process and equal protection rights under the Fourteenth Amendment. The case addressed whether the “strict scrutiny” standard of review applied. I litigated on behalf of the Missouri Ethics Commission and its members a bench trial addressing plaintiffs’ request for a permanent injunction. Testimony and other evidence were presented regarding the effect of the measure on candidates, and the appearance of corruption and other factors considered by the legislature in passing the bill.

- ***Mills, et al. v. Cook, et al.***, Cole County Circuit Court, Case No. CV199-37CC (1999).
Alex Bartlett (opposing counsel)
I defended the Attorney General in a challenge to the authority of the legislature to prepare a title for a proposed statutory referendum and various substantive challenges to the constitutionality of the measure. The case was resolved following hearing, without presentation of evidence.

- ***Sauer, et al. v. Steelman, et al.***, Cole County Circuit Court, Case No. 08AC-CC00517 (2008).
Steve Clark and Edward Martin (opposing counsel)
Plaintiffs requested a temporary restraining order and preliminary and permanent injunction to prevent the expenditure of funds appropriated for life science research, claiming that the expenditures would violate the Constitution and statutory prohibitions on the use of state funds. I defended multiple state officials and entities, including the Secretary of State, Rob Monsees (the Director of the Missouri Technology Corporation) and the Life Science Research Board. The TRO was denied and the case dismissed after several hearings based on motions and evidence presented through affidavits and deposition transcripts.

Election Law

I defended at trial ballot language (including ballot summaries, fiscal notes and fiscal note summaries) for initiative petitions proposing constitutional and statutory amendments, including the following cases:

- ***Missourians Against Human Cloning v. Carnahan***, Cole County Circuit Court, Case No. 05AC-CC01108 (2005).
Kevin Theriot, Ben Bull, and Dorinda Bordlee (opposing counsel)
At issue in this case was the fairness and sufficiency of a ballot summary prepared for an initiative petition proposing a revision to the Missouri Constitution. I represented the Secretary of State in a bench trial involving the presentation and cross-examination of multiple expert witnesses. (I also handled the appeal. Missouri Court of Appeals, Western District, 190 S.W.3d 451 (Mo. App. W.D. 2006)).
- ***Campaign to Reward Work, et al. v. Committee on Legislative Research***, Cole County Circuit Court, Case No. CV196-1264CC (1996).
Arthur Martin (opposing counsel)
Plaintiffs challenged the fairness and sufficiency of a fiscal note and fiscal note summary estimating the cost to governmental entities of a proposed statutory amendment to raise the minimum wage. I defended the committee's summary. The bench-tried case involved the presentation and cross-examination of expert witnesses addressing governmental budgeting and economic assumptions behind the fiscal note and summary.
- ***Hancock v. Moriarty***, Cole County Circuit Court, Case No. CV194-1138CC (1994).
Simon (Chip) Buckner (opposing counsel)
In this case, the plaintiff challenged the fairness and sufficiency of a fiscal note and fiscal note summary for a proposed amendment to the "Hancock" provision of the Missouri Constitution (Hancock II). At trial I defended the Secretary of State and Jeannie Jarrett, the Director of the Oversight Division of the Committee on Legislative Research. The case was submitted on stipulated facts (primarily economic and budgetary evidence regarding the effect of adding certain revenues to the definition of "total state revenues" for purposes of calculating Hancock tax refunds) and decided after hearing.

Civil Rights Claims

I represented employees of the Department of Corrections in a significant number of cases involving inmate civil rights claims. While most were disposed of prior to trial, several cases resulted in jury trials in federal district court, including:

- ***Diehl v. Jones, et al.***, U.S. District Court, Eastern District. Case No. N87-0184C (1990).
Jim Bingley (opposing counsel)
I defended at trial and on appeal various Department of Corrections employees (including Jim Jones, Dick Moore, Jerry Hudson and James Gammon) who were alleged to have violated plaintiff's constitutional rights by denying repeated requests for necessary medical treatment, and access to legal research materials and assistance; and disciplining him in retaliation for his complaints. The jury verdict for the defendants, was affirmed on appeal. (U.S. Court of Appeals, Eighth Circuit, 985 F.2d 568 (8th Cir. 1991) (unpublished opinion)).
- ***Kendall v. Bodine, et al.***, U.S. District Court, Eastern District of Missouri, Case No. 2:87-CV-00164-FRB (1990).
Mark Sableman (opposing counsel)
An inmate who was struck by a vehicle driven by a state employee claimed that the defendant was operating the vehicle in a negligent and reckless manner and that as a result of the accident he sustained back injuries. Plaintiff also named the driver's supervisor, claiming that the driver had a history of recklessness. The case resulted in a verdict for the defendants.

I litigated at trial and on appeal cases involving allegations that correction officials failed to protect inmates from assault.

- ***Foster v. Armontrout, et al.***, U.S. District Court, Western District, Case No. 87-CV-04431 (1990).
Pamela Lambert (opposing counsel)
The case resulted in jury verdict for defendants.
- ***Johnson v. Downing, et al.***, U.S. District Court, Western District, Case No. 88-4020-CV-C-5; U.S. Court of Appeals, Eighth Circuit, 950 F.2d 726 (8th Cir. 1991).
John Quinn (opposing counsel)
A jury verdict for defendants was upheld on appeal.
- ***Jones v. Armontrout, et al.***, U.S. District Court, Western District, Case No. 88-CV-04259 (1991).
David Stratmann (opposing counsel)
The case settled during trial.

Contracts and Bidding

- *Morse Diesel International, Inc., et al. v. Hanson, et al.*, Cole County Circuit Court, Case No. CV195-723CC (1995).

Brian McGovern (opposing counsel)

I defended multiple attempts by failed bidders to obtain a TRO or injunction prohibiting the award of a multimillion-dollar contract to construct five new prison facilities. Plaintiffs voluntarily dismissed all claims after several hearings.

Personal Injury

- *Arelllo, et al. v. St. Joseph State Hospital, et al.*, Buchanan County Circuit Court, Case No. CV391-616CC (1991).

William Mallory (opposing counsel)

A patient was injured when she jumped from a state vehicle during transport. She and her parents claimed that the lack of proper restraints and door locks made the vehicle inappropriate for the transport of mentally ill individuals and constituted a dangerous condition of state property. They also claimed that the driver and other hospital employees were negligent in the operation of the vehicle. I defended the Department of Mental Health, St. Joseph State Hospital and several employees. The case settled after extensive discovery.

Governmental Funding

- *Missouri Highway and Transportation Commission v. Holden*, Cole County Circuit Court, Case No. CV192-1524CC (1996).

Paula Lambrecht (opposing counsel)

The highway commission sought a declaratory judgment that interest earned on various highway funds must be credited to those funds rather than the general revenue fund. I defended the Treasurer. The case settled after extensive discovery.

Criminal and Related Matters

- I handled all extraditions and detainers for the State from 1987–1988, including litigating bench trials when inmates opposed extradition.
- I litigated bench trials involving insanity acquittees' applications for conditional and unconditional release from mental health facilities (1991-1992).

ADMINISTRATIVE PROCEEDINGS

Professional Licensing

I prosecuted disciplinary actions on behalf of various boards and commissions, including:

- ***Missouri Board of Registration for the Healing Arts v. Lagueruela***, Administrative Hearing Commission, Case No. 89-000446HA (1991).
G. Keith Phoenix (opposing counsel)
I brought an action on behalf of the board against a physician who was alleged to have improperly administered drugs to a patient, resulting in the patient's death. After extensive discovery, the parties entered into a joint stipulation of facts and agreed to a consent order resulting in the doctor's license being suspended, followed by a period of probation.
- ***State Board of Embalmers and Funeral Directors v. Johnson***, Administrative Hearing Commission, Case No. EM-88-0581 (1989).
Theodore Kranitz (opposing counsel)
I brought an action on behalf of the board against the operator of several licensed funeral homes in northwest Missouri. The license for one of the homes had expired and the facility was closed. The board alleged, however, that the operator had continued to advertise and provide services at the unlicensed location. After a hearing, the AHC found cause to discipline Johnson's remaining licenses on one of several grounds alleged. The commission certified Johnson to the board for imposition of discipline.