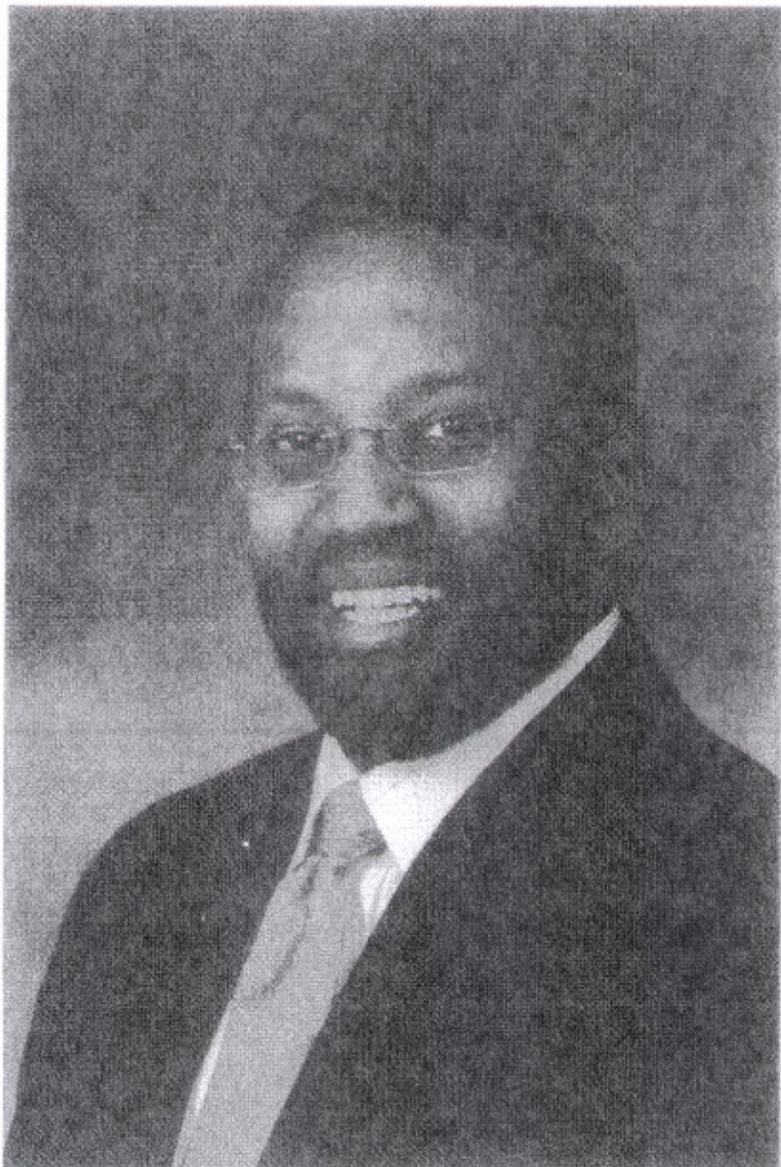


APPLICATION FOR CIRCUIT JUDGE  
16TH CIRCUIT JUDICIAL COMMISSION  
JACKSON COUNTY, MISSOURI (revised May 2008)

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



NAME: Nimrod Chapel, Jr.

1. State your present principal occupation:

**Commissioner**  
**Administrative Hearings Commission**  
**Office of Administration, State of Missouri**

2. Are you at least 30 years of age? **Yes (XX)**
3. (a) How long have you been a citizen of the United States? **38**  
(b) Have you been a resident of Jackson County for at least one year immediately prior to the date of this application? **Yes**  
(c) How long have you been a qualified voter of Missouri? **13 years**
4. Are you licensed to practice law in Missouri? **Yes.**

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

**US Tax Court.**

5. State the date you were admitted to the Bar in Missouri:

**I was admitted to the Missouri Bar on April 26, 1996.**

- (a) Missouri Bar Number **46875**  
(b) Are you currently a member in good standing of the Missouri Bar?

**My license is in good standing.**

(In completing items 6 and 7, please account for all time periods between post-high school education and the date of this application.)

6. State the name and address of all law schools, colleges and universities you have attended, together with the dates and degrees received:

**University of Central Oklahoma (formerly Central State University)  
100 N. University Dr.  
Edmond, OK 73034  
Summer 1987**

**Scholastic Awards:  
Deans Honor Roll**

**United States Coast Guard Academy**  
**31 Mohegan Ave.**  
**New London, CT 06320**  
**May – December 1988**

**Oklahoma State University**  
**107 Whitehurst Hall**  
**Stillwater, OK 74078**  
**Bachelor of Science in Economics: January 1989 - May 1992**

**University Activities, Scholastic Achievements:**

National Association of Student Personal Administrators  
(NASPA) Minority Undergraduate Fellow 1990-1992  
Minority Student Recruiter Scholarship 1990-1992  
Minority Programs and Services Leadership Scholarship 1991-1992  
Academic Fee Waiver Scholarship 1991-1992  
Dean's Honor Roll, Central State University 1987  
NAACP OSU College Chapter President 1990-1992

**University of Oklahoma**  
**Evans Hall, Room 110**  
**660 Parrington Oval**  
**Norman, OK 73019**  
**Winter Intersession 1991**

**Tulane Law School**  
**Weinmann Hall, Suite 204**  
**6329 Freret Street**  
**New Orleans, LA 70118**  
**Juris Doctorate: August 1992 - May 1995**

**Scholastic Awards:**

Juvenile Law Clinic Certificate 1995  
Environmental Law Certificate 1995

**Activities:**

3L Class Vice President, Tulane 1994-1995  
Community Service Co-chair, Tulane Black Law Students Association  
1993-1995

Juvenile Law Clinic Practitioner 1994-1995  
Founder/President, Tulane Native American Law Student Association  
1995  
Tulane Black Law Students Association 1992-1995  
Troop 146 Assistant Scoutmaster, Boy Scouts of America 1994-1995  
Programs for Older Prisoners 1995

**Washington University School of Law**  
**Campus Box 1120**  
**One Brookings Drive**  
**St. Louis, MO 63130-4899**  
**Main Number: (314) 935-6400**  
**Telephone: (314) 935-4525**  
**Fax: (314) 935-8778**

**LL.M. in Taxation: August 1995 - August 1997**

**Activities:**

Washington University School of Law Black Law Students  
Association

**National Judicial College**  
**Judicial College Building/MS 358**  
**Reno, NV 89557**  
**Fair Hearings Course: October 29 –November 8, 2007**

7. State, in chronological order, your entire working career, including non-legal employment, if any. Include the name and address of each firm, corporation, partnership, or governmental body with which you have been associated, and the dates thereof. (Start with earliest date, conclude with present.)

4-C Construction  
3804 Green Oaks Way  
Edmond, OK 74104  
Asbestos Abatement and Construction Company  
Temporary & Seasonal full-time Construction and Abatement Worker  
1984 – 1988

Subway  
203 Knoblock St.  
Stillwater, OK 74074  
Delivery driver and cashier  
1989 – 1990

El Chico Restaurant  
Pioneer Square Center  
611 North Perkins Road  
Stillwater, OK 74074  
Waiter  
1990 – 1991

Hastings Books Music and Video  
316 N. Main St.  
Stillwater, OK 74075  
Customer Service Assistant  
1989 – 1991

All American Construction Co.  
Tulsa, Oklahoma  
Asbestos Abatement and Construction Company  
Assistant Project Manager  
May 1990 - August 1990

Oklahoma State University  
High School & College Relations  
210 Student Union  
Stillwater, OK 74078-0655  
University Student Recruiter  
August 1990 - May 1991

Pepperoni Grill Restaurant  
1901 NW Expressway  
1001 Pen Sq. Mall  
Oklahoma City, OK  
Waiter  
June - July 1991

Olive Garden Restaurant  
Oklahoma City, OK 73118  
Waiter  
May - August 1992

Varsity Sports Bar and Grill  
1140 NW South 63<sup>rd</sup>  
Oklahoma City, OK 73118  
Waiter  
May - August 1992

Portobello Rustic Italian Restaurant  
5418 N. Western  
Oklahoma City, OK 73118  
Waiter  
May - August 1992

**Research Assistant**  
**Career Services, Tulane Law School**  
**6329 Freret St.**  
**New Orleans, LA 70118**  
**Fall 1992 - May 1993**

Researched various legal issues related to student employment as assigned by Dean Robert Clayton.

**Summer Associate**  
**Reginald McKamie, Sr. P.C.**  
**820 Gessner, Suite 1160**  
**Houston, TX**  
**May - July 1993**

Researched maritime, criminal, tort and employment discrimination issues. Drafted a civil appellate brief, civil and criminal discovery, and summarized depositions. Interviewed clients and made recommendations regarding the legal merit and probability of success.

**Judicial Clerk**  
**Missouri Supreme Court**  
**PO Box 150**  
**Jefferson City, MO 65102**  
**July to August 1993 and Winter Break, December to January 1994**

Reviewed writ and transfer applications received by the Supreme Court.

**Summer Associate**  
**Federal Deposit Insurance Corporation**  
**PO Box 802090**  
**Addison, TX 75240**  
**Federal Agency**  
**June to August 1994**

Researched environmental implications of state and federal regulation restricting the sale and use of private property contaminated by leaking underground storage tanks.

**Law School Clinical Program Senior Student Administrator**  
**Tulane Law School Juvenile Law Clinic**  
**6329 Freret St, Suite 130**  
**New Orleans, LA 70118**  
**August 1993 to May 1995**

Coordinated clinical services and the other student clinic workers.

**Head Sales Representative**  
**Barbri**  
**Dallas, TX**  
**August 1994 to May 1995**

Responsible for the sales of bar review materials, the coordination of student workers and the administration of the MPRE preparation course at Tulane.

**Juvenile Law Clinician/Student Attorney**  
**Tulane Juvenile Law Clinic**  
**6329 Freret St, Suite 130**  
**New Orleans, LA 70118**  
**August 1994 to May 1995**

Litigated in juvenile court on behalf of parents and children for provision of services, placement, continuing care, and termination of custody. Appealed and won 192 days of time served for an improperly sentenced juvenile defendant.

**Judicial Executive Assistant/chief-of-staff to**  
**Duane Benton Chief Justice of the Missouri Supreme Court**  
**PO Box 150**  
**Jefferson City, MO 65102**  
**Missouri Supreme Court**  
**June 1995 to July 1998**

Reviewed appellate motions including writ and transfer applications in Missouri's court of last appeal. Performed electronic and traditional legal research, summarized facts and law, and made recommendations for the disposition of cases before and after oral argument. Coordinated and administered the Court calendar. Supervised legal research assistants and judicial clerks. Assisted in the design and implementation of various databases throughout the court system including Missouri Case.net.

**Project Manager**  
**Mid-America Construction**  
**909 Cari Ann**  
**Jefferson City, MO 65109**  
**Construction Company**  
**February 1997 to March 1997**

Supervised the removal of leaking underground storage tanks.

**Litigation Associate**  
**Humphrey, Farrington, McClain & Edgar**  
**221 W. Lexington, Suite 400**  
**Independence, MO 64050**  
**July 1998 to May 2002**

**Functioned as Special Deputy Assistant Attorney General, July-December 1998 in *State of Missouri v. Phillip Morris et. al.*** Researched and drafted pleadings filed on behalf of the State of Missouri, participated in meetings with experts and reviewed key tobacco industry documents, evaluated privilege logs and drafted pleadings.

Represented businesses and individual litigants nationally in complex federal and state litigation including matters related to breach of contract, toxic torts, employment discrimination and defective products. Also, represented many local clients with issues pending before municipal courts. Firm acted as class counsel and lead counsel on several cases involving insurance agents with ERISA claims for damages resulting from their classification as independent contractors rather than employees.

**Trial Attorney**  
**The Sly James Firm**  
**802 Broadway, 7th Floor**  
**Kansas City, Missouri 64105**  
**June 2002 to April 2005**

The Sly James Firm is a personal injury law practice focused on representing people who have been seriously injured by the negligent, reckless, or intentional acts of another. Each case was prepared in line with the firm's philosophy of a team approach and every case goes to trial. I offered capable and sensitive counsel to people who were injured or lost loved ones, as a result of medical malpractice, electric shock, nursing home accidents, defective products and auto accidents. Additionally, I litigated breach of contract and various allegations of discrimination representing both plaintiffs and defendants. I have also litigated cases in Missouri and Kansas in state and federal courts.

**Director of Legal Services Division and General Counsel**  
**Missouri Department of Revenue**  
**Harry S Truman State Office Building**  
**301 West High Street Room 670**  
**Jefferson City, MO 65101**  
**April 2005 to May 2006**

The Missouri Department of Revenue was created in 1945 by the Missouri Constitution to serve as the central collection agency for all state revenue. The primary duties of the Department are to collect taxes, title and register motor vehicles, and license drivers. The Legal Services Division ensures the Department's compliance with law and internal policies, and manages the Department's legislative efforts. I administered the Office of the General Counsel, Governmental Affairs Bureau, Human Resources Service Division, and Criminal Investigation Bureau. The Legal Services Division has eight offices across the state and serves the Department of Revenue by reviewing the Department's legal issues, statutory duties, regulatory enforcement, rule making and proposed legislation. The General Counsel also has oversight responsibility for approximately 23,000 administrative hearings and trials heard in every county of the state.

**General Counsel** advises the director and divisions on legal matters relative to the Department, and represents the Department in courts and administrative tribunals.

**Human Resources** is responsible for personnel matters, training, compliance with employment laws, and for the Department's affirmative action plan and diversity programs.

**Criminal Investigation** develops information, investigates, and works with law enforcement to assist in the local prosecution of individuals or businesses suspected of violating the laws administered by the Department. Further, the Criminal Investigation Bureau is responsible for creating and maintaining a climate for voluntary tax and motor vehicle compliance by investigating complaints and developing information leading to prosecution of individuals violating these state statutes. The Bureau includes operations in six cities including Jefferson City, Cape Girardeau, St. Joseph, St. Louis, Kansas City, and Springfield.

**Governmental Affairs** serves as the Department's liaison to the General Assembly. The office develops fiscal and revenue estimates on proposed legislation and monitors the progress of bills through the legislature.

**Director**

**Missouri Department of Labor and Industrial Relations**

**421 East Dunklin Street**

**PO Box 504**

**Jefferson City, MO 65102-0504**

**May 2006 to September 2007**

The Department consists of approximately 1,100 employees who are dedicated public servants providing quality customer service to the current and emerging businesses and workers of Missouri. The Department has an annual budget of \$145,000,000. The Department is responsible for administering programs that provide a financial safety net for workers to offset the loss of a job because of injury or layoff, regulate wages for public works and construction projects, promote safe and healthy workplaces, mediate and issue resolutions between certain management and labor groups and enforce Missouri's anti-discriminatory statutes in the areas of housing, employment and public accommodation. The mission is to promote economic security, safe and healthy workplaces, as well as protect wage earners and individuals against discrimination by improving working conditions, enforcing labor and anti-discrimination laws and helping those unemployed, injured on the job or victims of crime. I worked closely with three division directors and two commissions to ensure that the Department as a whole advocates for a budget that is sufficient to fund the Department's mission.

I reported directly to the Governor, utilized performance measures to review progress, and provided information regarding legislation, policy, and programmatic administration.

As part of its mission, the Department adjudicates approximately 85,000 administrative and civil cases annually. Those cases often involve significant policy decisions and range from employment security administrative hearings involving one person to Missouri Supreme Court cases that can affect entire classes of employees or segments of society such as workers or employers. My responsibilities related to the divisions and commissions within the Department were as follows:

**The Missouri Division of Employment Security** provides payment of unemployment insurance benefits to workers who become unemployed through no fault of their own. Eligible individuals may qualify for up to 26 weeks of unemployment compensation under Missouri's regular program. Special Disaster Unemployment Assistance may be available in some situations for workers who are unable to work as a result of a natural disaster or other catastrophe. To finance unemployment benefits to qualified claimants, the Division collects contributions (taxes) from Missouri employers. Employers are required to report their workers' wages by filing quarterly contribution and wage reports and pay the correct contributions (tax) on their workers' wages in a timely manner.

**The Division of Workers' Compensation** works with employers and employees regarding workplace injuries and illnesses. Many Missouri employers are required by law to carry workers' compensation insurance for employees. Workers' compensation insurance provides financial assistance to workers injured on the job. The Division helps ensure that those injured workers receive appropriate medical treatment and payment of compensation for lost wages. The Division also provides prompt and equitable resolution of disputes in cases of work-related injuries and occupational diseases. Mediation services are provided to help employers and employees resolve disputes about medical treatment and lost wages.

**The Missouri Commission on Human Rights** is the state agency charged with enforcing Chapter 213, RSMo. The basic powers and duties of the MCHR are to prevent (through education and outreach) and eliminate (through enforcement) discrimination. Persons who believe that they have been discriminated against because of a factor they cannot change can file a complaint on a form provided by the Commission, but these complaints must be "filed" within 180 days of the latest date of discrimination. The MCHR is only authorized to investigate complaints in employment, public accommodations and housing and only if the reason for the alleged discrimination is on account of that person's protected status of race, color, religion, national origin, ancestry, sex, disability, age (40 - 69) (in employment only) and familial status-families with children under the age of 18 (in housing only).

**The Missouri Division of Labor Standards** provides information about workplace issues and enforces certain labor laws within the state. The Division can help provide information about worker safety and health, mine safety,

complying with laws about child labor, prevailing wage, minimum wage, overtime and dismissal rights, as well as many other general workplace issues.

**The Missouri Labor and Industrial Relations Commission** acts primarily as the last administrative review for decisions made by the Department in workers' compensation cases, employment security cases, crime victims awards, and disputes acquired through the consolidation of the Board of Mediation into the Commission.

**Commissioner**

**Administrative Hearing Commission**

**Office of Administration**

**Harry S Truman State Office Building**

**301 West High Street Room 640**

**Jefferson City, MO 65101**

**October 2007 – present**

The Administrative Hearing Commission is a neutral, independent, administrative tribunal. Some of its cases are appeals from decisions of other state agencies. Others are cases that an agency or private person initiates at the Administrative Hearing Commission. Each Commissioner sits independently and acts on behalf of the Commission. The decisions are published by the Commission on its website and by Westlaw and Lexis.

The Administrative Hearing Commission has jurisdiction in over one hundred (100) statutorily specified matters including state tax, professional licensing, Medicaid provider issues, Ethics Commission late filing fee assessments, and Highways and Transportation Commission actions relating to railroads and motor carriers. In calendar year 2003, nearly 2,400 cases were filed at the Administrative Hearing Commission. The Administrative Hearing Commission makes decisions under contested case procedure, usually involving a contested hearing. All decisions are subject to judicial review.

The Administrative Hearing Commission also contracts with other agencies including the Missouri Department of Natural Resources and the Missouri Commission on Human Rights to assist in their decision-making processes. In such cases, the Administrative Hearing Commission conducts the proceedings, but makes only a recommended decision to the agency. The agency makes the final decision.

8. If you are presently an associate circuit judge and have served for two years or longer, attach a list of ten significant cases over which you presided to completion. Set forth the style, cause number, date and name and current address of the primary attorneys participating in each case, identifying the party each attorney represented. Indicate whether bench or jury tried and give a one-three sentence description of each case and its outcome.
- (a) In addition, you may attach a list of cases you tried as an attorney in the last five years before becoming a judge. Set forth the style, cause number, date and jurisdiction and identify who you represented, whether you were first or second chair and the name and address of opposing counsel. State for each case whether bench or jury tried and give a one-three sentence description of each case and its outcome.

**Not applicable.**

9. Are you able, with or without a reasonable accommodation, to perform the essential functions of a judge including the ability to preside over trials, perform legal research, attend court anywhere in the state, communicate clearly and effectively both orally and in writing, and expeditiously decide issues coming before the court?

**Yes.**

10. If you have never served as an associate circuit judge or have served for fewer than two years, attach a list of cases you have tried in the last five years. Set forth the style, cause number, date, and court, and identify who you represented, whether you were first or second chair, and the name and address of opposing counsel. Indicate for each case whether bench or jury tried and provide a one to three sentence description of each case and its outcome. If, during any of the last five years, you served as a commissioner or in any other judicial capacity, set forth the dates of same and a description of the duties performed.

As General Counsel and Director of the Legal Services Division for the Missouri Department of Revenue, I was an attorney of record and responsible for approximately 23,000 filed by the department or against it between April 18, 2005 and May 19, 2006. My responsibility included day to day management of litigation and review of all appellate cases argued by the Office of the Attorney General.

Style: **Karen Pendergrass v. MO HWY & Transport Comm**  
Cause number: **03CV209714**  
Date: **April 5, 2004**  
Court: **16<sup>th</sup> Judicial Circuit**

**I Represented Karen Pendergrass**

Chair position: **I was second chair.**

Name and Address of Opposing Counsel:

**Zachary Cartwright**

MoDOT - Missouri Highway Transportation Commission

Central Office

105 West Capitol

PO Box 270

Jefferson City, MO 65102-0270

573-751-2289

Bench or Jury trial: **jury trail**

Description of the case and outcome: I second chaired this case on behalf of plaintiff Karen Pendergrass who suffered injuries after trash covered drains on I-670 prevented rain water from being evacuated from the road and created a flooded freeway. Judge Dean presided and the jury returned a verdict in favor of the MO HWY & Transport Comm. Polling the jury revealed that they believed the trash was not a factor and that fault ought to be placed with the young plaintiff driver.

Style: **Marvel Wilson v. Terry Brooks et al.**

Cause number: **02CV220761-02**

Date: **May 13, 2003**

Court: **16<sup>th</sup> Judicial Circuit**

**I Represented Terry Brooks and his family.**

Chair position: **I was first chair.**

Name and Address of Opposing Counsel:

**Daniel Kelly**

Law Offices of Daniel Kelly

PO BOX 7115

Kansas City, MO 64113

Bench or Jury trial: **Bench trial**

Description of the case and outcome: I represented Terry Brooks and his family in defense of a rent and possession action and brought counter claims for housing discrimination, breach of implied warranty of habitability and other

claims. Mr. Brooks and his family prevailed on their counter claims and received a judgment following a bench trial before Judge Sauer.

Style: **Robert E. Dean and Estate, of Robert E. Dean v. Globe Life and Accident Insurance Co.**

Cause number: **CJ-1993-4413;  
case appealed DF – 95840 consolidated 95847**

Date: **January 12, 2001**

Court: **Oklahoma County District Court, Oklahoma City, OK  
I Represented Robert Dean and his bankruptcy estate.**

Chair position: **I was second chair.**

Name and Address of Opposing Counsel:

**John Edwards and Robert Smith** led the litigation in the trial court and on appeal to the Oklahoma Supreme Court.

Monnett, Hayes, Bullies, Thompson & Edward

120 N. Robinson Suite 1719

Oklahoma City, OK 73102

Bench or Jury trial: **Jury trial**

Description of the case and outcome: This case was tried in Oklahoma City on behalf of an insurance agent and his bankruptcy estate against his former employer for breach of contract. The litigation was highly contested. Plaintiff prevailed at trial, was awarded attorney's fees and the verdicts were upheld on appeal.

11. Have you briefed or argued any case in an appellate court? **Yes.**

If yes, attach a list showing the citation for each case and describe the extent of your participation in briefing and arguing the case.

**Please see attached list.**

12. If your experience as an attorney is not in litigation, you may list up to five (5) of your most significant accomplishments in your law career.

### **I Followed the Law as Director of Labor and Industrial Relations**

As Director, I acted on behalf of the Department and could only take those acts specifically authorized under statute. I lived in constant fear of either exceeding my statutory authority or failing to meet statutory mandates. As a result I

studied statutes and case law constantly. I took a personal interest in regulations and drafted or revised many of them personally. One case you may have read about is **G.R. Restaurant, Inc. et al., v. Missouri Department of Labor and Industrial Relations, 107AC-CC00276**. In that case the Department was sued for failing to enforce the new minimum wage statute. I worked tirelessly with the new interim, general counsel and lawyers from the Attorney General's Office to craft the briefs and flush out legal arguments that ultimately carried the day. Being the Director required me to know the law and live within its constraints, but at the same time offered an entirely different perspective on participating in litigation as a potential witness and architect of my defense.

13. Set forth any additional information that demonstrates the quality of your legal work as an attorney.

I began my legal career with a single premise – that each person ought to be treated fairly. It is this principal that ignited my passion for the law and lit the way for me in public service and my professional endeavors. From the first trial in small claims court in Oklahoma for breach of contract against an unscrupulous auto mechanic to my first experience representing children and parents in the juvenal clinic at Tulane Law School, I felt firsthand the importance all litigation has in our society. I have had an opportunity to participate in different types of trials and in variations of appellate practice that have taught me many valuable lessons. The following illustrates the scope of my experience in courtrooms and some particular aspects of practice that demonstrate the quality of my work in trial and appellate work.

### **I Advocated for Children and Parents in Missouri and Louisiana**

Tulane Law School offered me a unique opportunity to litigate in Juvenile Court in New Orleans. While it might seem like a foreign world, it gave me an insight that I needed as a law student, namely that all cases matter. Throughout the course of my senior year, I assisted approximately a dozen parents and children to reunite or separate depending on the case. The most important appellate case that I can share with you from this part of my life is the case **State of Louisiana In the Interest of R.A.**<sup>2</sup> RA was a young man of fifteen who by all accounts

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<sup>1</sup> Heard by Judge Patricia Joyce in Cole County and dismissed by the Court with prejudice of 5/24/7.

<sup>2</sup> State of Louisiana In the Interest of RA, No. 95-CO132, Juvenile Court case number 93-098-08-QD, 1995, Louisiana Court of Appeals, fourth Circuit, case not reported; I represented a juvenile known by court order as R.A. Michael J.

had some unresolved psychiatric issues. He was confined to a juvenile penal facility after he was found to have tried to set his neighbor's house on fire with some Bic lighters. RA's case came to our attention after he complained that he had served his time, but had not been released from prison.

After the case was assigned to me I reviewed the case file and started drafting my first appellate brief – The Application for Supervisory Writ for the Denial of Motion to Recalculate Time Served By the Honorable Lawrence Lagarde, Section "D" Juvenile Court for the Parish of Orleans. The central issue in the brief was whether the juvenile court trial judge abused his discretion in denying R.A. 192 days of time served prior to his incarnation following conviction. I filed the brief and before the case was heard, the Court of Appeals granted the relief I requested and released him from prison. When the news came, I was disturbed that I was not allowed an opportunity to argue the merits of my client's case to the Louisiana Court of Appeals. It was an argument that I had been preparing for weeks. Professor Katner leaned over and told me then what rings true now more than ever, "I hope you can win all your cases on the brief."

I share this point because I have tried to perfect my writing to be concise, correct and persuasive in every communication with a court.

### **I Worked at the Missouri Supreme Court for More Than Three Years**

The summer after my first year of law school I began clerking for Judge Duane Benton at the Missouri Supreme Court as a summer extern. I continued to clerk as an extern throughout law school until I became a permanent member of the staff in 1995 after graduation. Under Judge Benton's guidance and mentoring, I developed an interest in taxation and enrolled in and completed the LLM curriculum at Washington University. During that time, I had an amazing opportunity to assist in drafting case opinions and transfer memos. I attended oral arguments and did everything I could to learn the law and understand the appellate process. While I was at the Court, I saw cases based on good and bad facts, won and lost on procedural missteps and jurisdictional mistakes. Until now, that is the only position I have held that allowed me the luxury of time to review and research all manner of issues.

## **I Litigated in Both State and Federal Courts All Around**

I left the Court in August 1998 to work with Humphrey Farrington & McClain in Independence, Missouri, on perhaps the most important tobacco litigation brought in a Missouri trial Court.<sup>3</sup> The Attorney General brought the case through a number of the state's most prominent trial lawyers. Some of the assignments that I had on this case include the examination of tobacco companies' privilege logs, document review, drafting various responses to discovery and assistance in the preparation and drafting of pleadings. That litigation concluded with a larger than expected settlement for the state, but from it, I learned about state and federal discovery, privileges, evidence, depositions, and many other aspects of complex litigation.

After that, I worked on a series of ERISA class actions, breach of contract, promissory estoppel, more tobacco, asbestos, and race discrimination cases. None of these cases ever went to trial, but each lasted well over a year, involved regional and nationally recognized counsel and either resulted in a six or seven figure settlement or was dismissed on summary judgment.

The assignments I received during my three years at the firm grew in responsibility and I was granted greater degrees of control until I was finally placed in charge of most of the litigation on my docket. At the time I was delighted to participate in all levels of what I considered to be high stake's litigation. I learned a lot from my experience litigating against some of the very best lawyers. I spent months on various document productions around the country. I deposed more than a hundred fact witnesses and experts and even the CEOs of Blockbuster and Sprint.

All of that experience taught me how to comport myself during various discovery phases, in trial and on appeal. I litigated issues such as the crime fraud exception to the attorney client privilege, statutory interpretation of state and federal statutes, numerous evidentiary issues, and lots of sanctions motions. I did so in cases with millions of dollars at stake. That litigation prepared me well for the other litigation that I have been involved with despite the fact that it all has not been as contentious or for extraordinary sums.

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<sup>3</sup> State of Missouri v. Phillip Morris et al., 1998, before Judge Jimmy Edwards 22<sup>nd</sup> Circuit Court of St. Louis.

**Robert Dean v. Charles Goodin and Globe Life et al.**, exemplifies the quality of work both as a litigator and as an advocate on appeal.<sup>4</sup> Mr. Dean was the most successful insurance agent in the history of Globe Life Insurance Company. After decades of service, Dean decided to leave Globe. Globe then converted his book of insurance business to leads for its other agents and then refused to pay his commissions due to Mr. Dean. Mr. Dean went into bankruptcy and my firm was retained by both the bankruptcy trustee and Mr. Dean. The litigation started in 1993 and concluded after to the Oklahoma Supreme Court almost 10 years later. I tried that case with Greg Leyh in Oklahoma City to a six figure verdict. We also won our motion for attorney fees and costs of approximately \$139,000. Despite the jury's quick and unanimous verdict, Globe appealed its loss. Mr. Dean appealed the dismissal of his tort claim. I briefed the case through the Court of Appeals and the Writ to the Oklahoma Supreme Court and it was decided in favor of the verdict but excluded the tort claim plaintiff hoped to reclaim.<sup>5</sup>

As a young lawyer, I took every opportunity to argue before a court whether for plaintiffs or defendants. That includes arguments in Missouri, Oklahoma, and Kansas state courts as well as federal courts in Ohio, Oklahoma, Missouri, Illinois, Wisconsin, and Kansas. In addition to the types of cases listed here, I also represented Missouri litigants in workers' compensation, municipal, family, condemnation, landlord tenant and administrative law cases as well as drafted numerous contracts, wills and trusts and business entity formation documents.

### **I Litigated in Kansas City**

In the summer of 2002, I joined Sly James at a new firm he created. Our practice was primarily focused in Missouri and Kansas representing injured people and in a number of cases including businesses in breach of contract and other business related issues. I worked on breach of contract, medical malpractice, discrimination, predatory lending, tortious interference, auto accidents, and a host of other personal injury cases. Two cases **Kivon Hopkins et al, v. Stock Transportation et al.**,<sup>6</sup> 02CV223464 and **Nathaniel Pipkin v.**

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<sup>4</sup> Robert E. Dean v. Globe Life Insurance Co., No. CJ-1993-4413, Oklahoma County District Court; before the Honorable Bryan C. Dixon. Opposing counsel included Robert Smith & John Edwards.

<sup>5</sup> Robert E. Dean and Estate, of Robert Dean v. Globe Life and Accident Insurance Co., No. DF-95840 consolidated with 95847, Oklahoma Supreme Court; mandate issued June 12, 2003. Robert Smith & John Edwards.

<sup>6</sup> Judge Justine Del Muro approved the minor settlement agreement. Opposing counsel included John Franke and James Conkright.

**Marc A. Holcomb et al.,<sup>7</sup> 03CV223943** exemplify the quality of work I performed in that both were unique legal theories and required me to master new areas of law. In **Hopkins** a five year old suffered post traumatic stress after his bus driver left him on the corner of a busy urban intersection instead of taking him to school. Similarly, in **Pipkin** an elderly gentleman was swindled out of tens of thousands of dollars through predatory lending practices. For young Kivon Hopkins, I obtained a settlement by engaging in intense discovery and proving that every person--no matter their stature or age--has an inherent value. The defendant's initial offer after weeks of discovery was for alternate transportation for the boy to and from school. Ultimately, the young man ended up with a valuable annuity.

In the case of **Pipkin** I unraveled a long and spotty paper trail in order to show that a repairman acted in collusion with a national banking representative to inflate the value of the gentleman's home and income with the effected intent of not only perpetuating a fraud in the bank, but also depriving the gentleman of the proceeds of the loan. Fortunately, his house and lifestyle were saved. At the time, no one knew the depth of the sub-prime market or that it would turn into an epidemic as result of some of these very same practices. I mention these cases because of the unconventional claims I had to bring to ensure a remedy that fit my clients' needs and my willingness to not shy away from legal issues that are complex and generally confusing even after study.

Additionally, I tried two other interesting cases **Karen Pendergrass v. Missouri Highway & Transportation Commission,<sup>8</sup> 03CV209714** and **Marvel Wilson v. Terry Brooks et al.,<sup>9</sup>** that may lend further perspective to my litigation background. **Pendergrass** was a young lady, who drove her car over the I-670 viaduct into Kansas during a rain storm and encountered pooling water on the highway which caused her to lose control of her vehicle and crash. I was co-counsel with Scott Shachtman of The Sly James Firm. Judge Dean presided over the jury trial in Jackson County. The jury returned a defense verdict. Scott and I prepared for ever aspect of that trial. We drafted trial briefs, jury instructions, selected the jury, argued the case and polled the jury after our loss.

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<sup>7</sup> Judge Ann Mesle was the judge at disposition and opposing counsel included Michael Sagen, Russell Purvis, and Leonard Wagnor.

<sup>8</sup> Zachary Cartwright was the state's lawyer.

<sup>9</sup> Daniel Kelly was the homeowner's lawyer.

In the **Wilson** trial, however, I drafted all of the pleading and discovery and was the attorney of record at the bench trial before Judge Margaret L. Sauer in Jackson County. It was the first housing discrimination case for the firm. My client won at trial. Little did I know that the cases I studied would be so important later in my career as the Director of the Department of Labor and Industrial Relations and as a Commissioner with the Administrative Hearing Commission.

### **I Litigated on Behalf of the Department of Revenue as General Counsel**

In April of 2005 I became the General Counsel for the Department of Revenue for the State of Missouri. In this role I relied on my years of litigation, my LL.M. in taxation, and extra judicial management experience to guide the Department's approximately 23,000 cases through administrative review at the Administrative Hearing Commission, trial court prosecution and appellate review depending on the type of case. There were many interesting and complicated tax and regulatory issues. Three areas of cases best show the quality of work I performed at the Department.

First, the State had not been pursuing tax debt in probate court. I established a procedure for lawyers at the Department to follow and started prosecution of these cases state-wide utilizing the same manpower then existing. Within the first year, the state had recouped close to a million dollars that otherwise would have gone uncollected. I read the statute and applied existing law.

Second, MCI was a multinational conglomerate that found itself the subject of a multistate tax audit. I headed the Missouri team that reviewed that audit and conducted additional research and ultimately negotiated a settlement for millions more with MCI and other states. I am not a bankruptcy attorney, but I have an appreciation for code driven areas of law such as taxation, environmental law, probate, and now bankruptcy.

Finally, the Department performs many functions designed to ensure public safety through regulatory oversight of banking institutions to used car dealers. As a good steward of the State's resources, I had to make the hard decisions of which cases to prosecute and in what manner.

I was hands-on and participated in each and every step of the appellate process. Although I did not get to litigate them before the Supreme Court, I read all the

briefs and made suggestions as to substance and style. In other cases I assembled and directed trial teams to enforce the regulations designed to protect the public. In order to do so, I worked with witnesses, lawyers and experts to craft a trial strategy that would in the proper case allow the department to discipline those who contravened the public good. My total staff consisted of 167 people of whom 35 were lawyers in four offices around the state.

### **As a Commissioner I have issued over 60 Decisions**

Decisions issued by the Commission include findings of fact and conclusions of law based upon the Commissioners determination of the evidence presented in a contested case hearing. The hearings utilize the fundamental rules of evidence and procedures set forth in Revised Statutes of Missouri Chapters 621 and 536 as well as numerous Rules of Civil Procedure. I spent my first three weeks hearing cases on a few of the 100 statutes that that the Commission has jurisdiction over and then spent the next two weeks at the National Judicial College learning from sitting and retired federal judges and sitting state appellate courts how to conduct a fair hearing. That experience was invaluable. It armed me with guidance in the law that ensures due process in hearings. It also provided me with the framework to make tough decisions with confidence. Recently I have been invited back as a group leader and anticipate returning to Reno to function in that capacity in April of 2009.

The cases we hear generally allow or bar a person or business from engaging in commerce and therefore sit at the root of the American Dream of using one's own industry to his or her betterment as envisioned in Article 2 Section 3 of the Missouri Constitution. In addition to the cases related to the regulation of licensed employment, the commission hears all of the complaints challenging permits issued by the Department of Natural Resources, complaints of invidious discrimination as recognized under the Missouri Human Rights Act and contested fee disputes between the department of health and providers. Accordingly, I am spending many extra hours reviewing case files, statutes, case law, and conducting hearings to ensure that the hearings are not just impartial, efficient, and fair to the litigants. I have issued over sixty decisions so far and they are published on Westlaw, Lexis, and the Administrative Hearing Commission's website.<sup>10</sup> I know how to conduct a fair trial and provide each litigant every conceivable opportunity to present his or her case because even though the case may ultimately turn on the facts and law more so than a

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<sup>10</sup> [www.Westlaw.com](http://www.Westlaw.com); [www.Lexis.com](http://www.Lexis.com); <http://oa.mo.gov/ahc/>

credibility determination, the requirements of due process are the primary protections of our rights.

My work as a Commissioner has also allowed me to review briefs that are submitted in the vast majority of cases. Those briefs are very similar to appellate briefs in that legal and factual arguments are supplied, but differ in that they argue facts necessary to reach the legal determination.

14. Have you ever been convicted of a misdemeanor or felony? **No.**

If yes, provide details, including the style of the case, cause number, name of the jurisdiction, and date of conviction:

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

**Yes, I have been a litigant, but I have not been sued by a client.**

If yes, provide details, including the style of the case, cause number, name of the jurisdiction and the approximate year in which such litigation was commenced and in which it was terminated:

*Falcon Contracting v. Nimrod Chapel, Jr., case number 03MC202973*, which was filed in the 16<sup>th</sup> Judicial Circuit as a mechanics lien on September 29, 2003. Casenet reports that the case was concluded "by other final disposition."

The lien arose as a result of a complaint I made to Falcon Contracting who was at the time installing a roof on my home. The contract we signed required that Falcon Contracting replace rotten wood before installing the roof, but I complained when I saw that the roof was sagging and witnessed rotten wood being covered up by the contractor. The contractor failed to perfect its lien.

**Additionally, I have been sued on numerous occasions in my official capacity as Director of the Department of Labor and Industrial Relations and as a Commissioner with the Administrative Hearing Commission. I can supplement this answer with those case citations upon request.**

16. Have you ever been disciplined or cited for breach of ethics or professional conduct by a court or by any bar association or committee thereof? **No.**

If yes, provide details:

17. Have you ever been held in contempt of court? **No.**

If yes, provide details:

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

- (a) Whether an order of reprimand, removal, retirement, suspension or other disciplinary action has ever been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct?

If yes, state the nature of such breach, the date discipline was imposed and the exact nature and duration of the discipline imposed:

- (b) Whether a reprimand or admonishment has ever been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Rule 12.07 of the Supreme Court Rules Governing the Judiciary.

If yes, provide details including date the order was entered, the date of your consent, and a description of the conduct you were ordered to cease and desist:

- (c) Whether, to your knowledge, you have been a subject of a complaint and investigation by the Commission on Retirement, Removal and Discipline, which did not result in any action by the Commission? If yes, provide details:

**Not applicable.**

19. To your knowledge, have you been investigated by a court or by any bar association or committee thereof for breach of ethics or professional conduct?

**No.**

If yes, provide details:

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

**The American Bar Association 1992-2009**

KCMBA Liaison 2005

**The National Bar Association**

Judicial Section 2007-2009

**The Missouri Bar**

Missouri Bar Annual Meeting Planning Committee 2007-2008

Missouri Bar Legal Research Taskforce Member 2006-2007

Missouri Bar Tax Committee Chair 2006-2009

Missouri Bar Leadership Academy 2001-2003

Missouri Bar CLE Committee Member 1998-2008

Mid-Missouri Regional Coordinator for Missouri Bar Speakers Bureau 1998

**Kansas City Metropolitan Bar Association**

Vice-Chair of Labor & Employment Committee 2007-2008

Leadership Academy 2003-2004

**Jackson County Bar Association**

Second Vice President of Jackson County Bar Association 1999-2000

**Eastern Jackson County Bar Association 1998-2002**

**Mound City Bar Association 1996-1999**

**Cole County Bar Association 1996-1998**

**Association of Government Accountants 1997-1998**

21. Describe your community activities, including any organizations, not listed above, with which you are affiliated:

**Tulane Alumni Association, Director 2003-2010**

**Rotary, Jefferson City Noonday Club 2007-2008**

**Tulane Clinical Program 20<sup>th</sup> Year Commemorative Committee 1999**

**Great Rivers Urban Emphasis Committee Vice Chair 1997-1998**

**Great Rivers Council Eagle Scout Association 1996-1997**

**Assistant Scoutmaster, Troop 146, Boy Scouts of America 1994-1995**

**Program Counselor, Philmont Scout Ranch, August 1996**

**National Eagle Scouts Association – Member**

**National Association for the Advancement of Colored People –**

Jefferson City Branch - 1<sup>st</sup> Vice President 2007-2008

Jefferson City Branch – Health Committee Chair 2005-2007

Kansas City Branch – Young Adult Committee 2003-2005

Oklahoma State University College Chapter President 1990-1992

22. Do you now hold or have you ever held any elective or appointive public office or position?       **Yes**

If yes, provide details:

**University of Missouri Extension Council of Jackson County –**

**Chair 2005-2007;**

**Council Member 2003-2005**

The Extension Council was formed to provide citizens in Missouri with the opportunity to learn and receive specialized technical knowledge produced by the area's Land Grant Institutions. In Jackson County we ensured that programs such as 4-H and the Master Gardners were offered annually to all that were interested. Other courses were offered in consumer finance, nutrition, parenting, and a host of other topics. Millions of dollars were distributed through the provision of programs and information.

23. Are you delinquent in the payment of any federal, state, county or city taxes?  
Yes ( )       **No ( XX )**

If your answer is yes, please state details.

24. Provide the branches and dates of (a) military service, or (b) other public service, not otherwise covered in this application. If discharged from the military, was the discharge other than honorable? If military service continues, so state:

**I attended the United States Coast Guard Academy from May 1988 to December 1988 when I withdrew and returned to Oklahoma after learning of a lingering family illness. I was honorably discharged.**

25. List any professional articles or books which have been published or any special recognition or award of a professional nature which you have received:

**Publications:**

**Reviewed 2008 Employer-Employee Law – chapter 25, MoBarCLE library deskbook.**

**Authored 2008 Race Discrimination Chapter 11 of MoBarCLE library Employment Discrimination deskbook.**

**Co-authored 2007 Leaking Underground Storage Tank Chapter of MoBarCLE library Environmental Law deskbook with Mr. Dwyane Jefferson.**

**Reviewed 2005 MoBarCLE library Evidence deskbook.**

**Employment Discrimination Claims in Missouri: A Basic, Practical Primer, Missouri Trial Attorney, Vol. xx, number 4, Winter 2002.**

**Co-authored 2001 Employment Discrimination Chapter 7 of MoBarCLE library Race Discrimination deskbook with the Honorable Judge Jon Gray and Mr. Steven Bough.**

**Authored The Limited Liability Company: Small Business Applications in Missouri, THE JOURNAL OF THE MISSOURI BAR. November-December 1997, 348-357.**

**Reviewed 1997 Missouri Business Organizations Chapter 27 MoBarCLE library Limited Liability Companies deskbook .**

**Authored 1997 six year supplement to Missouri Civil Practice Chapter 8, Contracts.**

**Scholarships and Awards:**

**2007 William Randolph Hearst Scholarship to attend the National Judicial College in Reno, Nevada.**

**Named as an Up & Coming Lawyer by Missouri Lawyers Weekly 2007.**

**ALI-ABA Scholarship to attend symposium on insurance and taxation 1998.**

**First Alternate in the 1997 Toll Fellowship Program.**

26. No more than five (5) persons may mail a letter of reference with respect to your character and judicial qualifications. See instructions for deadline for submission. **DO NOT INCLUDE AS A REFERENCE ANY ACTIVE SITTING JUDGES FROM THE CIRCUIT FOR WHICH YOU ARE APPLYING.** List the names of the persons from whom each member of the commission will receive letters.

- 1) The Honorable Duane Benton  
Judge  
1020 U.S. Courthouse  
400 E. 9<sup>th</sup> Street  
Kansas City, MO 64106-2605  
(816) 512-5815  
duane\_benton@ca8.uscourts.gov
  
- 2) Sylvester James  
Attorney  
802 Broadway, 7<sup>th</sup> Floor  
Kansas City, MO 64105  
(816) 472-6802  
sly@slyjamesfirm.com

- 3) Dwayne Jefferson  
Attorney  
P.O. Box 76777  
Washington, DC 20013  
(504) 382-6047  
[dcjefferson@mac.com](mailto:dcjefferson@mac.com)
  
- 4) Janette Lohman  
Attorney  
Thompson Coburn  
One US Bank Plaza  
(314) 552-6161  
[jlohman@thompsoncoburn.com](mailto:jlohman@thompsoncoburn.com)
  
- 5) Greg Leyh  
Attorney  
104 NE 72nd St # I  
Gladstone, MO 64118-1830  
(816) 283-3380  
[gleyh@leyhlaw.com](mailto:gleyh@leyhlaw.com)

27. State any additional information you deem relevant:

By my signature to this application, I authorize: (1) the Commission by its chairperson to obtain relevant information, including but not limited to documents, records and files with respect to my medical, police or disciplinary records, and (2) the Commission and its members to obtain additional relevant information regarding my qualifications as well as the accuracy of my responses to the questions on this application, with the understanding that the information described in (1) and (2) above is available only to the members of the Seventh Circuit Judicial Commission. Notwithstanding the above, in accordance with Supreme Court Rule 10, as amended effective February 29, 2008, if I am one of the three nominees listed on the certificate of nomination sent to the Governor, I authorize the Commission to send a complete copy of this application to the Governor and publicly release a copy of the application with personal and confidential information redacted as identified on the cover page of this application.

I hereby certify that all my statements as made above are correct, and that if I am appointed to the office of Circuit Judge of Jackson County, Missouri, I will accept the appointment, qualify, and promptly enter upon the performance of the duties of that office.

DATE:

August 10, 2008

SIGNED:

Bill C. Chynoweth