

**APPLICATION OF GARY DEAN WITT
TO THE APPELLATE JUDICIAL COMMISSION FOR THE
JUDGES HOLLIGER, SPINDEN AND DANDURAND VACANCIES
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

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

1. Present principal occupation or title: Associate Circuit Judge, Sixth Judicial Circuit

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? 44

(b) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri? 26

4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail. September 1990. My license is in good standing.

5. List any other states, courts, or agencies in which you are licensed as an attorney.
Kansas; Bar # 15416
Federal District Court of the Western District of Missouri
Federal District Court of the State of Kansas
All on inactive status since assuming the bench in 1998

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

William Jewell College 1983-1987; B.A. Communication

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

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

University of Missouri – Columbia 1987-1990; Juris Doctor

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

Board of Advocates
Order of the Barrister
National Moot Court Team
Local Moot Court Competition Finalist
Harry P. Thomson Trial Competition
Semi-finalist
Top Plaintiff's Trial Brief

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) Janitor and Maintenance; Witt, Boggs, Shaw & VanAmburg law firm 1981-1983
Farm hand for various farmers in Platte and Buchanan Counties; summers in high school
General Motors Assembly Line; Fairfax Plant; summer 1985
American Cablevision; summer 1986
McDaniel Title Company; summer 1987

- (b) Witt & Hicklin, PC; Summer Associate 1988
PO Box 1517
Platte City, MO 64079

Armstrong, Teasdale, LLP; Summer Associate 1989
2345 Grand Blvd
Kansas City, MO 64108

State Representative 1991-1996
State Capitol Building
Jefferson City, MO 65101

Witt, Hicklin & Witt, PC; Associate 1990-1997; Shareholder 1997-1998
PO Box 1517

Platte City, MO 64079

Associate Circuit Judge; Sixth Judicial Circuit 1998-Present
415 Third Street
Platte City, MO 64079

9. If you were a student at any school from which you were suspended, placed on probation, or expelled by school authorities, for any reason, describe the circumstances. N/A
10. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work. (*You either may take as much space as you need here or attach your response on separate sheets*). Include in your response: **See Attached**
- 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.
- 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.
- 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.
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).

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

Missouri Probate and Associate Circuit Judges Association
President 2003 - 2004
Vice President 2002 - 2003
Board of Directors 1999 - 2002
Legislative Steering Committee - Chair 2000 - 2001
Missouri Judicial Conference
Executive Council 2005 - Present
Legislative Steering Committee - Chair 2001 - 2005
Circuit and Associate Circuit Judge Liaison Committee - 2002 - Present
Missouri Supreme Court
Chief Justice's Advisory Council 2005 - Present
Court Automation Committee 2001 - 2005
Interim Legislative Committee On Judicial Resources 2003
Judicial Master of Harold L Holliday Inn of UMKC Law School
Missouri Bar Association
Platte County Bar Association
President 2002-2003
Vice President 2001-2002
Treasurer 1999-2000

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.

Walter Pope Binns Public Service Fellow; William Jewell College 1993
Ten Outstanding Young Missourian; Missouri Jaycees 1993
Faculty member of the Missouri Judicial College, 1994, 1995 and 2006
MO Workers' Compensation Law, Chapter 2, *The Employer - Employee Relationship*, Korte & Witt (Mo Bar 2nd Ed 1994 & Cumulative Supplement 1997)
Witt, *Accident, Injury and Occupational Disease*, Published by the University of Missouri-Columbia for a CLE (1993)
Witt, *Views from the Bench*, The Fifth Annual DWI Defense Institute, Sept. 2000
The Politics of Regulation; National Association of Insurance Commissioners 1993
The Relationship between the Judiciary and the Legislature; Annual Meeting of the Municipal and Associate Circuit Judges Association 1993
Witt & Holloran, *Reduction and Compromise of Medicaid Liens, New Legislation and Its Impact*, The Missouri Trial Attorney, Vol. XIV #4 (August 1996)
Recognized for Significant Contributions to the Administration of Justice; Missouri Judicial Conference 1991, 1992, 1993, 1994, 1995 and 1996
Award for Outstanding Service to the State; Missouri Bar Association 1993 and 1994
Champion of Justice Award; Missouri Association of Trial Attorneys 1993 and 1996
Outstanding Legislator; Missouri Hospital Association 1994
Outstanding Legislator; Missouri Medical Association 1994

Outstanding Legislator; Missouri Association of Counties 1995
Outstanding Legislator; Missouri Association of Osteopathic Physicians 1995
Outstanding Legislator; Missouri Funeral Directors Association 1995

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

First Baptist Church of Weston
Platte County Eleemosynary Society
Platte County Mechanical and Agricultural Society (County Fair)
Stockholder
Board of Directors 1994
Volunteer legal counsel; 1990 - 1998
Platte County Historical Society
Board of Directors 2003 - 2004
Treasurer; 1998 - 2002
Volunteer legal counsel; 1990 -1998
MU Alumni Association
Boy Scouts of America
District Member at Large; North Star District
Pheasant's Forever
National Wild Turkey Federation

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

Associate Circuit Judge; Sixth Judicial Circuit 1998 – Present

Assistant City Attorney and Prosecutor; City of Platte City 1996 - 1998
Assistant City Attorney and Prosecutor; City of Weatherby Lake 1996 - 1998
Assistant City Attorney and Prosecutor; City of Houston Lake 1996 - 1998
Assistant City Attorney and Prosecutor; City of Crystal Lakes 1997 - 1998

State Representative 31st/29th District 1991 - 1997
Chair, Judiciary and Ethics Committee
Chair, Special Committee on Impeachment
Joint Committee on Court Automation
Missouri Boundary Commission
Joint Committee on Administrative Rules
Missouri Health Facilities Review Committee
Governor's Task Force on Urban Violence
Governor's Commission on Driving While Intoxicated and Impaired Driving

Platte County Democratic Central Committee 1994 - 1996

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.

None

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 duties of 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.

No

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.

No

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

No

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

Yes

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.

As Chair of the House of Representatives Special Committee on Impeachment and as one of the two House Managers appointed to prosecute the impeachment of former Secretary of State Judith Moriarty, I was named as a defendant in several state and federal lawsuits filed by a pro se Plaintiff. All of these suits were summarily dismissed. The Governor, the Judges of the Missouri Supreme Court and other elected officials were named as co-defendants.

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.*)

No

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

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

No

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

Attached

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

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.

Dr. Carl Myers
7501 N.E. Eastside Drive
Weatherby Lake, MO 64152
816-858-2200 work
816-741-0900 home
pmc@meritascs.com

Ward Stuckey
343 Westwood Circle
Liberty, MO 64068
816-407-1740 home
golferstuckey@aol.com

James D. Boggs
Boggs Law Office
6406 NW Cosby Avenue
Kansas City, MO 64151
816-587-9766 work
816-505-8777 home
Jim@boggslaw.com

Ronnie White
Holloran, White & Schwarts, LLP
2000 S. 8th Street
St Louis, MO 63104
314-772-8989 work
rwhite@holloranlaw.com

Tim Frets
Douthit, Frets, Roush, Gentile & Rhodes, LLC
903 E. 104th Street, Suite 610
Kansas City, MO 64131
816-941-7600 work
tfrets@dfrglaw.com

10 (a) My law firm was a general practice firm in a small community. Therefore I handled many different matters and all types of cases. Our largest clients were political subdivisions and banks as well as a multinational corporation affiliated with the airline industry. Most of our clients were individuals or small businesses with issues such as contract preparation, domestic litigation, estate planning, criminal charges, landlord/tenant issues, worker's compensation and the host of other legal issues that arise in any community. Our running joke was that our firm specialized in the next case that walked in the door. Our goal was always to keep our clients out of court, if possible, by providing appropriate legal advice before a dispute arose. Below are a few of the matters that I handled in the appellate and trial courts during that time.

Roberts v. Roberts, 847 SW2d 107 (Mo App 1992).

Judges: Fenner, Turnage, Spinden

Appellant's counsel: James Fluker

Respondent's counsel: Gary Witt briefed and argued

Issue 1: Did the Court err in terminating all visitation with the minor child when no direct evidence established that the Appellant sexually abused the minor child.

Issue 2: Did the Court err in finding Appellant in contempt for failure to pay certain medical bills the Appellant claimed were discharged in bankruptcy.

Decision: Trial Court Affirmed. Per Curium order.

Burns v. Black & Veatch Architects, Inc., 854 S.W.2d 450 (Mo App 1993)

Judges: Berrey, Lowenstein, Breckenridge

Appellant's counsel: Gary Witt briefed, Don Witt argued

Respondent's counsel: Mark Johnson, Vincent O'Flaherty, and Jerome Bales

Issue: Did trial court err in granted summary judgment to architects in action brought by worker injured during construction of the building designed by architects?

Decision: Trial Court Affirmed

10(b)

Lovenduski v. American States Insurance Company, CV96-481CC

Judge Czamanske, Platte County 1997

Plaintiff's counsel: Gary Witt and Keith Hicklin

Defendant's counsel: James Barton, Jr.

Issue: Underinsured motorist claim. Head on collision, defendant disputed the extent of damages. Highest offer of settlement = \$15,000.

Verdict: \$140,000 reduced by the Court to \$75,000 due to the policy limits.

Boatmen's First National Bank v. Dyer, CV190-6710CC

Judge Baldwin, Clay County 1991

Plaintiff's counsel: Frank Barker and Kip Stetzler

Defendant's counsel: Gary Witt and Don Witt

Issue: Did a bank release a continuing guarantor on a line of credit by extending the date

of payment after the guarantor sent a letter to the bank terminating the guaranty?
Verdict: Defendant had no liability on the guaranty.

Paul's Rod and Bearing v. Kelly, et. al., CV189-211CC

Judge Stuckey, Platte County 1993

Plaintiff's counsel: Stephen Crain and James Fluker

Defendant's counsel: Gary Witt and Don Witt

Issue: Dispute as to property included in an option contract. Plaintiff claimed 10,000 square feet, Defendants argued only 3,500 square feet. Case previously tried to a Defendant's verdict. This was a retrial after cause reversed and remanded by Western District Court of Appeals. (opinion at 847 SW2d 68)

Verdict: Plaintiff granted specific performance on 3,500 square feet of property and damages of \$1,100.00. Less than the settlement offer before the first trial.

Hoskins v. Tankesley v. AAA Stucco, CV 93-50CC

Judge Stuckey, Platte County (Submitted by agreement to arbitration in front of Mike Thompson of Mitchell, Kristl, & Lieber) 1994

Plaintiff's counsel: Gary Witt

Defendant Tankesley's counsel: Darcy Hennessy

3rd Party Defendant's counsel: Les White

Issue: Hoskins was the general contractor hired to construct Tankesley's home. Hoskins sued to recover contractual damages. Tankesley countersued for \$500,000. Subcontractor, AAA was a third party defendant.

Verdict: Judgment against Tankesley for \$32,000.00 including attorney's fees. AAA received contract amount. No recovery on Tankesley's counter-claim.

Lake Waukomis Homeowners Ass. V. Ryan, CV92-02497CC

Judge Stuckey, Platte County 1994

Plaintiff's counsel: Gary Witt

Defendant's counsel: Mark Hubbard

Issue: Defendant received oral permission to build structure on Plaintiff's property.

Did Defendant's structure as completed comply with the terms of the approval?

Verdict: Defendant required to remove portions of structure that exceeded approval.

State v. Rose, CR191-1734F

Judge Stuckey, Platte County 1991

Prosecutor: Mark Ferguson

Defendant's counsel: Gary Witt

Charge: Felony Parental Kidnapping

Facts: Defendant and wife both lived with her parents. Defendant moved out after filing for divorce. Child remained living with grandparents. Defendant later took child to live with him. Grandparents and wife filed complaint with law enforcement.

Verdict: Court dismissed charges following preliminary hearing.

Lance v. Churchill Trucklines and Second Injury Fund, Injury Number: 87-074020

Administrative Law Judge: Carl Mueller 1992

Employee's counsel: Gary Witt and Don Witt

Defendant's counsel: Jeff O'Conner and Maureen Shine

Second Injury Fund Counsel: Elizabeth Diane Baker

Issue: Employee had low back injury in 1977 and received a neck injury in 1987.

Continued to work for an additional two years, but was not performing the duties of his employment. Can a person who worked for two years after an injury be declared permanently and totally disabled under the Missouri Workers Compensation Act?

Verdict: Employee was permanently and totally disabled as a result of the combined disability from both injuries and was entitled to recover under the Act.

Appeal: Case was appealed to the Labor and Industrial Relations Commission. ALJ's decision unanimously upheld August 1993.

10(c) As a trial judge I have handled almost every kind of civil and criminal case. My regular dockets will dispose of over 10,000 cases per year. I have handled every type of criminal case from a traffic ticket to a four week long death penalty case and every type of civil case from small claims matters to multi-week medical malpractice jury trials. In addition to my duties in the Sixth Circuit I have handled cases in almost 30 other counties and in 19 other circuits as well as sitting by special appointment on the Supreme Court and the Western District Court of Appeals. Below is a list of some representative cases that I have handled on the trial and appellate courts as a judge:

SUPREME COURT

JAMES L. DRURY AND MID AMERICA HOTELS CORPORATION v. CITY OF CAPE GIRARDEAU, MISSOURI, 66 S.W.3d 733 (Mo banc 2002)

Appellant's attorney: Walter Drusch

Respondent's attorney: James Mello and Jeffrey McPherson

Issue: Was the City ordinance that established a hotel/motel tax within the City a violation of the prohibition against more than one subject in a single ordinance and was the subject clearly expressed in the title?

Result: Validity of ordinance upheld, reversing trial court's ruling invalidating ordinance.

IN RE MARRIAGE OF M.A. AND M.S., M.A. APPELLANT v. M.S. RESPONDENT,

Missouri Supreme Court #SC86006

Date: Oral arguments October 20, 2004

Appellant's attorney: Michael Gross and James Dowd

Respondent's attorney: Alan Freed

Issue: Whether the prohibition on custody and visitation to certain convicted sex offenders under Section 452.400 RSMo applies in modification proceedings or only in original divorce proceedings.

Result: Cause retransferred to the Eastern District for reinstatement of its opinion upholding the statute.

ERNEST BLAND v. IMCO RECYCLING, INC. AND METAL MARK, INC.,

Missouri Supreme Court # SC83939

Date: Oral arguments January 8, 2002

Appellant's attorney: Lawrence Grebel and T. Michael Ward

Respondent's attorney: J. Michael Ponder

Issue: Liability for burns caused by molten metal expelled from an aluminum processing furnace.

Result: Cause retransferred to the Eastern District for reinstatement of its opinion affirming the trial court's verdict.

WESTERN DISTRICT COURT OF APPEALS

LARRY GRIMES v. CITY OF TARKIO, 246 S.W.3d 533 (Mo App 2008)

Appellant's attorney: Brian Klopfenstein

Respondent's attorney: Kristen Roubal

Issue: Plaintiff was Chief of Police for City. City Mayor agreed to not have DWI and Assault on a Law Enforcement Officer charges filed against an accused, if the accused paid \$3,500 to the City. Plaintiff filed a complaint against the Mayor with the State Ethics Commission and was later fired. Plaintiff claimed he was entitled to Whistleblower status as an exception to the Employment At Will doctrine. Trial Court granted summary judgment for the City based on the Plaintiff's failure to plead his cause of action with particularity.

Result: Summary judgment affirmed.

SHONNIE NEWTON v. FORD MOTOR COMPANY, 2008 WL 2572713 (2008)

Appellant's attorney: Edward Robertson

Respondent's attorney: James Feeney

Issue: Plaintiff, a police officer, was rear ended by a truck while performing a traffic stop. The police car caught fire and the Plaintiff was burned to death and the person stopped was severely injured. Suit was brought against Ford for product liability. Plaintiff was not allowed to make closing argument regarding certain evidence of prior accidents involving Ford police vehicles that was admitted during trial without objection.

Result: It was error to refuse to allow the argument but the error was found to be harmless. Defendant's verdict affirmed.

STATE OF MISSOURI v. MARCUS BUSEY, 247 S.W.3d 609 (Mo App 2008)

Appellant's attorney: Craig Johnson

Respondent's attorney: Shaun Mackelprang

Issue: Defendant was convicted of 2nd Degree Murder and Armed Criminal Action. Argued trial court should have given a self defense instruction even though it was not requested by the Defendant at trial and was contrary to the Defendant's theory of the case.

Result: Conviction affirmed.

JUAN PEREZ-LUNA v. CHRISTINA O'DELL, 247 S.W.3d 92 (Mo App 2008)

Appellant's attorney: William Erdrich

Respondent's attorney: Jennifer Soper

Issue: Custody and child support case. Respondent awarded sole custody and child support. Appellant argued the decision was not supported by the evidence and the trial court failed to properly prepare the Form 14 child support calculation.

Result: Judgment affirmed.

STATE OF MISSOURI v. CHRISTOPHER SCHOOLING, 241 S.W.3d 837 (Mo App 2008)

Appellant's attorney: Matthew Ward

Respondent's attorney: Shaun Mackelprang

Issue: Felony stealing case. Defendant argued that the Trial Courts statement during voir dire that the Defendant was "saying he was not guilty" was a comment on the Defendant's right not to testify and therefore since the entire venire heard the comment, the conviction should be overturned.

Result: Conviction affirmed.

SAMPLE OF JURY TRIALS AS A JUDGE

STATE v. DANNY RAY WOLFE, CR297-785F

Plaintiff's attorney: Kevin Zoellner and Elizabeth Bock; Asst. Atty. Generals

Defendant's attorney: Cynthia Short, Bruce Tepikian and Craig Proctor

Charge: Two counts of murder in the first degree; two counts of armed criminal action and one count of robbery. Retrial after Supreme Court reversed a prior death sentence. Defendant shot and killed an elderly couple and robbed their home.

Date and length of trial: June 5th – 28th, 2006; 20 trial days in four weeks with a sequestered jury.

Jury Verdict: Defendant found guilty of all charges. Recommendation of life in prison without the possibility of parole on each count of First Degree Murder. Due to finding of prior persistent offender status, sentencing of remaining charges set by Court.

N. SUE MOLDER-MURRAY, et.al. v. ELAINE JOSLYN, D.O., et.al., 01CV221164

Plaintiff's attorney: Steven White and Robert Buckley

Defendant's attorney: Timothy Frets and Paula Brown

Type of case: Wrongful death, failure to diagnose breast cancer.

Date and length of trial: June 2nd – 6th, 2003; 5 days

Jury verdict: Verdict for Plaintiff in the amount of \$960,000.00 past and future damages.

CURTIS PITTS v. RICHARD MCKITTRICK, MD, ONCOLOGY & HEMATOLOGY ASSOCIATES OF KC, KC ONCOLOGY & HEMATOLOGY GROUP, CRAIG BARBIERI, MD, CARONDELET PRIMARY CARE NETWORK, 03CV215867

Plaintiff's attorney: Robert Kingsland and Jason Osteen

Defendant Richard McKittrick, MD's attorney: Bruce Keplinger and John Hicks

Defendant Oncology Group's attorney: Lisa Burnner and Phillip Dupont

Defendant Craig Barbieri, MD & Carondelet Care's attorney: Scott Adam and Timothy Davidson

Type of case: Medical malpractice; failure to diagnose Hodgkins Lymphoma; lost chance of survival

Date and length of trial: February 14th – February 23rd, 2006; 2 weeks

Jury verdict: Defendants Craig Barbieri, MD and Carondelet Primary Care Network were dismissed by the Court at the close of the evidence. Jury found in favor of remaining Defendants. No recovery for Plaintiff.

MARK RETZER, JR v. NORTHLAND WOMAN'S HEALTHCARE, P.C. AND KAREN K. DRISKELL, M.D., 98CC01195

Plaintiff's attorney: Dirk Vandever and Scott Bertram
Defendant's attorney: William Yocum and Lance Baughman
Type of case: Medical malpractice; childbirth shoulder dystocia, brachial plexus nerve damage.
Date and length of trial: June 21st – 24th, 1999; 4 days
Jury verdict: Judgment in favor of Plaintiff, against both Defendants. Damages assessed in the total amount of \$686,000.00.

STATE v. TIMOTHY STEVENSON, 02CR72897

Plaintiff's attorney: Ron Holliday (Special Prosecutor)
Defendant's attorney: Daniel Radke
Charge: Unlawful Use of a Weapon; Assault 3rd Degree; Trespass and Property Damage 2nd degree. Defendant pulled knife on employees of auto dealership who refused to allow him to test drive a car when he was under the influence of alcohol.
Date and length of trial: October 23rd – 25th, 2002; 3 days
Jury verdict: Defendant found guilty of all charges except Property Damage, for which he was acquitted. Recommendation of one year in the county jail for Felony Unlawful Use of a Weapon, thirty days in jail for Trespass and a fine on Assault 3rd Degree.

JOHNSON v. J. EDWARD MCCULLOUGH, M.D., 0516CV28004

Plaintiff's attorney: Laurie Del Percio
Defendant's attorney: Jonathan Kiefer and Brandon Henry
Type of case: Medical malpractice. Plaintiff's esophagus was perforated during a dilatation procedure.
Date and length of trial: February 4th – 11th, 2008; 6 days.
Jury verdict: Jury found in favor of Defendant. No recovery for Plaintiff.

MELITTA WALTON v. HY-VEE, INC., 07CV03616

Plaintiff's attorney: Scott Shachtman and Michael Mohlman
Defendant's attorney: Bill Lewis and Haley Peerson
Type of case: Slip and fall on grape in grocery store causing double knee surgery.
Date and length of trial: November 3rd – 5th, 2008; 3 days.
Jury verdict: Jury found Plaintiff 0% at fault and Defendant 0% at fault, no recovery for Plaintiff.

MARY BURNS v. RICHARD HILL d/b/a HILL'S GARAGE, 00CV82372

Plaintiff's attorney: Vance Preman
Defendant's attorney: David Madden and Michelle Stewart
Type of case: Trip and fall over broken concrete in sidewalk outside business.
Date and length of trial: November 19th, 2001; 1 day
Jury verdict: Plaintiff found to be 0% at fault and Defendant found to be 0% at fault. No recovery to Plaintiff.

MARVIN FIGHT v. STEPHEN BISHOP AND AMERICAN PARKING CO., INC.,
98CC01447

Plaintiff's attorney: Jamie Walker

Defendant's attorney: Len Frisher

Type of case: Battery and Negligent supervision and training. Plaintiff kicked in the face by a parking attendant during an altercation at Argosy Riverboat

Date and length of trial: May 1st – 3rd, 2000; 3 days

Jury verdict: Judgment in favor of Plaintiff and against both Defendant's for Battery. Judgment in favor of Plaintiff and against Defendant American Parking Co. on claim of negligent supervision and training. Plaintiff found to be 80% at fault on negligence claim. Total damages on both claims assessed at \$70,000.00. Comparative fault not applicable to intentional tort of Battery, so judgment entered for Plaintiff in the amount of \$70,000.00.

PLATTE COUNTY MISSOURI v. KATHY SCHLAX, 00CV82177

Plaintiff's attorney: Brandon Misner

Defendant's attorney: Shawn Foster

Type of case: Automobile accident during high speed police pursuit. Police vehicle struck Defendant's vehicle. Defendant was not the subject of the police pursuit. Plaintiff sued for damage to police car and Defendant counterclaimed for property damage to her car and personal injury.

Date and length of trial: May 21st – 22nd, 2001; 2 days

Jury verdict: Plaintiff found to be 100% at fault, Defendant's damages assessed at \$8,075.00 for personal injury and \$1,925 for property damage. Judgment for Defendant for \$10,000.00 on Defendant's counterclaim.

STACEY MCDILL vs. VIRGINIA WEBB, 01CV82410

Plaintiff's attorney: Brian Klopfenstein

Defendant's attorney: Pro se

Type of case: Defamation claim based on sending by e-mail, an inappropriate photo that purported to be the Plaintiff to Plaintiff's co-workers, despite knowledge that the photo was not of the Plaintiff.

Date and length of trial: April 7th – 8th, 2003; 2 days

Jury verdict: Verdict for Plaintiff in the amount of \$40,000.00 actual damages and \$45,000.00 punitive damages.

STATE vs. JOHN NEWSOME, 02CR02695

Plaintiff's attorney: Jean Baker and Holly Malone

Defendant's attorney: Ruth Petsch and Steve Patton

Charge: Armed Robbery; Attempted Armed Robbery; two counts of Unlawful Use of a Weapon based on the robbery of two Subway restaurants.

Date and length of trial: August 19th – 21st, 2003; 3 days

Jury verdict: Defendant acquitted of all charges.

STATE vs. HENRY DANIELS, 02CR02695

Plaintiff's attorney: Michael Hendrickson; Asst. Atty. General

Defendant's attorney: Curt Winegarner

Charge: Second Degree Murder; Class A Felony as a Prior Persistent Offender. Defendant killed his girlfriend and dismembered her body.

Date and length of trial: October 6th - 13th, 2003; 6 days

Jury verdict: Defendant found guilty but no sentencing recommendation due to prior, persistent offender finding. Court sentence of 25 years DOC. Conviction later reversed by Western District Court of Appeals at 179 S.W.3d 273.

STATE vs MICHAEL TAYLOR JR, 98CM02368, 98TR08971

Plaintiff's attorney: Brent Powell and Brad Kavanaugh

Defendant's attorney: Jeff Eastman

Charge: DWI, Speeding

Date and length of trial: March 29th – 30th, 1999; 2 days

Jury verdict: Defendant acquitted of DWI and found guilty of speeding. Recommendation of a fine in an amount determined by the Court.

OSWALDO GARCIA AND SHEERA GARCIA vs KRISTIE WHITE, 99AC 00715

Plaintiff's attorney: Donald Taylor

Defendant's attorney: Leslie Renfrow

Type of case: Personal injury; plaintiff on bike hit by Defendant who was driving a van.

Date and length of trial: December 6th – 7th, 1999; 2 days

Jury verdict: Jury found Plaintiff Oswaldo Garcia to be damaged in the amount of \$8,000 and found Plaintiff to be 55% at fault and Defendant to be 45% at fault. Jury found Plaintiff Sheera Garcia not to have been damaged. Kansas law was applicable so no recovery to Plaintiff.

Defendant's property damage found to be \$1,640. Judgment entered in favor of Defendant for \$902 against Plaintiffs based on percentage of fault.

LILY WOODS vs. CLARENCE WOOD, 04CV203238

Plaintiff's attorney: James McManus and Robert Dewitt

Defendant's attorney: Rhonda Mason

Type of case: Auto accident; question as to which party had the right of way.

Date and length of trial: July 11th – 12th, 2005; 2 days

Jury verdict: Defendant found 0% at fault, Plaintiff found 0% at fault. No recovery for Plaintiff.

MELBA HUTTON vs. DALE SHIPLEY & SHIPLEY AND KJAR, LLC, 03CV84800

Plaintiff's attorney: Tom Hankins

Defendant's attorney: James Morrow and Martha Halvordson

Type of case: Legal malpractice; Heir to estate left out of final settlement and failed to receive her inheritance of \$7,763.75.

Date and length of trial: August 15th – 16th, 2005; 2 days

Jury verdict: Found for Defendant, no recovery for Plaintiff.

STATE vs. KATHERINE HAUSOLD, 07CR00341

Plaintiff's attorney: Joe Vanover and Lyndsey Mills

Defendant's attorney: Larry Kinnaman

Charge: Assault 3rd and Intentional Interference with Hunting. Defendant discharged firearm multiple times over the heads of persons hunting on property next to Defendant's property.

Date and length of trial: July 16th – 17th, 2007; 2 days.

Jury verdict: Defendant found guilty of both charges. Recommendation of 15 days in jail and a fine on Assault 3rd as well as a fine on Interference with Hunting charge.

STATE vs. CONNIE LAWSON, 06CR03338

Plaintiff's attorney: Chris Seufert and Robin Threlkeld

Defendant's attorney: Horton Lance

Charge: Hindering Prosecution by obstructing police officers so her son could escape an arrest warrant.

Date and length of trial: November 5th, 2007; 1 day.

Jury verdict: Defendant acquitted of charge.