

Tennessee Trial Court Vacancy Commission
Application for Nomination to Judicial Office

04/15/16

Name: James Frederick Exum III

Office Address: 200 West ML King Blvd., Suite 500
(including county) Chattanooga, Hamilton County, Tennessee 37402

Office Phone: 423-265-0214 Facsimile: 423-308-0937

INTRODUCTION

Tennessee Code Annotated section 17-4-301 et seq. charges the Trial Court Vacancy Commission with assisting the Governor and the People of Tennessee in finding and appointing the best qualified candidates for judicial offices in this State. Please consider the Commission's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Commission needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Commission requests that applicants obtain the word processing form and respond directly on the form. Respond in the box provided below each question. (The box will expand as you type in the document.) Review the separate instruction sheet prior to completing this document. Submit original (unbound) completed application (with ink signature) to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to debra.hayes@tncourts.gov, or via another digital storage device such as flash drive or CD.

THIS APPLICATION IS OPEN TO PUBLIC INSPECTION AFTER YOU SUBMIT IT.

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Member - Leitner, Williams, Dooley & Napolitan, PLLC

2. State the year you were licensed to practice law in Tennessee and give your Tennessee Board of Professional Responsibility number.

2006, Bar Number - 25377

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

Tennessee - 25377 (November 2006) (Active)

Georgia - 954516 (April 2012) (Active)

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any State? If so, explain. (This applies even if the denial was temporary).

No

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

2006-Present: Leitner, Williams, Dooley & Napolitan, PLLC

6. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

My practice focuses on civil defense litigation with an emphasis on construction, premises liability, automobile liability, insurance coverage and governmental defense. Civil defense comprises approximately 75% of my current practice.

I also maintain a domestic relations practice handling divorce, child custody controversies and orders of protection. Currently, I am lead counsel on a Hague Convention international child custody matter in federal court. Family law comprises 25% of my practice.

7. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters.

I joined Leitner, Williams, Dooley & Napolitan, PLLC as an associate after graduating from law school. In my first three years, I practiced mostly workers' compensation defense. I participated in hearings and Benefit Review Conferences before the Tennessee Department of Labor and tried disputed cases in the state trial courts.

Subsequently, I began handling general tort claims involving trucking accidents, premises liability, products liability and other general negligence matters in Tennessee and Georgia, which has become the mainstay of my current litigation practice. I also litigate construction defect cases in court and through arbitration. These defect cases concern both residential and commercial structures with disputed amounts in the millions. In litigating these cases, I have developed a keen eye for detail without losing sight of the big picture. Such matters are also document intensive and require the ability to identify and separate critical information and have a high-level understanding of general construction practices.

Another area of my litigation practice is governmental defense. It is a privilege to advocate on behalf of our police officers and school officials. As a result, I have a greater understanding and appreciation of the unique challenges facing our public servants when they are called upon to answer for their actions.

Additionally, I have a growing family law practice. This started with the handling of a single case as a favor for a fellow attorney. However, I realized that these cases provided an outlet to fulfill a deep sense of responsibility to protect the most vulnerable members of our community. This quickly grew into a practice that affords me the opportunity to advise clients on a personal level. In Circuit, Chancery, or even Juvenile Court, the issues raised in family law cases rarely conform to any one-size-fits-all mold, as each case presents problems as unique as the individuals involved.

I have participated in clinics for Legal Aid of East Tennessee. Recently, I participated in a clinic with the Legal Aid Society and Christian Legal Society. Privately, I have taken domestic clients *pro bono*. For people in dire circumstances without the ability to pay, I believe it is the

responsibility of an attorney to assist.

My litigation practice has given me opportunities to present cases not only in state court but also in federal court, both in Tennessee and Georgia. Being admitted in three district courts and two circuit courts of appeal requires me to draft lengthy briefs and adhere to strict deadlines.

Litigating cases from inception to either a verdict or dismissal on motion practice, I have argued before the Tennessee Court of Appeals and the Sixth Circuit Court of Appeals. I understand the applicable standards of review and what the appeals courts are looking for in the decisions of the trial court, and I tailor the defense of a case to best withstand scrutiny on appeal.

Courts have an obligation to the parties to ensure that a case is progressing as quickly as possible. Unending litigation causes people to lose faith in the system and makes it difficult to try cases. I routinely handle a caseload of approximately 50 matters concurrently. Managing others and efficient practices are crucial to my work now and will certainly be necessary in handling a court docket. Having lived in a world where the demands of my practice do not keep normal business hours, I have the work ethic required to properly serve the citizens of Hamilton County as a member of the judiciary.

8. Describe any matters of special note involving your practice in trial courts, appellate courts, and administrative bodies.

As most matters either settle or are dismissed on motion practice, trials have become scarce. In 2016 alone, I had three jury trials in Hamilton County. These trials were:

1. Heather Whalen, Michael Whalen and Debra Whalen v. Hamilton County Department of Education, et. al. (13-C-1024)
2. West v. Epiphany Salon & Day Spa, LLC (12-C-1476) (Assisted)
3. Shannon R. Johnson v. Dixieland Construction LLC, et. al. (15-C-456)

I have appeared before the Tennessee Workers Compensation Appeals Panel and before the Tennessee Court of Appeals. A significant case I litigated in the Court of Appeals was Akridge v. Fathom, Inc., 2015 Tenn. App. LEXIS 8 (Tenn. Ct. App. 2015). Akridge concerned a high-profile club shooting in Chattanooga. I sought summary judgment which the trial court denied; however, the court allowed an interlocutory appeal. The Court of Appeals reversed the trial court and granted partial summary judgment in favor of my client. (See Brief attached as Exhibit 1).

I also argued before the Sixth Circuit Court of Appeals in Byrd v. Alpha Alliance Ins. Corp., 518 Fed. Appx. 380 (6th Cir. 2013). In Byrd, we moved for summary judgment on spoliation of evidence. The Court granted the motion and the sanction was dismissal of the plaintiff's case. The plaintiff appealed to the Sixth Circuit. While the Court ultimately affirmed the spoliation determination, the Appeals Court determined the sanction of dismissal was too harsh. It was a split decision, but one which was a valuable learning opportunity. (See Brief attached as Exhibit 2).

Recently, I secured the dismissal of my client, an out-of-state pharmacy, in a multi-million dollar

pharmacy negligence lawsuit. Turner ex rel. Turner v. Howe et. al., 2016 Tenn. App. LEXIS 970 (Tenn. Ct. App. 2017). My client was an Alabama pharmacy sued in Tennessee after a Tennessee resident traveled to Alabama to fill a prescription. The pharmacy had no contacts with Tennessee and the Court of Appeals affirmed the dismissal.

Also in 2017, we secured the dismissal of an attorney in Ringgold, Georgia in a professional malpractice suit pending in U.S. District Court for the Northern District of Georgia, Brian C. Pemberton v. J. Michael Giglio, et al., Docket No. 4:17-CV-0010.

Currently, I am lead counsel on a matter in federal court governed by the Hague Convention on the Civil Aspects of International Child Abduction. This case is one of the rare times a federal court becomes involved in what is essentially a domestic matter.

9. Describe any other legal experience, not stated above, that you would like to bring to the attention of the Commission.

Early in my legal career, I spoke to teacher groups at local schools on various educational topics. Whether it was wage and hour law, or the recognition of child abuse and proper reporting procedures, these presentations offered the opportunity to meet with educators in our community and provide a valuable service.

Recently, I have given presentations on the use of social media in litigation. In March 2017, I presented at the International Association of Insurance Professionals Regional meeting in Atlanta, Georgia. I am to present on the use of social media in litigation in September 2017 at the Tennessee Self-Insurers Association Conference, and at the Tennessee Attorneys Memo 2017 Personal Injury Law Conference.

In May of 2017, I presented to the Chattanooga Chapter of the Building Owners and Managers Association on premises liability.

In July 2017, I was a presenter for a CLE course on bad faith and ethical duties to a client in the context of UM cases and insurance defense practice.

10. List and describe all prior occasions on which you have submitted an application for any state or federal judicial position.

I submitted an application in 2014 for a U.S. District Court E.D. Tennessee Magistrate position.

EDUCATION

11. List each college, law school, and other graduate school which you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

Samford University: Cumberland School of Law, (Attended 2003-2006) Juris Doctorate, 2006

- Dean's List
- 2004 Donworth Moot Court Competition Winner
- Fall 2004 Scholar of Merit: Professional Responsibility

University of Tennessee at Chattanooga, (Attended 1999-2003) B.A. History *Magna Cum Laude*, Minor in Economics, 2003

- Dean's List
- North Callahan Award Winner
- Officer-Mortar Board Society

PERSONAL INFORMATION

12. State your date of birth.

February 26, 1981

13. How long have you lived continuously in the State of Tennessee?

11 years

14. How long have you lived continuously in the county where you are now living?

11 years

15. State the county in which you are registered to vote.

Hamilton

16. Describe your military service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

Not applicable

17. Have you ever pled guilty or been convicted or are now on diversion for violation of any law, regulation or ordinance other than minor traffic offenses? If so, state the approximate date, charge and disposition of the case.

No

18. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No

19. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint.

Not Applicable

20. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No

21. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC, corporation, or other business organization)?

No

22. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court

and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

No.

23. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices which you have held in such organizations.

1. Hamilton County Pachyderm Club
2. Red Bank Baptist Church, Member
3. Mount Carmel Baptist Church, Member

24. Have you ever belonged to any organization, association, club or society which limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.

- a. If so, list such organizations and describe the basis of the membership limitation.
- b. If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No

ACHIEVEMENTS

25. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices which you have held in such groups. List memberships and responsibilities on any committee of professional associations which you consider significant.

Brock-Cooper Inns of Court, Fall 2017: Barrister, 2009-2011: Associate

Defense Research Institute, 2015-Present

Tennessee Defense Lawyers Association, 2017

Building Owners and Managers Association of Chattanooga, 2017

Tennessee Bar Association, 2006 – Present

Georgia Bar Association, 2012 – Present

Chattanooga Bar Association, 2006 – Present

Tennessee Council of School Board Attorneys, 2008 – 2010 (Board Member at Large)

26. List honors, prizes, awards or other forms of recognition which you have received since your graduation from law school which are directly related to professional accomplishments.

Not applicable

27. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

Signal Mountain Design Review Commission, 2017 – Present. This is an appointed position.

ESSAYS/PERSONAL STATEMENTS

28. What are your reasons for seeking this position? *(150 words or less)*

August 30, 2013 was a special day in my life. On that day my son was born. Knowing that I would be responsible for raising him and teaching him how to treat others is a heavy responsibility. I had no experience raising a child and could only rely on my wife and the grace of God to do the best job possible every day. Part of raising him is teaching him the basic concept of sharing.

As an attorney, I learned early that sharing our talents, without expectation of payment, is part of the enormous responsibility we have as practitioners of the law.

I seek this position to continue to serve others through public service. Advocating for those in need is worthwhile. However, I want to work for the benefit of all parties and my community in this important role. The fair administration of justice benefits and serves us all.

29. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. *(150 words or less)*

Hamilton County has been my home for most of my life. This Circuit Court has four divisions hearing both general litigation and domestic cases. Having appeared in numerous courts in both Tennessee and Georgia, I have seen firsthand practices that work and those that do not. My experience as a litigator in civil cases and domestic matters would minimize the disruption to the court. I will ensure fairness, consistency and an adherence to the law. Without such, people lose faith in the system and the courtroom fails to be a level playing field.

I also want to see greater use of technology in the courtroom. Federal courts are quickly outpacing state courts in the presentation of evidence through digital means. I will be an advocate for greater funding to handle technology in the presentation of evidence. This hopefully will keep a jury more engaged and lead to appropriate verdicts.

30. Will you uphold the law even if you disagree with the substance of the law (e.g., statute or rule) at issue? Give an example from your experience as a licensed attorney that supports your response to this question. *(250 words or less)*

Supreme Court Justice Neil Gorsuch states that "a judge who likes every outcome he reaches is very likely a bad judge... stretching for results he prefers rather than those the law demands." Though there may be a law that is inconsistent with my personal convictions, if appointed to the bench, anything that is personal to me must be secondary to the requirements of the law.

One such rule with which I disagree is Tenn. Code Ann. § 36-3-605(b), which does not allow for an initial order of protection to extend beyond one year. I have seen through my domestic practice that some people are such a threat to others that one year of protection is not enough. Many acts of abuse are so egregious that there should be no requirement of a victim to re-petition

the court for an extension after such a short period. To burden a victim to continually seek the protection of the court forces the injured party to relive the events that led to the initial order of protection. The passage of time sometimes does not abate a threat.

Despite my personal feelings or preferences, if appointed to the bench, I will follow and uphold the law as every judge is sworn to do. I am seeking appointment to the bench, not the Legislature. It would be my obligation and my oath to uphold the law no matter my personal feelings.

REFERENCES

31. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Commission or someone on its behalf may contact these persons regarding your application.

A. William M. Barker

B. U.S. Representative Chuck Fleischmann

C. Flossie Weill

D. Sergeant Michael Newton

E. Ethan Collier


AFFIRMATION CONCERNING APPLICATION

Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Hamilton County Circuit Court, Division IV of Tennessee, and if appointed by the Governor, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Commission members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

Dated: July 31, 2017.



Signature

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.



**TENNESSEE TRIAL COURT VACANCY COMMISSION
ADMINISTRATIVE OFFICE OF THE COURTS**

511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information that concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the State of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Trial Court Vacancy Commission to request and receive any such information and distribute it to the membership of the Commission and to the Office of the Governor.

James F. Exum, III
Type or Print Name


Signature

July 31, 2017
Date

025377
BPR #

Please identify other licensing boards that have issued you a license, including the state issuing the license and the license number.

Georgia Bar Association, Bar No. 954516
