

**Tennessee Trial Court Vacancy Commission**  
***Application for Nomination to Judicial Office***

04/15/16

Name: Joseph G. DeGaetano (Joe)

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**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](http://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](mailto: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.

Attorney and owner of DeGaetano Law Firm.

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

2001, BPR No. 21448

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.

Georgia (Bar No. 215950) – Licensed November 8, 2000 – present (active membership).

Tennessee (BPR No. 21448) – Licensed October 25, 2001 – present (active membership).

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).

**2000-2001 – Judicial Law Clerk to the Honorable Phyllis A. Kravitch, United States Court of Appeals for the Eleventh Circuit (Atlanta, Georgia).**

During this one-year appointment, I worked closely with a judge on the United States Court of Appeals, providing legal research and analysis on cases before the court. My job was comprised of two main duties. First, I was required to read the parties' briefs and review the trial court record, conduct independent legal research, analyze pertinent issues, and advise the judge orally and in writing on the issues to be decided. Second, I was required to draft legal opinions, in consultation with the judge, reflecting and supporting the judgment of the Court. Through this work I was exposed to a wide variety of legal issues, and learned how to write judicial opinions

effectively and efficiently (one such published opinion was joined by Supreme Court Justice Samuel Alito, when he was a judge on the United States Court of Appeals for the Third Circuit, on which Judge Kravitch was sitting by designation). Through my clerkship, I also gained the invaluable professional experience of working with and learning from a long-tenured and well-respected federal appellate judge, who started her judicial career as a state trial court judge.

**2001-2007 – Litigation Attorney at Boulton, Cummings, Connors & Berry (Nashville and Chattanooga, Tennessee).**

At Boulton Cummings, a firm comprised of about 100 lawyers at the time, I litigated a wide variety of civil cases throughout the state of Tennessee. I was given significant responsibility and autonomy early in my career, and argued in the Tennessee Court of Appeals and Supreme Court within my first few years in practice. I also litigated and tried cases in Circuit Court with and against some of the best lawyers in the state. My clients included individuals, small businesses, and large corporations. Successful trial results included winning a \$2.9 million verdict in an alcohol liability case in the Circuit Court for Davidson County. Several years after I joined Boulton Cummings in Nashville, the firm's leadership asked me to continue working remotely for the firm when I moved back to Chattanooga in 2005. (For two months in 2005 before I was asked to rejoin my colleagues at Boulton Cummings, I worked as a litigation attorney at Miller & Martin in Chattanooga.) After two years of working remotely and commuting to Nashville on a regular basis, I decided to leave Boulton Cummings to join a firm in Chattanooga in 2007.

**2007-2009 – Litigation Attorney at Law Offices of Morgan G. Adams (Chattanooga, Tennessee).**

Here, I successfully continued my civil trial and appellate litigation practice, in both tort and business cases. I also served as regular counsel to a publicly traded transportation and logistics company. I decided to leave to start my own firm in 2009.

**2009-Present – Litigation Attorney at DeGaetano Law Firm (Chattanooga, Tennessee).**

I continue to represent individuals and businesses in civil litigation, and since 2009 I have been accepting court appointments to represent indigent criminal defendants in federal court, as a member of the Criminal Justice Act ("CJA") Panel. (Membership on the CJA Panel is by appointment and periodic reappointment by a committee comprised of federal judges and practitioners.) Successful civil trial results include obtaining a \$10 million verdict in the Circuit Court for Rutherford County on behalf of my client in a case against a publicly traded restaurant company.

**2015-Present – Board of Zoning Appeals, Hamilton County, Tennessee.**

I was appointed by the Hamilton County Commission to the Board of Zoning Appeals in 2015. In that role, I sit on a panel of five members who hear and decide zoning appeals and requests for variances by Hamilton County property owners.

**1996-1997 (before law school): CSC Consulting and Systems Integration (Atlanta,**

**Georgia), Associate Consultant—Software Developer.**

Working as a computer programmer, I created the primary software applications for an electronic document management, imaging, and distribution system for the U.S. Department of Energy at Oak Ridge National Laboratory, and overhauled a digital signature system for the U.S. Department of Energy at Savannah River Site. My background as a software developer in the area of electronic document management systems enables me to understand the technical issues that arise regarding the discovery of electronically stored information.

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.

100% of my practice is litigation and dispute resolution. In recent years, my practice typically has been divided between civil litigation (approximately 65%) and federal criminal defense (approximately 35%). On the civil side, about 70% of my work has been in the area of tort and insurance law, with the remaining 30% comprised of general commercial disputes (e.g., breaches of contract, real estate disputes, trade secrets and unfair competition, and business dissolutions). On the criminal defense side, virtually all of my work consists of court-appointed cases under the Criminal Justice Act in U.S. District Court. Those cases generally involve drug-trafficking and/or firearms offenses.

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.

Almost all of my legal experience has been litigation in trial and appellate courts. I also have served in the judicial branch as a law clerk to a judge on the United States Court of Appeals, and in a quasi-judicial role as a member of the Hamilton County Board of Zoning Appeals, an administrative law tribunal.

I have tried or otherwise litigated civil cases to completion in Circuit Court, Chancery Court, General Sessions Court, and federal District Court. I have briefed and orally argued cases in the Tennessee Court of Appeals and the Tennessee Supreme Court. I have handled many different types of civil cases, on behalf of plaintiffs and defendants, in matters arising from breaches of contract, corporate dissolutions, intellectual property and trade secrets disputes, automobile collisions, premises liability, consumer transactions, products liability, landlord-tenant disputes, real estate transactional disputes, and other commercial disputes. I have represented individuals (including Legal Aid clients), small businesses, and large corporations.

In my criminal practice, I am the sole lawyer appointed to represent someone who in nearly every case initially faces a sentence of up to life imprisonment. In that role, I bear sole responsibility for investigating and litigating all constitutional and other defenses, and for litigating all sentencing issues.

In my role as a member of the Board of Zoning Appeals for Hamilton County, I (in concert with the four other members) hear testimony and receive evidence on matters arising under the county zoning ordinance, and then render a decision that applies the law to the facts.

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

I argued the case of Green v. Moore, 101 S.W.3d 415 (Tenn. 2003), in the Tennessee Supreme Court. The issue was whether the 30-day notice of appeal period, articulated in Tennessee Rule of Appellate Procedure 4(a), began to run upon the filing of a notice of voluntary dismissal of the final claim between all parties in the action, or upon the trial court's subsequent entry of an order confirming that all claims between all parties had been adjudicated. Although the Supreme Court ruled against my client based on the law then in effect, the case led to the amendment of Tennessee Rule of Civil Procedure 41 in 2004, when Rule 41.01(3) was added specifically to require the entry of a court order after a voluntary nonsuit. The opinion in Green v. Moore was cited in the Advisory Commission Comment to the 2004 amendment of Rule 41.

In the Circuit Court for Davidson County, my colleague and I represented an innocent motorist in a case against a large nightclub and a security company. The defendants' recklessness and negligence led to a drunk driving collision that permanently injured our client. The jury returned a \$2.9 million verdict in our client's favor.

In the Circuit Court for Rutherford County, my colleague and I obtained a \$10.035 million verdict against a publicly traded restaurant chain for over-service of alcohol to an obviously intoxicated man who violently attacked our client.

As a young associate, I represented a Legal Aid client (*pro bono*) in a trial in Davidson County General Sessions Court against the son of a General Sessions Judge. My client asserted a property damage claim arising from a car wreck, and the defendant counter-claimed for property damage. The judge was a witness at trial, and I had to cross-examine him, before his fellow judge, about the disputed facts of the wreck. Neither party was found to be at fault, and my client was grateful that I zealously represented her against a judge's son.

In federal court, I have obtained numerous below-Guidelines sentences for indigent criminal defendants. Such sentences are uncommon, and were based on circumstances that I successfully argued distinguished my clients from the large majority of defendants in similar cases.

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

From 2015 to 2017, I served as Legal Counsel to the Hamilton County Republican Party, providing legal analysis and advice on issues of campaign finance and election law.

I gained prosecutorial experience during my third year of law school, pursuant to a Georgia law that authorized me to prosecute criminal cases under the supervision of a licensed attorney. Through the Athens-Clarke County Solicitor General's office, I represented the State of Georgia in dozens of bench trials and two jury trials, in cases ranging from drug possession to domestic violence. Although a licensed attorney was required to sit at the counsel table with me, I conducted all aspects of the trials myself.

Through the Chattanooga Bar Association, I have served as a volunteer arbitrator of attorney fee disputes.

Through the Tennessee Bar Association, I have taught five Continuing Legal Education seminars, on various tort law topics, in Nashville, Cleveland, Dickson, and Columbia.

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

In 2005, I applied to the Hamilton County Commission for appointment as Hamilton County General Sessions Judge.

In 2012, I applied to Governor Haslam for appointment as Special Judge of the General Sessions Court for Hamilton County, and was selected by the Governor's Office as one of three finalists for the appointment.

In 2014, I applied for appointment as Magistrate Judge of the U.S. District Court for the Eastern District of Tennessee, at the suggestion of one of the Magistrate Judges on that court who was familiar with my work.

### **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.

**Vanderbilt University**, August 1992 – May 1996, Bachelor of Science in Economics.

*Magna Cum Laude*.

Top Tenn Scholarship recipient.

GPA: 3.68.

**University of Georgia School of Law**, August 1997 – May 2000, Juris Doctor.

*Summa Cum Laude*.

Class Rank: 2<sup>nd</sup> of 223. GPA: 3.91.

Awards for highest grade (A+) in Civil Procedure, Torts, and Criminal Law.

Law Review – Editorial Board; Order of the Coif; School of Law Scholarship recipient.

**PERSONAL INFORMATION**

12. State your date of birth.

August 1, 1974.

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

Approximately 16 years (since August 2001). I also lived in Tennessee continuously from October 1979 through May 1996.

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

More than 12 years (since April 1, 2005), and also from October 1979 through August 1992.

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.

When I was 19 years old in July 1994, I received a citation for underage possession of alcohol. I accepted responsibility for the violation, paid a fine, took an alcohol-awareness class, and learned my lesson. I believe the record was expunged as part of a pre-trial or judicial diversion in either Chattanooga City Court or Hamilton County General Sessions Court.

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.

None.

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.

**Hamilton County Republican Party** – *Chairman*, elected February 2017 (resignation effective upon submission of this application, in accordance with Canon 4, Rule 4.1, Tennessee Code of Judicial Conduct); *Legal Counsel*, 2015-2017.



**Pachyderm Club of Hamilton County** – *Director*, 2014-2016.

**Chattanooga-Hamilton County Regional Health Council**, *Member*, 2016-present.

**Cottages At Knickerbocker Homeowners Association** – *Board Member*, 2009-present.

**Parent-Teacher Association, Normal Park Museum Magnet School**, 2011-2017.

**North River Soccer Association** – *Youth Coach*, 2012-2017 (ten seasons).

**Roman Catholic Church** – St. Jude and Sts. Peter & Paul.

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.
- If so, list such organizations and describe the basis of the membership limitation.
  - 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.

In college I was a member and the President of Alpha Tau Omega fraternity, which was open to men only. I ceased being an active member of that fraternity in 1996 upon graduating from college.

### **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.

**Tennessee Bar Association, Tort & Insurance Practice Section** – *Chair*, 2011-2012; *Vice Chair*, 2010-2011; *Executive Council Member*, 2007-present. (A non-partisan group of plaintiff and defense lawyers, and in-house counsel, dedicated to improving the practice of tort and insurance law in Tennessee. I was elected unanimously as Chair of this group, which included in-house lawyers for State Volunteer Mutual Insurance Company and Farmers Insurance, as well as lawyers in private practice at large and small firms across Tennessee.)

**Criminal Justice Act Panel, Eastern District of Tennessee** – *Member*, 2009-present. (A panel of lawyers selected to accept court appointments to represent indigent criminal defendants in the

United States District Court for the Eastern District of Tennessee).

**Tennessee Bar Association**, 2001-present.

**State Bar of Georgia**, 2000-present.

**Chattanooga Bar Association**, 2005-present.

**Federal Bar Association**, 2014-2016.

**Tennessee Association for Justice**, 2002-2012.

**American Association for Justice**, 2002-2009.

**American Bar Association**, 2002-2007.

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.

In its July 23, 2012 editorial discussing the seven candidates in the August 2012 election for General Sessions Judge, the Free Press Editorial Page of the Chattanooga Times Free Press published the following statement after interviewing me: “Joe DeGaetano particularly impressed us. . . . [H]is intellect and involvement in the community are second to none. Chattanooga is a better place because of DeGaetano and it is our hope that his (difficult to spell, but fun to say) name is on many more ballots in the future.”

In 2012, I received an award from the Tennessee Bar Association for “Outstanding Service and Leadership” as Chair of the Tort and Insurance Practice Section’s Executive Council.

In 2007, I received special recognition from Legal Aid of East Tennessee for commitment to *pro bono* work in law practice.

I have an A+ rating from the Better Business Bureau, and a 10.0 (“Superb”) rating from Avvo.com.

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.

**Board of Zoning Appeals, Hamilton County, TN** – Member, 2015-present. Appointed by Hamilton County Commission.

**Chattanooga-Hamilton County Regional Health Council** – Member, 2016-present. Appointed by Hamilton County Commission.

I applied to the Hamilton County Commission for appointment as Hamilton County General Sessions Judge in 2005.

I was a candidate for election to Hamilton County General Sessions Judge in August 2012.

I was an applicant for appointment as Special Judge of Hamilton County General Sessions Court in October-December 2012.

In 2014, I applied for appointment as Magistrate Judge of the U.S. District Court for the Eastern District of Tennessee.

### **ESSAYS/PERSONAL STATEMENTS**

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

My reason, in the words of Theodore Roosevelt, is “to work hard at work worth doing.” I have enjoyed success by working hard in private practice, and I want to continue to work hard for a greater purpose: serving my community and state. I respect the law, I enjoy studying it, and I know that good and diligent judges are crucial to the effective administration of justice. As judge, I will work hard to make sure that each litigant, whether an indigent person proceeding *pro se* or a large corporation represented by top lawyers, is confident that the judge has taken the time to know and apply the law correctly and without preference.

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)*

There are four judges of the Circuit Court for the 11<sup>th</sup> Judicial District. The Court’s geographic jurisdiction is Hamilton County, which contains urban, suburban, and rural populations. The Court’s subject matter jurisdiction includes general civil disputes (e.g., contracts, torts, real estate, corporate matters, General Sessions appeals, and appeals from administrative tribunals) and domestic relations (e.g., divorce, child support and custody, adoption, and orders of protection). My selection would impact the Court favorably because I have patience and a calm demeanor, and I am able to recognize pertinent legal and factual issues, to apply the correct law to the relevant facts, and to convey factual findings and legal conclusions clearly, both orally and in writing. My goal is to work each day to earn the public’s trust in the judicial system.

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)*

Absolutely. Rule 2.2 of the Code of Judicial Conduct states that “[a] judge shall uphold and apply the law.” Comment 2 to that Rule specifically explains that it applies “without regard to

whether the judge approves or disapproves of the law in question.” The role of a judge, simply stated, is to apply the law as written. Similarly, the role of a lawyer is to advocate zealously for his client within the bounds of the law. On those occasions when the law and my personal views have not been aligned, I have subordinated my personal opinion and zealously advocated for my clients. Similarly, as a member of the Hamilton County Board of Zoning Appeals, I follow the law as written, and at times find that I must vote to deny requests for variances that do not satisfy the legal criteria for the granting of a variance. Although I may feel sympathy for the landowners who find themselves in a predicament, my oath requires that I follow the law, and that is what I do. I would do the same as judge. To paraphrase Chief Justice John Roberts, a judge is an umpire who calls balls and strikes; a judge does not redefine the strike zone.

**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. Bill Hullander

B. Richard C. Rose

C. Patsy L. Henry

D. Austin L. McMullen

E. Eric W. Smith

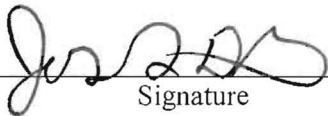
**AFFIRMATION CONCERNING APPLICATION**

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 Circuit Court, Eleventh Judicial District 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 14, 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.

Joseph G. DeGaetano

\_\_\_\_\_  
Type or Print Name

  
\_\_\_\_\_  
Signature

July 14, 2017

\_\_\_\_\_  
Date

21448

\_\_\_\_\_  
BPR #

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

State Bar of Georgia (No. 215950)