

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Travis Randall McDonough

2. **Position**: State the position for which you have been nominated.

United States District Court Judge for the Eastern District of Tennessee

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office of Mayor Andy Berke
City of Chattanooga
101 East 11th Street
Chattanooga, TN 37402

4. **Birthplace**: State year and place of birth.

1972; Chattanooga, Tennessee

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1994 – 1997, Vanderbilt Law School; J.D., 1997

1990 – 1994, University of the South, Sewanee; B.A., 1994

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2013 – present
Office of Mayor Andy Berke
City of Chattanooga
101 East 11th Street

Chattanooga, Tennessee 37402
Chief of Staff and Counselor to the Mayor

1997 – 2013, Summer 1996
Miller and Martin PLLC
832 Georgia Avenue
Chattanooga, Tennessee 37402
Member (2005 – 2013)
Associate (1997 – 2004)
Summer Clerk (Summer 1996)

Summer 1996
Lightfoot, Franklin & White, LLP
400 20th Street North
Birmingham, Alabama 35203
Summer Clerk

Summer 1995
United Paperworkers International Union
3340 Perimeter Hill Drive
Nashville, Tennessee 37211
Law Clerk

Summer 1995
Nashville Sounds Baseball Club
Herschel Greer Stadium
534 Chestnut Street
Nashville, Tennessee 37203
Retail Clerk

Summer 1994
Whitney Durand for Congress
859 McCallie Avenue
Chattanooga, Tennessee 37403
Field Director

Other affiliations (uncompensated):

2011 – present
United States Global Leadership Coalition
1129 20th Street, NW, Suite 600
Washington, D.C. 20036
Tennessee Advisory Board

2007 – 2011
Tennessee Motor Vehicle Commission

500 James Robertson Parkway
Nashville, Tennessee 37243
Commissioner

Approximately 2005 – 2010
Southeast Tennessee Legal Services
821 Houston Street
Chattanooga, Tennessee 37403
Board of Directors

Approximately 1999 – 2002
Hope for Chattanooga (now known as Hope for the Inner City)
1800 Roanoke Avenue
Chattanooga, Tennessee 37406
Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I registered for selective service but have not served in the U.S. Military.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Martindale-Hubbell, AV Preeminent rating (approximately 2009 – present)

Best Lawyers in America (recognized for White Collar Crime practice) (2013)

International Association of Defense Counsel, Fellow (2011 – 2013)

Mid-South Super Lawyers, Rising Star (2008 – 2012)

Leadership Chattanooga, Graduate (2000)

Atlee Heber Hoff Memorial Scholarship, Recipient (1994)

E.G. Richmond Prize in Social Science, Recipient (1994)

Phillip Evans Award, Recipient (1994)

The Harry S. Truman Scholarship Foundation, Scholar (1993)

Tonya Memorial Foundation, Fellow (1992)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association

Co-Chair, Sixth Circuit White Collar Crime Committee (approximately 2005 – 2013)

Chattanooga Bar Association

Federal Bar Association

Tennessee Bar Association

Chairperson, Litigation Section (2008 – 2010)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Tennessee, 1997

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

State of Tennessee, 1997

United States District Court for the Eastern District of Tennessee, 1998

United States Court of Appeals for the Sixth Circuit, 2004

United States Tax Court, 2009

Supreme Court of the United States, 2009

United States District Court for the Middle District of Tennessee, 2010

United States District Court for the Western District of Tennessee, 2010

I am not aware of any lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Black Creek Club (approximately 2000 – 2009)

Chattanooga Chamber of Commerce Education Initiative (2007 – 2010)
Committee Member and Education Emissary

Chattanooga Human Rights and Human Relations Commission (approximately 1999 – 2005)
Commissioner

Chattanooga Pension Task Force (2013 – 2014)
Chairperson

Chattanooga School for the Liberal Arts Foundation (2011 – 2013)
Board Member

Engel Foundation (2011 – 2013)
Board of Directors

Hamilton County School Board Blue Ribbon Budget Committee (2009)

Hope for Chattanooga (now known as Hope for the Inner City) (approximately 1999 – 2002)
Board of Directors

Justices Ray L. Brock and Robert E. Cooper American Inn of Court (approximately 1999 – 2010)
Charter Member

Marion County Partnership for Economic Development (2009 – 2013)

New City Fellowship at Westminster (2000 – present)

Tennessee Motor Vehicle Commission (2007 – 2011)
Commissioner

Southeast Tennessee Legal Services (approximately 2005 – 2010)

Board of Directors

United States Global Leadership Coalition (2011 – present)
Tennessee Advisory Board

University of Tennessee at Chattanooga Chancellor's Roundtable (2013 – present)

Whitwell Lodge #563 (1993 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

Whitwell Masonic Lodge #563 is a fraternal organization whose direct membership is made up of men, but it is my understanding that a related organization at the same location (Order of the Eastern Star) is open to women. To the best of my knowledge none of the other clubs listed in response to 11a currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

With Robert F. Parsley & Marcia M. Eason, *Reforming Tennessee's Rules of Appellate Procedure: Separate Notices of Appeal . . . Or Not?*, 1 Belmont L. Rev. 17 (2014). Copy supplied.

With Eileen H. Rumfelt & Allison Wiseman, *Canadian Subsidiary of U.S. Company Guilty of Export Violations*, ABA Criminal Litigation Committee, July 17, 2012. Copy supplied.

With Eileen H. Rumfelt & Allison Wiseman, *FBI Says Insider Threat of Economic Espionage on the Rise*, ABA Criminal Litigation Committee, July 17, 2012. Copy supplied.

With Eileen H. Rumfelt & Allison Wiseman, *Madoff's Brother Pleads Guilty to Fraud and Conspiracy*, ABA Criminal Litigation Committee, July 17, 2012. Copy supplied.

With Eileen H. Rumfelt & Allison Wiseman, *2nd Circuit Upholds 10-Year Sentence for Lawyer in Terrorism Case*, ABA Criminal Litigation Committee, July 17, 2012. Copy supplied.

With Eileen H. Rumfelt, *Month in Review: June 2012*, ABA Criminal Litigation Committee, (June 2012). Copy supplied.

With Eileen H. Rumfelt, *Sentencing Commission Votes in Favor of Retroactivity*, ABA Criminal Litigation Committee, July 22, 2011. Copy supplied.

With Eileen H. Rumfelt, *New Profile of Typical Corporate Fraudster Released*, ABA Criminal Litigation Committee, July 22, 2011. Copy supplied.

With Eileen H. Rumfelt, *AG Recommends Full Investigation of Deaths of Two Overseas Detainees*, ABA Criminal Litigation Committee, July 22, 2011. Copy supplied.

Peers' Support Shows Smith's Value, Chattanooga Times – Free Press, August 2, 2010. Copy supplied.

Month in Review: June 2010, ABA Criminal Litigation Committee, (June 2010). To the best of my recollection, I co-authored this document, which summarized recent developments relevant to white collar criminal law. I have been unable to locate a copy of the article.

With Zachary H. Greene, *Month in Review: June 2009*, ABA Criminal Litigation Committee, (June 2009). Copy supplied.

The Right Formula: Efficiency, Transparency, Resources Key to Better Schools, Chattanooga Times – Free Press, April 12, 2009. Copy supplied.

With M. Ellis Lord, *Month in Review: June 2008*, ABA Criminal Litigation Committee, (June 2008). Copy supplied.

Class Notes, Sewanee Magazine, (Summer 2007). Copy supplied.

With Kyle Eiselstein, *Month in Review: June 2006*, ABA Criminal Litigation Committee, (June 2006). Copy supplied.

In approximately 1996, I wrote a letter to the editor of the Nashville Tennessean concerning a strike at a Middle Tennessee manufacturing company. I have been

unable to locate a copy of that letter.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

As Chief of Staff and Counselor to the Mayor of Chattanooga, I have frequently appeared before the Chattanooga City Council and its committees to provide public statements in support of or opposition to potential Council action. Based on searches of my records and materials available on the Internet, to the best of my knowledge, the following list of appearances is complete and accurate:

July 29, 2014: Appearance, Chattanooga City Council Public Works and Transportation Committee Meeting, regarding the plan to encourage a contractor to hire residents of a depressed area for demolition work at a city-owned property. Video supplied.

June 24, 2014: Appearance, Chattanooga City Council Meeting, regarding a young man with serious health issues who had agreed to serve on a public board. Video supplied.

June 10, 2014: Appearance, Chattanooga City Council Agenda Session, regarding an error on the day's agenda. Video supplied.

May 13, 2014: Appearance, Chattanooga City Council Agenda Session and Public Safety Committee Meeting, regarding a change order for work and travel by the consulting firm that worked on pension reform and the mayor's choice of a new police chief. Video supplied.

April 8, 2014: Appearance, Chattanooga City Council Human Resources Committee Meeting, regarding change to a pre-existing policy forbidding the police department from hiring applicants above 40-years-old. Video supplied.

March 11, 2014: Appearance, Tax Incentives, Chattanooga City Council Agenda Session, regarding a presentation by a representative of the local chamber of commerce on real property tax incentives. Video supplied.

January – March 2014: Chairperson, Police Chief Search Public Meetings, regarding what qualities our city should seek in a new police chief. I have no notes, transcript, or recording.

February 25, 2014: Appearance, Chattanooga City Council Agenda Session, regarding reforms to the Chattanooga Fire and Police Pension Fund. Video supplied.

February 12, 2014: Chairperson, Chattanooga Pension Task Force Meeting, regarding reforms to the pension fund and the discussion of those reforms by task force members, police officers, fire fighters, and members of the public. Video supplied.

January 14, 2014: Appearance, Chattanooga City Council Agenda Session, regarding the plan to retain a search firm to assist with the hiring of a new police chief and the process that would lead to the hiring. Video supplied.

December 10, 2013: Appearance, Chattanooga City Council Agenda Session, regarding the expenditure of funds for software for the police department and 911 expenses. Video supplied.

October 28, 2013: Chairperson, Chattanooga Pension Task Force Meeting, regarding issues that stakeholders had raised since the last meeting, the work of the task force since the last meeting, and the expectations for the present meeting. Video supplied.

October 15, 2013: Appearance, Chattanooga City Council Meeting, regarding the expenditure of funds for a membership in the Tennessee Municipal League and the need to enter a contract with John Jay College of Criminal Justice to assist the government in implementing a focused-deterrence crime-reduction strategy. Video supplied.

October 7, 2013: Chairperson, Chattanooga Pension Task Force Meeting, regarding the task force's activities since the last meeting, recent developments, and what we hoped to accomplish at the present meeting. Video supplied.

September 24, 2013: Appearance, Chattanooga City Council Meeting, regarding the work of public servants who responded to the drowning of two young boys. Video supplied.

September 9, 2013: Chairperson, Chattanooga Pension Task Force Meeting, regarding the need to reform the Chattanooga Fire and Police Pension Fund, the steps the Berke Administration had taken to lead up to the beginning of the task force, and Mayor Berke's goals in seeking reform. Video supplied.

September 3, 2013: Appearance, Chattanooga City Council Economic and Community Development Committee Meeting, regarding changes to an ordinance requiring sprinklers in certain buildings. Video supplied.

August 27, 2013: Appearance, Chattanooga City Council Agenda Session, regarding legislation to address problems with event halls. Presentation and video supplied.

August 6, 2013: Appearance, Chattanooga City Council Agenda Session and City Council Meeting, regarding a resolution authorizing the mayor to negotiate for the purchase of property previously used as public housing and the administration's work on legislation to address problems with event halls. Video supplied.

July 30, 2013: Appearance, Chattanooga City Council Meeting, regarding a road project and the related contract, as well as the plan for presenting the administration's proposed budget to the Council. Video supplied.

July 23, 2013: Appearance, Chattanooga City Council Meeting, regarding pension reform. Video supplied.

July 18, 2013: Appearance, Chattanooga Fire and Police Pension Fund Board Meeting, regarding potential pension reforms, communications that had taken place between the administration and pension fund representatives, and the need to cooperate in the future. Minutes and notes supplied.

July 16, 2013: Appearance, Chattanooga City Council Public Works and Transportation Committee Meeting, regarding a recycling and compost facility. Video supplied.

July 2, 2013: Appearance, Chattanooga City Council Economic and Community Development Committee Meeting, regarding emergency solutions grant funds from the U.S. Department of Housing and Urban Development. Video supplied.

June 18, 2013: Appearance, Chattanooga City Council Public Works and Transportation Committee, regarding the need for flood plain management and the proposed arrangement with the U.S. Army Corps of Engineers. Video supplied.

June 11, 2013: Appearance, Chattanooga City Council Agenda Session and Public Works and Transportation Committee Meeting, regarding three mayoral appointments, reporting of personnel transactions, and proposed arrangement with the U.S. Army Corps of Engineers relating to flood plain management. Video supplied.

June 4, 2013: Appearance, Chattanooga City Council Meeting, regarding the administration's efforts to provide emergency services and shelter to displaced

residents of a Section 8 housing development in downtown Chattanooga. Video supplied.

May 28, 2013: Appearance, Chattanooga City Council Meeting, regarding four mayoral appointees and the reasons for their approval by the Council. I have no notes, transcript, or recording.

May 28, 2013: Appearance, Chattanooga City Council Public Safety Committee Meeting, regarding Mayor Berke's public safety plan. I have no notes, transcript, or recording.

April 30, 2013: Appearance, Chattanooga City Council Agenda Session, regarding three mayoral appointees and the reasons for their approval by the Council. I have no notes, transcript, or recording.

2007 – 2011: As a member of the Tennessee Motor Vehicle Commission, I participated in public meetings of this body. I offered extemporaneous remarks at these meetings about matters within the Commission's jurisdiction. During my four years on the commission, these included appeals of denials of salespersons' licenses, illegal sales of automobiles, and regulations governing dealerships. Minutes available at http://state.tn.us/regboards/mvc/agenda_minutes.shtml.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

September 26, 2014: Speaker, Chattanooga Area Chamber of Commerce Groundbreaking Ceremony for Plastic Omnium, Chattanooga, Tennessee. Notes supplied.

June 25, 2014: Speaker, Youth and Family Development Open House, Chattanooga, Tennessee. Notes supplied.

October 17, 2013: Speaker, presentation to stakeholders, Alton Park town hall meeting, Chattanooga, Tennessee. Notes supplied.

June 18, 2013: Speaker, Update on Berke Administration, South Pittsburg Rotary Club, Jasper, Tennessee. Notes supplied.

June 7, 2013: Speaker, Update on Berke Administration, District 6 Summit,

Councilwoman Carol Berz, Chattanooga, Tennessee. I discussed plans for the District 6 area and the value of collaboration in devising plans for future development and improvement. I have no notes, transcript, or recording. The address for Councilwoman Berz is 1000 Market Street, Chattanooga, Tennessee 37402.

June 6, 2013: Speaker, Retirement Ceremony, Hamilton County Department of Education ("HCDE"), Chattanooga, Tennessee. I discussed careers of retirees and spoke about the importance of public education and the effects of a strong school system. I have no notes, transcript, or recording. The address for HCDE is 3074 Hickory Valley Road, Chattanooga, Tennessee 37421.

June 5, 2013: Speaker, Chattanooga Area Manager of the Year Award Luncheon, Chattanooga Area Chamber of Commerce, Chattanooga, Tennessee. Notes supplied.

May 11, 2013: Speaker, Chattanooga Hubfest, City of Chattanooga Youth and Family Development Department Meeting, Chattanooga, Tennessee. Notes supplied.

May 2, 2013: Speaker, "Let's Save Our Sons and Daughters Spring Banquet," The National Coalition of 100 Black Women, Inc., Chattanooga Chapter, Chattanooga, Tennessee. I discussed the importance of the work of the Chattanooga Chapter and recognized other speakers and dignitaries in attendance. I have no notes, transcript, or recording. The address for the Chattanooga Chapter of The National Coalition of 100 Black Women is P.O. Box 22873, Chattanooga, Tennessee 37422.

May 2, 2013: Speaker, "The State of the Film Industry in Chattanooga," The Association for the Future of Film and Television in Tennessee and Chattanooga Film Society, Chattanooga, Tennessee. I briefly discussed the history of film in the Chattanooga area. I have no notes, transcript, or recording. The Association for the Future of Film and Television in Tennessee has no physical address.

December 15, 2011: Speaker, "Tennessee Civil Justice Act of 2011: An Overview," Chattanooga Corporate Counsel Network, Chattanooga, Tennessee. PowerPoint supplied.

March 26, 2010: Speaker, "Litigation: What You Need to Know," TennBarU, Nashville, Tennessee. I provided an introduction to this course's focus on litigation practice pointers and offered an overview of the presentations. I have no notes, transcript, or recording. The address for the Tennessee Bar Association is 221 4th Avenue North, Suite 400, Nashville, Tennessee 37219.

2009: Collegedale Council of the Chattanooga Area Chamber of Commerce, Collegedale, Tennessee. I discussed public education issues, the need for better schools, and the responsibility of business leaders to support public education. I have no notes, transcript, or recording. The address for the Chattanooga Area Chamber of Commerce is 811 Broad Street, Chattanooga, Tennessee 37402.

May 26, 2009: Panelist, "State of School Readiness in Hamilton County," School Readiness Advisory Board, Chattanooga, Tennessee. I spoke briefly about the importance of school readiness and then participated in a panel discussion. I have no notes, transcript, or recording. The School Readiness Advisory Board has no physical address.

March 13, 2009: Speaker, "Litigation: What You Need to Know," TennBarU, Nashville, Tennessee. I provided an introduction to this course's focus on litigation practice pointers and offered an overview of the presentations. I have no notes, transcript, or recording. The address for the Tennessee Bar Association is 221 4th Avenue North, Suite 400, Nashville, Tennessee 37219.

Approximately 2002: Panelist, Leadership Chattanooga Session, Chattanooga Area Chamber of Commerce, Chattanooga, Tennessee. I discussed the mission of the Chattanooga Human Rights and Human Relations Commission, the importance of diversity and tolerance, and how the Commission worked to improve these traits in Chattanooga. I have no notes, transcript, or recording. The address for the Chamber of Commerce is 811 Broad Street, Chattanooga, Tennessee 37402.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Plans for Downtown Chattanooga Police Firing Range Abandoned, Chattanooga Times – Free Press, August 27, 2014. Copy supplied.

Liquor Taxes Agreement 'Stinks,' Hamilton County Commissioner Joe Graham Says, Chattanooga Times – Free Press, July 24, 2014. Copy supplied.

Police Pay Fix Won't Come All at Once, Chattanooga Times – Free Press, June 18, 2014. Copy supplied.

Police Pay Plan "Close to the Finish Line," Nooga.com, June 18, 2014. Copy supplied.

In Chattanooga Police Department Pay Talks, Friction Before a "Significant Stride," Nooga.com, June 14, 2014. Copy supplied.

There Are Winners and Losers with New City Budgeting Process, Chattanooga.com, June 3, 2014. Copy supplied.

Fred Fletcher Confirmed; 'We Are Depending on You,' Council Tells New Chattanooga Police Chief, Chattanooga Times – Free Press, May 14, 2014. Copy supplied.

City to Schools: No Deal on Taxes, Chattanooga Times – Free Press, April 15, 2014.
Copy supplied.

Schools Sue City for Back Taxes, Chattanooga Times – Free Press, April 12, 2014.
Copy supplied.

Lawsuit Called a “Targeted Strike” to Chattanooga’s Pension Overhaul, Nooga.com,
April 11, 2014. Copy supplied.

Facing Lawsuit, Chattanooga Agrees to Talks with Hamilton County Schools,
Chattanooga Times – Free Press, March 26, 2014. Copy supplied.

Mayor Berke Signs New Employee Union Agreement, Chattanooga Times – Free
Press, March 25, 2014. Copy supplied.

Schools, City Dig in on Tax Debt, Chattanooga Times – Free Press, March 23, 2014.
Copy supplied.

Schools to Sue for City Taxes, Chattanooga Times – Free Press, March 21, 2014.
Copy supplied.

Hakeem Wants Transportation Chief Out, Chattanooga Times – Free Press, March
19, 2014. Copy supplied.

Yusuf Hakeem Critical of City Administrator, Nooga.com, March 19, 2014. Copy
supplied.

Tennessee AG Ruling Prods Cities to Pay School Systems, Chattanooga Times – Free
Press, February 28, 2014. Copy supplied.

Board OKs Pension Changes, Chattanooga Times – Free Press, February 21, 2014.
Copy supplied.

Pension Reform Plan Faces More Questions, Chattanooga Times – Free Press,
February 19, 2014. Copy supplied.

Firemen, Policemen Express Frustration Over Pension Changes,
WTVC News Channel 9, February 12, 2014. Video recording available at
https://www.youtube.com/watch?v=rvq9648Hi_Q.

Pension Proposal Would Save Chattanooga \$227 Million, Nooga.com, February 12,
2014. Copy supplied.

State Eyes New Pension Protections, Chattanooga Times – Free Press, February 4,
2014. Copy supplied.

Vote on Pension Changes Delayed, Chattanooga Times – Free Press, February 3, 2014. Copy supplied.

Reform Plan Challenged, Supported, Chattanooga Times – Free Press, January 17, 2014. Copy supplied.

Funds Allocated for Police Chief Search, WRCB-TV, January 14, 2014. Copy supplied.

Age Cap Could Slow Search for Police Chief, Chattanooga Times – Free Press, January 14, 2014. Copy supplied.

Little Action in Abbreviated Pension Board Meeting, WTVC News Channel 9, January 6, 2014. Video recording available at <https://www.youtube.com/watch?v=36K3yhDtII8>.

City Hall Backs Off Draconian Cuts Plan, Chattanooga Times – Free Press, December 20, 2013. Copy supplied.

Chattanooga Retirement Rush Not Far from Norm, News Channel 9, December 20, 2013. Copy supplied.

A Pension Plan Orphaned By All, Nooga.com, December 20, 2013. Copy supplied.

Deadline Extended on Pension Talks, But Direction Still Hazy, December 18, 2013. Copy supplied.

Tensions Rise in Chattanooga Fire, Police Pension Overhaul, Chattanooga Times – Free Press, December 8, 2013. Copy supplied.

Pension Analysis Turns Back the Clock on Police and Fire Benefits, Nooga.com, December 5, 2013. Copy supplied.

Pension Shortfall: A Tale of Two Cities, Nooga.com, December 3, 2013. Copy supplied.

Questions Remain on Pension Plan, Nooga.com, November 25, 2013. Copy supplied.

Time Short for Pension Panel, Chattanooga Times – Free Press, November 23, 2013. Copy supplied.

Firing Range Vote Nixed, Chattanooga Times – Free Press, November 21, 2013. Copy supplied.

Pension Proposal Would Save City \$126 Million, Chattanooga Times – Free Press,

October 29, 2013. Copy supplied.

Grohn Hits Berke Administration As COO Kean Departs; Chairman Hakeem Says Grohn "Went Over The Line," Chattanooga.com, October 24, 2013. Copy supplied.

Borrowing to Fund City Pensions Can Be Risky, Finance Experts Say, Chattanooga Times – Free Press, October 17, 2013. Copy supplied.

Pension Panel Suggests Retire Age, Chattanooga Times – Free Press, October 8, 2013. Copy supplied.

Long Live the Queen!, Chattanooga Times – Free Press, September 18, 2013. Copy supplied.

Delta Queen Wins Reprieve, Chattanooga Times – Free Press, September 18, 2013. Copy supplied.

Delta Queen Gets Six-Month Extension to Stay in Chattanooga, Nooga.com, September 17, 2013. Copy supplied.

Despite Request for Removal, Mayor Andy Berke Open to Delta Queen Staying in Chattanooga, Nooga.com, September 17, 2013. Copy supplied.

City Combats "Eyesores" on the River, WTVC News Channel 9, September 17, 2013. Video recording available at <https://www.youtube.com/watch?v=26U0ObK0Xm8>.

Roiling on the River, Chattanooga Times – Free Press, September 17, 2013. Copy supplied.

Don't Go, Delta Queen, Chattanooga Times – Free Press, September 17, 2013. Copy supplied.

The Delta Queen Thrown a Six Month Lifeline, WDEF, September 17, 2013. Video recording available at <http://www.wdef.com/news/story/The-Delta-Queen-Thrown-A-Six-Month-Lifeline/VklifDkwIES4zivZMZe4Sg.csp>.

Delta Queen Gets 6 Month Extension, WRCB-TV, September 17, 2013 Newscast. Copy supplied.

Mayor Berke Calls for Delta Queen Removal While Owners Say It Brings in Tax Dollars, WDEF, September 16, 2013 Newscast. Video recording available at http://www.wdef.com/news/story/Mayor-Berke-Calls-for-Delta-Queen-Removal-While/rzJiFaS3CEGmjIcac_3_MQ.csp.

Fire, Police Pension Panel Begins Task, Chattanooga Times – Free Press, September 10, 2013. Copy supplied.

Pension Task Force Holds First Meeting, Nooga.com, September 10, 2013. Copy supplied.

Opposition Emerges to New Sprinkler Law, Chattanooga Times – Free Press, September 10, 2013. Copy supplied.

Stadium Dreams, Chattanooga Times – Free Press, September 7, 2013. Copy supplied.

11 Million Dollars Missing from Hamilton County Schools, WTVC News Channel 9, September 6, 2013. Video recording available at <https://www.youtube.com/watch?v=HLByc8t0aRA>.

\$11 Million Oversight Raises Eyebrows, Chattanooga Times – Free Press, September 6, 2013. Copy supplied.

Event Hall Ordinance Passes, WDEF, August 27, 2013. Copy supplied.

Council Seeks Additional Answers on Budget, Nooga.com, August 13, 2013. Copy supplied.

Unions Decry Pension Pressure, Chattanooga Times – Free Press, August 8, 2013. Copy supplied.

Harriet Tubman Purchase Negotiations Approved by Chattanooga City Council, WDEF, August 6, 2013. Copy supplied.

Worry Surrounds City Pension Study, Chattanooga Times – Free Press, July 28, 2013. Copy supplied.

Council OKs Berke's Plans, Chattanooga Times – Free Press, April 24, 2013. Copy supplied.

Chattanooga's Top Appointed Officials Asked to Resign, WTVC News Channel 9, April 8, 2013. Video recording available at <https://www.youtube.com/watch?v=qHom-d4SA04>.

Berke Taps Miller & Martin Attorney for Leadership Position, Hamilton County Herald, April 5, 2013. Copy supplied.

City Chiefs Told to Resign as New Mayor Arrives, Chattanooga Times – Free Press, April 4, 2013. Copy supplied.

Berke Names Transition Team, Chattanooga Times – Free Press, March 8, 2013.
Copy supplied.

Travis R. Thompson Joins Miller & Martin, Chattanooga.com, November 7, 2012.
Copy supplied.

Judge Throws Out Lawsuit Against Benson, Chattanooga Times – Free Press, July 16, 2012. Copy supplied.

Press Release, *Miller & Martin Appoints New Chair to Firm's Litigation Department*, Miller and Martin PLLC, June 13, 2012. Copy supplied.

Press Release, *Miller & Martin Adds Lynzi Archibald to the Firm's Litigation Department*, Miller and Martin PLLC, April 20, 2012. Copy supplied.

Bradley Pays \$10,000 to Settle Interpreter Suit, Chattanooga Times – Free Press, March 14, 2012. Copy supplied.

Local Law Firm Launches Network for Corporate Lawyers, Chattanooga.com, June 17, 2011. Copy supplied.

Interpreter Allegedly Watched Porn During Court, Cleveland Daily Banner, April 19, 2011. Copy supplied.

Bradley Faces Suit on Interpreter Costs, Chattanooga Times – Free Press, April 16, 2011. Copy supplied.

Marion Plant Awaits Nuclear Contracts, Chattanooga Times – Free Press, June 6, 2010. Copy supplied.

Education Spending Gap Persists Statewide, Chattanooga Times – Free Press, May 17, 2009. Copy supplied.

School Funding Shortfall Linked to Lagging Economy, Chattanooga Times – Free Press, February 5, 2009. Copy supplied.

McBrien Elementary Gets Tech Upgrade, Chattanooga Times – Free Press, October 28, 2008. Copy supplied.

McBrien School Receives Gift of 41 Computers from Miller & Martin, Chattanooga.com, October 27, 2008. Copy supplied.

McDonough to Pursue Public Service, Sewanee News, January 1994. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or

appointed, and a description of the jurisdiction of each such court.

I have never held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of

appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have never held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

From 2007 to 2011, I served as a Commissioner on the Tennessee Motor Vehicle Commission, after being appointed by Governor Philip Bredesen.

From 1999 to 2005, I served as a Commissioner on the Chattanooga Human Rights and Human Relations Commission after being appointed by Mayor Jon Kinsey.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I acted as a volunteer advisor and legal counsel to Andy Berke in two State Senate campaigns and during his time in office in District 10 (2007 and 2008) and one mayoral campaign (2013). In this capacity, I provided assistance regarding strategy and communications, provided legal advice, and assisted in fundraising efforts. In addition, I served on his transition team in 2013, helping to assess the state of the previous administration and to implement staffing changes for the new administration.

From approximately 2007 to 2009, I was a volunteer member of the Southeast Tennessee Political Action Committee ("SETPAC"). In this capacity, I supported this group dedicated to civic engagement and supporting candidates for local, non-partisan public offices, including Chattanooga Mayor candidate Ron Littlefield and Chattanooga City Council candidates Linda Bennett (District 1), Carol Berz (District 6), Julie Chamberlain (District 6), Pam Ladd (District 3), Andrae McGary (District 8), Peter Murphy (District 9), Manny Rico (District 7), and Jackie Thomas (District 9), all in 2009. After consulting my records and the Internet, I have provided the information that I can recall, but it is possible that there may be endorsements that I have missed.

In 2008, I was a volunteer poll watcher and attorney for the Tennessee Democratic Party stationed at local party headquarters.

In 2006, I was the volunteer Treasurer for Clarence Shattuck for Hamilton County General Sessions Judge. Although I was not involved in any fundraising for this unopposed election, I was responsible for submitting finance documentation to the Hamilton County Election Commission.

In 2004, I was the volunteer Treasurer for John Millican for Chattanooga City Court Judge. I was responsible for raising campaign funds and submitting finance documentation to the Hamilton County Election Commission.

In 1994, I was the paid Field Director for Whitney Durand for Congress (United States House of Representatives, Tennessee District 3). I traveled with the candidate and was responsible for the coordination of supporters and volunteers throughout the district.

From 1991 to 1993, I served as the volunteer Chairperson of Marion County, Tennessee Democratic Party. After consulting my records and the Internet, I have provided the information that I can recall, but it is possible that there may be endorsements or events that I have missed. In 1992, the party supported the presidential campaign of then-Governor Bill Clinton and other Democratic nominees, including Marilyn Lloyd (United States House of Representatives, Tennessee District 3) and several candidates for Marion County Commission, although I cannot recall the candidates' names. The party held fundraisers and hosted rallies for Democratic candidates during campaign season. At some of those events, I welcomed attendees and introduced candidates who spoke.

In 1990, I was a volunteer for John Shelley for State Senate (District 10). I traveled with the candidate, distributed literature and signs, and represented him at a modest number of community events when he was unable to attend. I spoke on his behalf at either one or two community events that he did not attend. I cannot recall the dates or locations of those events.

I also have served informally on the fundraising committees of several local judges throughout the years. To the best of my recollection, these include Circuit Court Judge Jacqueline Bolton (Hamilton County, Tennessee Circuit Court, Division I, 2006), Criminal Court Judge Don Poole (Hamilton County, Tennessee Criminal Court, Division III, 2006), Chancellor Howell Peoples (Hamilton County, Tennessee Chancery Court, Part 2, 2006), General Sessions Court Judge Christie Sell (Hamilton County General Sessions Court, Division I, 2006), City Court Judge Walter Williams (Chattanooga City Court, Division I, 1998), and City Court Judge Russell Bean (Chattanooga City Court, Division II, 2000 and 2006).

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk.

I have not served as a judicial clerk.

ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1997 – 2013
Miller and Martin PLLC
832 Georgia Avenue
Chattanooga, Tennessee 37402
Associate (1997 – 2004)
Member (2005 – 2013)

2013 – present
Office of Mayor Andy Berke
City of Chattanooga

101 East 11th Street
Chattanooga, Tennessee 37402
Chief of Staff and Counselor to the Mayor

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

Throughout my career with Miller & Martin, my practice focused on both civil and white-collar criminal litigation. I handled a broad range of subjects, including back-office servicing of hedge funds, civil RICO, corporate disputes, fishing rights in Russia, the Foreign Corrupt Practices Act, income tax evasion, the Office of Foreign Assets Control, and personal injury. As I progressed in the firm, my responsibilities grew to include more oversight of other attorneys and staff, more strategic decision-making, and additional leadership on cases. In my present position, I counsel Mayor Berke on municipal law, legislative issues, litigation, and other areas of importance to city government.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

While in private practice, my clients included corporations, businesspeople, religious organizations, and middle managers. Since accepting my present position, my only client has been Mayor Andy Berke.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Before becoming Chief of Staff and Counselor to the Mayor of Chattanooga, my practice was focused almost entirely on litigation. While, at times, I counseled clients in matters other than litigation, such activities made up a very small portion of my practice over the course of my career. As an associate and then a member in a relatively large firm handling complex cases, I appeared in court more frequently as an associate and less frequently or occasionally as a member. I presently counsel Mayor Berke on litigation strategy as he makes decisions concerning pending lawsuits, which are

ultimately implemented by the City Attorney's Office. Although I do not directly supervise the City Attorney's work on litigation, I do sometimes consult with the office as our attorneys make decisions concerning strategy.

i. Indicate the percentage of your practice in:

1. federal courts: 60%
2. state courts of record: 30%
3. other courts: 5%
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 65%
2. criminal proceedings: 35%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I was involved in six cases tried to verdict, one as chief counsel and five as associate counsel or co-counsel. I also have handled matters before appellate courts and securities arbitration panels, as well as numerous matters that were resolved through motions practice.

i. What percentage of these trials were:

1. jury: 33%
2. non-jury: 67%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I made an appearances in *Stone v. United States*, No. 05-1577 (petition for writ of certiorari, available at 2006 WL 1594055) and *Terry v. Tyson Farms, Inc.*, No. 10-542 (petition for writ of certiorari, available at 2010 WL 5323957).

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Dzik v. Defoor*, Case No. 12-0049 (Hamilton County, Tenn. Chanc. Ct.)

I served as lead counsel to a defendant real estate developer alleged to have granted the plaintiff an easement across property sold to another defendant. The plaintiff owned neighboring property used as a professional office and claimed the right to allow his clients to use a particular route through the developer's property. Such an easement would have dramatically reduced the utility and value of the developer's property. The plaintiff based his action on equitable estoppel, license, implied easement, and other legal theories. The case was tried to verdict before a chancellor, and my client won on all counts.

Date of Representation:	January 2012 – April 2013
Court:	Hamilton County, Tennessee Chancery Court
Judge(s):	Chancellor W. Frank Brown
Co-Counsel:	Zac Greene Miller & Martin PLLC 832 Georgia Avenue Chattanooga, Tennessee 37402 423.785.8387
Counsel for Co-Defendant:	Bill Horton Horton, Ballard & Pemerton PLLC 735 Broad Street, Suite 306 Chattanooga, Tennessee 37402 423.243.3783
Opposing Counsel:	George Derryberry Solo Practitioner 351 East 4th Street Chattanooga, Tennessee 37403 423.267.9777

2. *Indiana Charitable Trust v. Trevor Rees-Jones*, Case No. 1:11-CV-1559 (S.D. Ind.)

I served as lead counsel for a plaintiff trust established to pursue an investor's fraud claim arising from the redemption of stock of a \$2.6 billion oil- and gas-exploration company. The plaintiff alleged that the defendant misled the investor into selling his stock for a depressed amount by withholding the fact that there was reason to believe the market placed a much higher value on the stock. The case involved parties with ties to Texas, Indiana, and Michigan and presented complex choice-of-law issues, statute-of-limitations issues, and challenges from borrowing statutes, since only the application of Indiana law would allow the claim to proceed. Following discovery and a motion to dismiss for lack of personal jurisdiction, the case was settled during appeal for a confidential amount.

Date of Representation:	August 2011 – July 2012
Court:	United States District Court for the Southern District of Indiana
Judge(s):	District Judge Sarah Evans Barker
Co-Counsel:	Colleen Lauerman Sidley Austin LLP 1501 K Street, NW Suite 600 Washington, D.C. 20005 202.736.8000 Jay Jorgensen Walmart Stores, Inc. 702 SW 8th Street Bentonville, Arkansas 72716 801.891.3779 Dave Tittle (served as local counsel) Bingham Greenbaum Doll LLP 2700 Market Tower 10 West Market Street Indianapolis, Indiana 46204 317.635.8900
Opposing Counsel:	David Harper Haynes and Boone LLP 2323 Victory Avenue Suite 700

Dallas, Texas 75219
214.651.5247

3. *Issa v. Benson*, 420 S.W.3d 23 (Tenn. Ct. App. 2013) (perm. to appeal denied Nov. 15, 2013)

I was lead counsel for a Chattanooga city councilman. A real estate developer brought a defamation suit against the councilman based on his statements to other city council members that the developer had offered to bribe him. The trial court granted our client's motion for judgment on the pleadings based on the legislative and litigation privileges. The appellate opinion clarified the law on issues for which very little precedent previously existed and broadened the scope of the legislative privilege in Tennessee. In particular, the case established that statements made by legislators to influence other legislators are subject to the legislative privilege, even if they occur outside an official legislative meeting and even if the statements violate the state's open-meetings law.

Date of Representation:	February 2012 – April 2013
Court:	Hamilton County, Tennessee Circuit Court
Judge(s):	Judge L. Marie Williams
Co-Counsel:	Zac Greene Miller & Martin PLLC 832 Georgia Avenue Chattanooga, Tennessee 37402 423.785.8387
Opposing Counsel:	John Anderson and Joseph Dickson Grant, Konvalinka & Harrison, P.C. 633 Chestnut Street Chattanooga, Tennessee 37402 423.756.8400

4. *United States v. Stone*, Case No. 1:02-CV-189 (E.D. Tenn.)

I served as associate trial counsel defending Mr. Stone against tax evasion charges based on improper deduction of personal expenses as business expenses. After a jury trial, Mr. Stone was convicted of tax evasion and was sentenced to incarceration following the Supreme Court's decision in *Blakely v. Washington*, which called into question the constitutionality of the United States Sentencing Guidelines. The defense team preserved objections to the sentence. While the case was on appeal, the Supreme Court decided *U.S. v. Booker*, which rendered the

Sentencing Guidelines non-mandatory. The sentence was overturned, and the case was remanded back to the trial court. At the second sentencing hearing, the trial court went outside the Sentencing Guidelines to sentence Mr. Stone to 12 months of probation and restitution of \$264,575.

Date of Representation:	June 1998 – July 2008
Court:	United States District Court for the Eastern District of Tennessee
Judge(s):	District Judge Curtis Collier
Co-Counsel:	Roger W. Dickson Miller & Martin PLLC 832 Georgia Avenue Chattanooga, Tennessee 37402 423.756.6600
Counsel for Co-Defendant D. Stone:	Doug Trant Stacy, Whitt, Cooper & Trant Attorneys at Law 706 Walnut Street, Suite 902 Knoxville, Tennessee 37902 865.524.8106
Counsel for Co-Defendant Woody:	Tom Dillard and Wade Davies Richie, Dillard, Davies & Johnson, P.C. 606 West Main Street, Suite 300 Knoxville, Tennessee 37902 865.637.0661
Opposing Counsel:	Glenn Makl United States Department of Justice Tax Division, Criminal Enforcement Section Bicentennial Building 600 E Street, NW, Room 5122 Washington, D.C. 20004 202.514.2000 Stephanie Evans South Criminal Enforcement Section P.O. Box 972 Ben Franklin Station

Washington, D.C. 20044
202.514.2000

Brian D. Galle
United States Department of Justice
Tax Division
P.O. Box 502
Washington, D.C. 20044
202.514.2000

5. *Caldwell, et al. v. Pono River Co., et al.*, Case No. 07-0326 (Hamilton County, Tenn. Chanc. Ct.)

I represented a number of American, European, and African clients against domestic and international defendants in a dispute over salmon-fishing rights on a Russian river. The dispute arose after the new Russian owner of the river refused to recognize my clients' rights, which had been established with the prior American and British owners. After extensive discovery in several countries and a multi-day evidentiary hearing, my clients were granted all relief sought. The case was settled favorably a short time later under confidential terms.

Date of Representation:	March 2007 – March 2008
Court:	Hamilton County, Tennessee Chancery Court
Judge(s):	Chancellor Howell Peoples
Co-Counsel:	Roger W. Dickson Zac Greene Miller & Martin PLLC 832 Georgia Avenue Chattanooga, Tennessee 37402 423.785.8330
Opposing Counsel for Defendants New Fishing & Hunting, Ltd., and ZAO Pono River:	Charles Van Beke and Mark Foster Wagner, Myers & Sanger, P.C. 1801 First Tennessee Plaza P.O. Box 1308 Knoxville, Tennessee 37901 865.525.4600
	Anthony Ullman Dentons

1221 Avenue of the Americas
New York, New York 10020
212.768.6700

Opposing
Counsel for
Defendants
Ponoi River
Co., et al.:

Samuel Lipshie and Jonathan Rose
Bradley Arant Boult Cummings LLP
Roundabout Plaza
1600 Division Street
Suite 700
Nashville, Tennessee 37203
615.252.2332

Stephen Mayne
Manatt, Phelps & Phillips, LLC
One Embarcadero Center
30th Floor
San Francisco, California 94111
415.291.7400

6. *United States v. Frederick*, Case No. 1:03-CR-200 (E.D. Tenn.)

I was associate counsel for a criminal defendant charged with being a felon in possession of a firearm. Our defense challenged whether the gun in question was in the defendant's possession and whether the sheriff lawfully seized the weapon without evidence that it belonged to the defendant. The case was tried to a jury, and the defendant was convicted. On appeal, the defendant challenged the propriety of the seizure of the weapon, as well as his sentence under the United States Sentencing Guidelines, which were then mandatory. The Sixth Circuit upheld the conviction but remanded for sentencing pursuant to *United States v. Booker*, 125 S. Ct. 738 (2005). On remand, the defendant was sentenced to five years in prison.

Date of Representation:	September 2003 – April 2007
Court:	United States District Court for the Eastern District of Tennessee
Judge(s):	District R. Allen Edgar
Co-Counsel:	Don Aho Miller & Martin PLLC 832 Georgia Avenue Chattanooga, Tennessee 37402 423.756.6600

Opposing
Counsel:

Chris Poole
United States Attorney's Office for the
Eastern District of Tennessee
1110 Market Street, Suite 515
Chattanooga, Tennessee 37402
423.752.5140

7. *Bibbins v. Corker*, Case No. 01-0280 (Hamilton County, Tenn. Chanc. Ct.)

I represented Mayor (now Senator) Bob Corker in litigation where the plaintiff challenged the results of his successful mayoral election based on allegations that Senator Corker had not satisfied the requirement that a mayoral candidate be a legal resident of Chattanooga for one year prior to qualifying for an election. The case focused on Senator Corker's intent to establish a permanent residency after he moved from Nashville back to his hometown of Chattanooga following service as Tennessee's Commissioner of Finance. After a bench trial, the court dismissed all claims, upholding the results of the election.

Date of
Representation:

March 2001 – April 2002

Court:

Hamilton County, Tennessee Chancery
Court

Judge(s):

Chancellor W. Frank Brown

Co-Counsel:

Roger W. Dickson
Miller & Martin PLLC
832 Georgia Avenue
Chattanooga, Tennessee 37402
423.756.6600

Opposing
Counsel:

Edward Bibbins, *pro se* (deceased)

8. *Swift Construction v. Livingston Plaza* (Warren Co. Chanc. Ct.)

I represented a real estate developer in a dispute over the construction of a retail development. The case focused on whether the plaintiff contractor was responsible for delays in the project resulting from faulty site work and preparation for paving the parking area, as well as the amount of damages arising from those delays. The case was tried before a chancellor, and, after both sides were granted partial relief, my client was required to pay the plaintiff contractor significantly less than was claimed to be owed under their contract.

Date of Representation: September 1997 – January 2000

Court: Warren County, Tennessee Chancery Court

Judge(s): Chancellor Vernon Neal

Co-Counsel: Crews Townsend
Miller & Martin PLLC
832 Georgia Avenue
Chattanooga, Tennessee 37402
423.756.6600

Opposing Counsel: Dale Bohannon
Solo Practitioner
115 South Dixie Avenue
Cookeville, Tennessee 38501
931.526.7868

9. *Enriquez and Weissenberg v. Bradley Co., Tenn.*, Case No. 1:11-CV-00094 (E.D. Tenn.), Case No. 2012-CV-62 (Bradley Co. Chanc. Ct.)

I represented Mr. Enriquez and Mr. Weissenberg. Mr. Enriquez spoke only Spanish and had previously been a defendant on a minor criminal charge. Mr. Weissenberg acted as an interpreter in Mr. Enriquez's case and in many other cases involving Spanish-speaking defendants. The county's practice was to assess criminal defendants' court costs for the use of an interpreter and not to pay the interpreter until the defendant paid those court costs. The suit alleged that the county's policy violated Mr. Enriquez's protections under Title VI of the Civil Rights Act of 1964 and that the county was required to pay Mr. Weissenberg regardless of whether criminal defendants paid their court costs. Mr. Enriquez's claim was settled, and the court ruled that Bradley County was required to pay Mr. Weissenberg. The case remains pending for the purpose of determining damages.

Date of Representation: February 2011 – April 2013

Courts: United States District Court for the Eastern District of Tennessee; Bradley County Chancery Court

Judge(s): District Judge Curtis Collier
Chancellor Jerri Bryant

Co-Counsel:

Kevin D. Hudson
Hudson Ziskind PLLC
5860 Ridgeway Center Parkway
Suite 101
Memphis, Tennessee 38120
423.413.6734

Opposing
Counsel:

Crystal Freiberg
Bradley County Attorney
P.O. Box 1167
Cleveland, Tennessee 37323
423.728.7160

Thomas LeQuire
Spicer Rudstrom PLLC
537 Market Street
Suite 203
Chattanooga, Tennessee 37403
423.756.0262

Mark Litchford
John Anderson
Grant, Konvalinka & Harrison, P.C.
633 Chestnut Street
Suite 900
Chattanooga, Tennessee 37450
423.756.8400

10. *United States v. Tyson Foods, Inc.*, Case No. 4:01-CR-61 (E.D. Tenn.)

I served on the defense team representing a company against criminal prosecution for alleged immigration violations. The defendants were charged in a conspiracy to bring undocumented workers into the United States, to transport them within the United States, and to use false documents in connection with the workers' employment. At trial, I shared responsibility for preparation for extensive voir dire conducted by co-counsel during jury selection, as well as other trial preparation, such as juror investigation and analysis, witness preparation, assistance with jury instructions, and research concerning evidentiary issues. After a jury trial, the defendants were acquitted of all charges. The acquittal was named National Law Journal's verdict of the year for 2003.

Date of
Representation:

December 2001 – April 2003

Court:

United States District Court for the

Eastern District of Tennessee

Judge(s):

District Judge R. Allen Edgar

Co-Counsel:

Tom Green
Mark Hopson
Sidley Austin LLP
1501 K Street, NW
Suite 600
Washington, D.C. 20005
202.736.8000

Roger W. Dickson
Miller & Martin PLLC
832 Georgia Avenue
Chattanooga, Tennessee 37402
423.785.8330

Counsel for
Co-Defendant
Hash:

United States District Court Judge
P.K. Holmes, III
(Formerly at Warner, Smith & Harris,
PLC)
Judge Isaac C. Parker Federal Building
30 South 6th Street, Room 317
Fort Smith, Arkansas 72901
479.783.1466

Counsel for
Co-Defendant
Lankford:

Robert Adler
Nossaman LLP
1666 K Street, NW, Suite 500
Washington, D.C. 20006
202.887.1428

Counsel for
Co-Defendant
Snyder:

Kenneth Shemin
Shemin Law Firm LLC
3333 S. Pinnacle Hills Parkway
Rogers, Arkansas 72758
479.845.3305

Counsel for
Co-Defendant
Ponder:

Aubrey Harwell, Jr.
Neal & Harwell, PLC
150 4th Avenue North
Suite 2000
Nashville, Tennessee 37219
615.244.1713

Counsel for
Co-Defendant
Mabe:

Tom Dillard
Richie, Dillard, Davies & Johnson, P.C.
606 West Main Street, Suite 300
Knoxville, Tennessee 37902
865.637.0661

Opposing
Counsel:

United States District Court Judge
Harry S. Mattice
(Formerly at the United States
Attorney's Office for the Eastern
District of Tennessee)
900 Georgia Avenue, Room 104
Chattanooga, Tennessee 37402
423.752.5184

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Although the majority of my private practice involved litigation, I also worked on transactional matters and investigations. On the transactional side, for example, I represented Chicago Bridge & Iron in its acquisition of a site on the Tennessee River, its pursuit of permitting necessary to begin production of nuclear power plant components at the site, and its negotiation over incentives and infrastructure needed for the project. Although the project is now on hold due to lack of demand, it was closely followed by the public in this area due to the number, quality, and need for the jobs it represented. Although I cannot reveal the specific client, I successfully represented a client in demonstrating that the client had not engaged in any illegal business with Cuban hospitals in an investigation by the United States government.

As the Chief of Staff and counsel for Mayor Berke since 2013, I have provided advice on city policies and proposed legislation. For example, I took a lead role in crafting legislation to close loopholes in the regulation of "event halls," which had been operating as bars while avoiding alcohol-licensing regulations. I also have assisted Mayor Berke in connection with his negotiations with the housing authority HUD with respect to the purchase of a defunct public housing development in order to repurpose the land to attract light industry.

I have not engaged in any lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course,

and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have contributed into the City's pension system, which would be refunded upon the termination of my employment.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

No.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

Please see Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

Please see Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I would recuse myself from any matter about which I gained knowledge through my past employment relationships with the City of Chattanooga and Miller & Martin PLLC.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I would diligently attempt to identify real and potential conflicts of interest and would apply the circumstances to the standards governing the conduct of the federal judiciary. I would stay familiar with and faithfully follow the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all other standards governing my conduct. After consultation with all other judges of the Eastern District of Tennessee, if practicable, I will also consider recusing myself from any cases in which the City of Chattanooga is a party for the remainder of Mayor Berke's present term, which ends in April 2015.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As a litigator, I frequently assisted people who could not pay my firm's fees in both civil and criminal matters. For example, I assisted a woman whose personal injury attorney had settled her case without her knowledge or consent, had accepted a settlement check, and had even signed her name to the settlement check. I met with the woman several times, researched the applicable law, responded to a motion by insurance defense counsel to enforce the settlement, negotiated with her attorney to waive his fees in their entirety, and negotiated with insurance defense counsel for a better settlement. My efforts resulted in approximately \$70,000 more being paid to the client. I also represented a number of people in defense of traffic citations and minor criminal charges. For example, I represented a dump-truck driver against a misdemeanor charge relating to his failure to effectively place a tarp over his payload.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In late 2012 or early 2013, I spoke with Senator Bob Corker to express my interest in the position in the event that it became available. In 2013, I met with

Congressman Jim Cooper and his chief of staff to express my interest in the position in the event that it became available. On May 23, 2014, at the request of Congressman Cooper's staff, I submitted my resume to his office, and I submitted additional materials on June 16, 2014. On June 30, 2014, Congressman Cooper and his chief of staff interviewed me in Chattanooga, Tennessee. I have been in contact with attorneys from the White House Counsel's Office since July 2014 and with officials from the Office of Legal Policy at the Department of Justice since August 1, 2014. On September 11, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On November 20, 2014, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.