

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Andre Bernard Mathis

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

United States Circuit Judge for the Sixth Circuit

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.

Butler Snow LLP
6075 Poplar Avenue, Suite 500
Memphis, Tennessee 38119

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

1980; Memphis, 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.

2004 – 2007, University of Memphis, Cecil C. Humphreys School of Law; J.D. (*cum laude*), 2007

2003, University of Memphis; no degree received (graduate school)

1999 – 2003, University of Memphis; B.A., 2003

2002, Southwest Tennessee Community College; no degree received (summer courses)

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.

2020 – present
Butler Snow LLP
6075 Poplar Avenue, Suite 500
Memphis, Tennessee 38119
Partner

2011 – present
University of Memphis, Cecil C. Humphreys School of Law
One North Front Street
Memphis, Tennessee 38103
Adjunct Professor

2005, 2006, 2007 – 2020
Glankler Brown, PLLC
6000 Poplar Avenue, Suite 400
Memphis, Tennessee 38119
Member (2016 – 2020)
Associate Attorney (2007 – 2016)
Summer Associate (2005, 2006)

2006 – 2007
Shelby County Circuit Court
140 Adams Avenue
Memphis, Tennessee 38103
Law Clerk for the Honorable D'Army Bailey

2006
Burch, Porter & Johnson, PLLC
130 North Court Avenue
Memphis, Tennessee 38103
Summer Associate

2005 – 2006
University of Memphis, Cecil C. Humphreys School of Law
One North Front Street
Memphis, Tennessee 38103
Graduate Assistant for Dean Yolanda Ingram

2004
MCI Telecommunications
1725 Shelby Oaks Drive
Memphis, Tennessee 38134
Customer Service Representative

2002 – 2004
Amerigo Restaurant

1239 Ridgeway Road
Memphis, Tennessee 38119
Waiter/Server

Other affiliations (uncompensated):

2021 – present
Rust College
150 Rust Avenue
Holly Springs, Mississippi 38635
Board Member

2019 – present
H.T. Lockard Foundation, Inc.
P.O. Box 17322
Memphis, Tennessee 38187
Board Member

2018 – present
Streets Ministries, Inc.
430 Vance Avenue
Memphis, Tennessee 38126
Board Member

2010 – 2016, 2020 – present
University of Memphis, Cecil C. Humphreys School of Law
One North Front Street
Memphis, Tennessee 38103
Board Member

2015 – 2021
Tennessee Board of Professional Responsibility
Ten Cadillac Drive, Suite 220
Brentwood, Tennessee 37027
Hearing Officer

2008 – 2018
Porter Goodwill Boys and Girls Club
(formerly Downtown Porter Boys and Girls Club)
1037 Cummings Street
Memphis, Tennessee 38106
Board Member

2013 – 2017
Shelby County Ethics Commission
160 North Main Street

Memphis, Tennessee 38103
Commissioner

2014 – 2016
Memphis Bar Association
145 Court Avenue, Suite 301
Memphis, Tennessee 38103
Board Member

2009 – 2011
Tennessee Bar Foundation
618 Church Street, Suite 120
Nashville, Tennessee 37219
IOLTA Grant Review Committee Member

2008 – 2011
National Bar Association—Ben F. Jones Chapter
P.O. Box 3493
Memphis, Tennessee 38173
President (2011)
Vice President/President-Elect (2010)
Board Member (2008 – 2009)

2008 – 2010
University of Memphis, Cecil C. Humphreys School of Law
One North Front Street
Memphis, Tennessee 38103
Moot Court Coach

2007 – 2010
North Memphis Community Initiative Network, Inc.
(organization dissolved)
P.O. Box 70251
Memphis, Tennessee 38107
Board Member

2006 – 2008
Sycamore View Boys and Girls Club
(formerly Southside Boys and Girls Club)
1910 Sycamore View
Memphis, Tennessee 38134
Board Member

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 did not serve in the military. I timely registered for the selective service.

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.

Best Lawyers in America, Commercial Litigation/Employment Law (2018 – 2021)

Mid-South Rising Stars, Mid-South Super Lawyers (2014 – 2021)

Fellow, Leadership Council on Legal Diversity (2021)

Fellow, Memphis Bar Foundation (2021)

Sam A. Myar, Jr. Award, Memphis Bar Association (2018)

Member, Tennessee Bar Association Leadership Law Program (2014)

Alumnus of the Year Award, Boys and Girls Clubs of Greater Memphis (2011)

Outstanding Associate Award, Leo Bearman Sr. Chapter of American Inn of Court (2011)

Top 40 Under 40 Award, Memphis Bar Journal (2010)

University of Memphis, Cecil C. Humphreys School of Law

Who's Who Among Students in American Colleges and Universities (2007)

Dean's Distinguished Service Award (2007)

Dean's Pro Bono Service Award (2007)

The Moot Court Board (2006 – 2007)

University of Memphis Law Review (2005 – 2007)

William Leech Memorial Scholarship (2006)

Evans & Petree Law Firm Scholarship (2005)

Dean's List, University of Memphis (2002 – 2003)

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

Standing Committee on Gun Violence (2014)

American Inn of Court, Leo Bearman Sr. Chapter

Barrister (2019 – present)
Associate (2008 – 2011)

Congressman Stephen I. Cohen
Judicial Selection Committees (2011, 2015)
United States Attorney Selection Committee (2021)

Defense Research Institute

H.T. Lockard Foundation, Inc.
Board of Directors (2019 – present)

Memphis Bar Association
Vice-Chair, Sponsorship Committee (2021)
Board of Directors (2014 – 2016)

National Bar Association

National Bar Association—Ben F. Jones Chapter
President (2011)
Vice President/President-Elect (2010)
Board Member (2008 – 2009)

Tennessee Bar Association
Diversity Task Force (2020 – 2021)

Tennessee Bar Foundation
IOLTA Grant Review Committee (2009 – 2011)

Tennessee Board of Professional Responsibility
Disciplinary Hearing Committee (2015 – 2021)

United States District Court for the Western District of Tennessee
Magistrate Judge Merit Selection Panels (2010 – 2011, 2019 – 2020)

United States Court of Appeals for the Sixth Circuit
Federal Defender Evaluation Committee (2012 – 2013)

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, 2007
Arkansas, 2013
Mississippi, 2013

There have been no lapses 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.

United States Court of Appeals for the Sixth Circuit, 2009

United States Court of Appeals for the District of Columbia Circuit, 2011

United States District Court for the Eastern District of Arkansas, 2014

United States District Court for the Northern District of Mississippi, 2014

United States District Court for the Southern District of Mississippi, 2014

United States District Court for the Western District of Tennessee, 2008

There have been no 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.

North Memphis Community Initiative Network, Inc.

Board of Directors (2007 – 2010)

Porter Goodwill Boys and Girls Club (formerly Downtown Porter Boys and Girls Club)

Board of Directors (2008 – 2018)

Chairperson, Boys and Girls Clubs of Greater Memphis Steak and Burger Dinner (2014)

Rust College

Board of Trustees (2021 – present)

Shelby County Ethics Commission

Commissioner (2013 – 2017)

Streets Ministries, Inc.

Board of Directors (2018 – present)

Sycamore View Boys and Girls Club (formerly Southside Boys and Girls Club)

Board of Directors (2006 – 2008)

University of Memphis, Cecil C. Humphreys School of Law, Law Alumni Board
Board of Directors (2010 – 2016, 2020 – 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.

To the best of my knowledge, none of the organizations listed above 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.

Celebrate Pro Bono Week: An Attorney's Perspective (Nov. 1, 2021). Copy supplied.

A Critical Analysis of Actual Innocence After House v. Bell: Has the Riddle of Actual Innocence Finally Been Solved?, 37 U. Mem. L. Rev. 813 (2007). Copy supplied.

State v. Sawyer: Tennessee Supreme Court Holds That a Police Officer Cannot Read an Affidavit to a Person in Custody Without Giving Miranda Warnings, 36 U. Mem. L. Rev. (2006). Copy supplied.

- 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.

Letter to Senator Alexander and Senator Corker Regarding Nomination of the Honorable Bernice B. Donald as United States Circuit Judge for the Sixth Circuit (June 29, 2011). Copy supplied.

- 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.

None.

- 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.

I have, to the best of my ability, listed all of the responsive remarks, speeches, lectures, panels, and conference discussions in which I have participated. I have thoroughly searched my records and my files, and I have also conducted internet searches. I have compiled a list that reflects my records and supplied copies wherever possible. In many instances, the copy I have provided is only a working draft for my remarks, and my public remarks may have deviated in some respects from my working drafts.

September 30, 2021: Panelist, "BLSA Moot Court Workshop," Memphis Black Law Students Association, Memphis, Tennessee. The panel was about the benefits of participating in in-school and travel-team moot court competitions. I have no notes, transcript, or recording. The address for the Memphis Black Law Students Association is University of Memphis, Cecil C. Humphreys School of Law, One North Front Street, Memphis, Tennessee 38103.

March 30, 2021: Presenter, "Would you be my friend? Ethically Harnessing Social Media for Jury Selection," Tennessee Bar Association (virtual event). Notes supplied.

March 17, 2021: Speaker, "Blue Book Workshop," Memphis Black Law Students Association (virtual event). I provided introductory remarks discussing the importance of participation on the University of Memphis Law Review. I have no notes, transcript, or recording. The address for the Memphis Black Law Students Association is University of Memphis, Cecil C. Humphreys School of Law, One North Front Street, Memphis, Tennessee 38103.

November 14, 2020: Panelist, "Leadership Locker Room," Memphis Chapter of the Links Incorporated (virtual event). The panel was on teaching young, black

males about the legal rights they have during police encounters. I have no notes, transcript, or recording. The address for the Memphis Chapter of the Links Incorporated is P.O. Box 240624, Memphis, Tennessee 38124.

October 17, 2020: Panelist, "Virtual TABL Mixer," Tennessee Alliance for Black Lawyers (virtual event). I participated in a panel discussion providing tips to law students about succeeding in law school. I have no notes, transcript, or recording. The address for the Tennessee Alliance for Black Lawyers is 215 Second Avenue North, Suite 200, Nashville, Tennessee 37201.

September 3, 2020: Presenter, "Surviving the Back to School Frenzy: Employment Law Considerations When Employees' Children Are in Virtual or Hybrid School," Employment Law Alliance (virtual event). Recording supplied.

March 19, 2019: Moderator, Surviving Law School Panel, Black Law Students Association, Memphis, Tennessee. I moderated a panel of attorneys discussing ways to succeed in law school. I have no notes, transcript, or recording. The address for the Memphis Black Law Students Association is University of Memphis, Cecil C. Humphreys School of Law, One North Front Street, Memphis, Tennessee 38103.

December 12, 2018: Speaker, Annual Dinner, Memphis Bar Association, Memphis, Tennessee. Recordings supplied.

June 20, 2018: Panelist, Annual Event, Rise Up Single Moms, Inc., Memphis, Tennessee. The panel involved successful black males discussing being raised by single mothers. I have no notes, transcript, or recording. The address for Rise Up Single Moms, Inc. is 1910 Ridgeway Road, Memphis, Tennessee 38119.

October 24, 2016: Panelist, Energy Matters Conference, American Association of Blacks in Energy, Tennessee Chapter, Memphis, Tennessee. The panel was about ways for black professionals to succeed in the legal and energy sectors. I have no notes, transcript, or recording. The address for the American Association of Blacks in Energy, Tennessee Chapter is 1625 K Street, Northwest, Suite 405, Washington, DC 20006.

April 8, 2016: Speaker, Career Day, Southern Avenue Charter Elementary School, Memphis, Tennessee. I spoke to elementary students about what I do as an attorney and my path to becoming a lawyer. I have no notes, transcript, or recording. The address for Southern Avenue Charter Elementary School is 2221 Democrat Road, Memphis, Tennessee 38132.

March 6, 2016: Panelist, Expungements and Rights Restoration, Greater Middle Baptist Church, Memphis, Tennessee. The panel was about the method and process to have criminal records expunged and to have voting and driving rights restored in Tennessee. I have no notes, transcript, or recording. The address for

the Greater Middle Baptist Church is 4982 Knight Arnold Road, Memphis, Tennessee 38118.

March 3, 2014: Speaker, Steak and Burger Dinner, Boys and Girls Clubs of Greater Memphis, Memphis, Tennessee. I was the chairperson of the dinner, and I made an introductory statement thanking everyone for supporting the event. I have no notes, transcript, or recording. The address for the Boys and Girls Clubs of Greater Memphis is 44 South Rembert Street, Memphis, Tennessee 38104.

January 28, 2014: Speaker, Annual Dinner, Boys and Girls Clubs of Greater Memphis, Memphis, Tennessee. Notes supplied.

November 8, 2011: Speaker, Judicial Reception, University of Memphis, Cecil C. Humphreys School of Law, Memphis, Tennessee. I presented scholarships to law students on behalf of the Law Alumni Board. I have no notes, transcript, or recording. The address for the University of Memphis, Cecil C. Humphreys School of Law is One North Front Street, Memphis, Tennessee 38103.

November 5, 2011: Speaker, Barristers Ball, National Bar Association—Ben F. Jones Chapter, Memphis, Tennessee. Notes supplied.

November 2, 2011: Speaker, Swearing-In Ceremony, Tennessee Supreme Court, Memphis, Tennessee. Notes supplied.

October 20, 2011: Speaker, Investiture of Judge Bernice Donald, Memphis, Tennessee. Notes supplied.

July 13, 2011: Speaker, Summer Law Intern Program Ceremony, Memphis Bar Association, Memphis, Tennessee. Notes supplied.

February 2011 (date unknown): Speaker, Annual Dinner, Boys and Girls Clubs of Greater Memphis, Memphis, Tennessee. Notes supplied.

December 2010 (date unknown): Speaker, Barristers Ball, National Bar Association—Ben F. Jones Chapter, Memphis, Tennessee. I was the chairperson of the dinner, and I made closing remarks thanking everyone for attending the event. I have no notes, transcript, or recording. The address for the Ben F. Jones Chapter is P.O. Box 3493, Memphis, Tennessee 38173.

August 2010 (date unknown): Speaker, 1L Orientation, University of Memphis, Cecil C. Humphreys School of Law, Memphis, Tennessee. I spoke to incoming law students at orientation regarding the keys for succeeding in law school. I have no notes, transcript, or recording. The address for the University of Memphis, Cecil C. Humphreys School of Law is One North Front Street, Memphis, Tennessee 38103.

March 2010 (date unknown): Speaker, Steak and Burger Dinner, Boys and Girls Clubs of Greater Memphis, Memphis, Tennessee. Notes supplied.

December 2009 (date unknown): Presenter, Kenneth Cox Ceremony, University of Memphis, Cecil C. Humphreys School of Law, Memphis, Tennessee. I made a presentation on behalf of a graduating law student. I have no notes, transcript, or recording. The address for the University of Memphis, Cecil C. Humphreys School of Law is One North Front Street, Memphis, Tennessee 38103.

- 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.

Jess Rollins & Sarah Macaraeg, "SCS Superintendent Joris Ray says sexual harassment allegations 'false and have no validity,'" Com. App. (Apr. 19, 2019). Copy supplied.

Interview on WLOK's radio program "Let's Talk" with host Amber Floyd regarding various criminal law issues (approximately Aug. 15, 2016). I am unable to locate a recording or transcript of this interview.

Interview with Fox 13 Memphis regarding my role as chairperson of the Boys and Girls Clubs of Greater Memphis Annual Steak and Burger Dinner (approximately Mar. 27, 2014). I am unable to locate a recording or transcript of this interview.

Jane Roberts, "Hamer inquiry request ignored," Com. App. (Mar. 14, 2012). Copy supplied.

Kevin McKenzie, "Tigers' Smith gets Jan. 28 court date," Com. App. (Dec. 17, 2010). Copy supplied.

Jonathan Devin, "Glankler's Mathis Hits Stride As Attorney, Moot Court Coach," Memphis Daily News (Nov. 4, 2010). Copy supplied.

Rebekah Hearn, "Mathis Named to Ben F. Jones Board," Memphis Daily News (Dec. 4, 2008). 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 not held judicial office.

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

i. Of these cases, approximately what percent were:

jury trials: []%

bench trials: []%

ii. Of these cases, approximately what percent were:

civil proceedings: []%

criminal proceedings: []%

- 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 of 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 (4) 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 not 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.

I was appointed by former Shelby County Mayor Mark Luttrell to serve on the Shelby County Ethics Commission in 2013, and I served on the Commission until 2017. I was appointed to serve on the Disciplinary Hearing Committee of the Tennessee Board of Professional Responsibility by the Tennessee Supreme Court in 2015, and I served on the Committee until 2021.

I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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.

In 2009, I served on a lawyers' committee for A C Wharton's successful campaign for Mayor of the City of Memphis. The campaign lasted from June to October 2009. I did not have a title, and the responsibility of committee members

was to identify attorneys and firms for campaign outreach.

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 clerk to a judge since graduation from law school.

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

I have not 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;

2007 – 2020
Glankler Brown, PLLC
6000 Poplar Avenue, Suite 400
Memphis, Tennessee 38119
Associate (2007 – 2016)
Member (2016 – 2020)

2020 – present
Butler Snow LLP
6075 Poplar Avenue, Suite 500
Memphis, Tennessee 38119
Partner

- 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 legal career, I have had a robust litigation practice. My primary practice areas include commercial litigation, employment

litigation, governmental litigation, education law and litigation, tort litigation, products liability matters, and criminal defense. I have also represented clients in arbitration proceedings and administrative hearings before hearing officers and various state and local entities. In federal court alone, I have handled cases arising under Title VII of the Civil Rights Act of 1964, the Fair Labor Standards Act, the Fair Housing Act, the Americans with Disabilities Act, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, the Federal Tort Claims Act, 42 U.S.C. § 1983, 42 U.S.C. § 1981, and maritime law, as well as dozens of criminal cases arising under various provisions of Titles 18 and 21 of the federal criminal code. In addition to my litigation practice, I spend significant time providing advice and counsel to private and public schools, including colleges, K-12 schools, and charter schools, regarding education and employment-related issues. I also conduct internal investigations for clients regarding employment-related issues and potential criminal activity.

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

Throughout my career, I have represented individuals, governmental entities, small businesses, insurance companies, and large corporations.

- 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.

Throughout my legal career, 95 percent of my practice has been in litigation, and I have appeared in court frequently in civil and criminal proceedings. My court appearances have included arguing motions, participating in evidentiary hearings, and trying cases. I also have argued ten appeals and briefed 23 appeals, inclusive of the ten appeals that I argued.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 40%
- 2. state courts of record: 50%
- 3. other courts: 0%
- 4. administrative agencies: 10%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 75%
- 2. criminal proceedings: 25%

- 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 have tried 19 cases in courts of record to verdict, judgment, or final decision; seven were in federal court and 12 were in state court. I served as sole counsel in five of the trials, chief counsel in seven of the trials, and associate counsel in seven of the trials.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 58% |
| 2. non-jury: | 42% |

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 have not argued before the Supreme Court of the United States, but I filed a petition for a writ of certiorari in the following case:

Starks v. United States, 136 S. Ct. 423 (2015) (cert. denied). Copy supplied.

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. *Berkley v. Williams*, No. 17-cv-02909 (W.D. Tenn.) (Mays, J.), 2021 WL 2954007 (W.D. Tenn. June 14, 2021), 2020 WL 1904943 (W.D. Tenn. Apr. 17, 2020), 2019 WL 639026 (W.D. Tenn. Feb. 14, 2019)

Since 2018, I have defended Mr. Williams in an action brought against him by his previous attorney asserting claims of breach of contract and quantum meruit because Mr. Williams allegedly failed to pay for the plaintiff's legal services. Prior to Mr. Williams engaging my firm to represent him in this matter, the plaintiff had obtained a default judgment against Mr. Williams in the amount of \$150,000. I led the team that successfully got the default judgment set aside. After discovery, we filed a motion for

summary judgment, which was granted as to the breach of contract claim but denied as to the quantum meruit claim. Following a bench trial, the trial court ruled in Mr. Williams' favor on the quantum meruit claim. The matter is currently pending before the United States Court of Appeals for the Sixth Circuit (No. 21-5773). I drafted the majority of the pretrial and posttrial briefs and was sole counsel for Mr. Williams during the bench trial.

Opposing Counsel:

Drayton D. Berkley
P.O. Box 771048
Memphis, TN 38177
(901) 322-8706

2. *Shelby Cty. Bd. of Educ. v. Tenn. Secondary Sch. Athletic Ass'n*, No. CH-17-1695 (Shelby Cty. Chancery Ct.) (Kyle, J.), 2021 WL 755121 (Tenn. Ct. App. Feb. 26, 2021) (Armstrong, McClarty, Goldin, JJ.)

From 2017 to 2021, I represented the Shelby County Board of Education ("SCBE") against the Tennessee Secondary School Athletic Association ("TSSAA") seeking injunctive relief based on allegations that the TSSAA violated the Tennessee Open Meetings Act and committed federal and state due process violations when it found certain students ineligible to participate in interscholastic athletics during the 2017-to-2018 school year. My team obtained injunctive relief prohibiting the TSSAA from barring the students from participating in interscholastic athletics during the subject school year. The trial court granted summary judgment to SCBE on SCBE's Open Meetings Act claim and granted summary judgment to the TSSAA on the due process claims. Both parties appealed. After briefing and oral argument, the Tennessee Court of Appeals dismissed the appeals as moot. I was the primary drafter of the majority of the pretrial motions and all of the appellate briefs. I also argued the appeal to the Tennessee Court of Appeals.

Co-counsel:

Kenneth M. Walker II (co-counsel for trial court proceedings only)
Shelby County Board of Education
160 South Hollywood Street
Memphis, TN 38112
(901) 416-5761

Marguerite M. Stringer (co-counsel for appeal to Tennessee Court of Appeals only)
Butler Snow LLP
6075 Poplar Avenue, Suite 500
Memphis, TN 38119
(901) 680-7200

Counsel for Co-Plaintiffs:

Robert L.J. Spence, Jr.
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3. *A.K. v. Durham Sch. Servs., L.P.*, No. 15-cv-02663 (W.D. Tenn.) (Fowlkes, J.), 969 F.3d 625 (6th Cir. 2020) (Larsen, Readler, Clay, JJ.); *Kocher v. Bearden*, 2018 WL 6423030 (Tenn. Ct. App. Dec. 5, 2018) (Gibson, Dinkins, Stafford, JJ.), 546 S.W.3d 78 (Tenn. Ct. App. 2017) (Gibson, Stafford, Maloan, JJ.)

From 2015 to 2020, I represented Durham School Services, L.P. (“Durham”) in a negligence action brought by the plaintiffs after the minor plaintiff missed his school bus and was struck and seriously injured by a third-party driver while riding his bicycle to school. The plaintiffs sought \$14 million in compensatory and punitive damages. The main action was litigated in the United States District Court for the Western District of Tennessee but related litigation took place in state court (Shelby County Circuit Court) and the Northern District of Illinois. There were also three appeals (one to the United States Court of Appeals for the Sixth Circuit and two to the Tennessee Court of Appeals). My team convinced the Northern District of Illinois to quash a subpoena issued by the plaintiffs. In the Tennessee state court proceedings, we sought to intervene and unseal the proceedings in which the plaintiffs settled their claims against the third-party driver. We successfully obtained reversal of the Shelby County Circuit Court’s adverse rulings in the two appeals to the Tennessee Court of Appeals, permitting Durham to intervene and access the documents filed in the state court action. We obtained a verdict in Durham’s favor after a jury trial in the Western District of Tennessee. The Sixth Circuit upheld the jury’s verdict in Durham’s favor. I drafted 95 percent of the pretrial and posttrial motions in these cases for Durham. I argued all the pretrial motions except for the motion to quash litigated in the Northern District of Illinois. At trial, I handled voir dire, the opening statement, and closing argument for Durham, and I handled the majority of the witness examinations. I drafted the appellate briefs filed with the Tennessee Court of Appeals and co-authored the appellate briefs filed with the Sixth Circuit. And I argued the first appeal to the Tennessee Court of Appeals.

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4. *Priestas v. Kia Props., LLC*, No. CT-005046-15 (Shelby Cty. Cir. Ct.) (Weiss, J.), 2019 WL 6894066 (Tenn. Ct. App. Dec. 18, 2019) (Armstrong, Stafford, McGee, JJ.)

From 2015 to 2019, I represented the defendants in this premises liability and wrongful death action where the plaintiffs—the estate of a deceased man and his spouse—sought more than \$10 million in compensatory damages after the deceased man was shot during an apparent robbery attempt on the defendants’ property and later died. After discovery, we moved for summary judgment on the plaintiffs’ claims, asserting that the defendants did not owe a duty of care to the plaintiffs under the circumstances of the attempted robbery. The trial court granted the defendants’ motion for summary judgment. The

Tennessee Court of Appeals affirmed the trial court's decision after briefing and oral argument. I drafted the summary judgment briefs and argued the motion for summary judgment before the trial court. I also drafted the defendants' appellate brief and argued the appeal to the Tennessee Court of Appeals.

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5. *United States v. Kinkle*, No. 19-cv-20076 (W.D. Tenn.) (Norris, J.)

In 2019, I represented Mr. Kinkle, who was charged with conspiracy to possess with intent to distribute heroin, possession of heroin with intent to distribute, and possession of methamphetamine with intent to distribute. Mr. Kinkle had previously been convicted in a related drug conspiracy case in the United States District Court for the Northern District of Mississippi pursuant to a plea agreement in which the government agreed not to charge Mr. Kinkle with any offenses related to his conviction. I moved to dismiss the charges against Mr. Kinkle, asserting a violation of the Double Jeopardy Clause and a breach of the plea agreement entered in the Northern District of Mississippi case. On the day of the hearing on the motion to dismiss, the government agreed to dismiss the charges against Mr. Kinkle.

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6. *Thomas v. Wilson*, No. 18-cv-00067 (E.D. Ark.) (Marshall, J.)

In 2018, I defended AT&T Corp., Southwestern Bell Telephone Co. (“SWBT”), and two of SWBT’s employees against claims brought via 42 U.S.C. § 1983, alleging violations of the Arkansas Civil Rights Act, and asserting Arkansas common law claims of abuse of process and malicious prosecution. The plaintiff was a former SWBT employee. After his employment ended, the plaintiff generated income by digging up and selling SWBT’s wires. On one occasion, SWBT discovered that the plaintiff was digging up the wires and instructed him to stop. When the plaintiff refused, SWBT called the police, and the plaintiff was charged with theft. The plaintiff alleged that by calling the police and having the plaintiff arrested, the defendants violated the plaintiff’s Fourth Amendment rights and abused process, and that by participating in the prosecution, the defendants caused the plaintiff to be maliciously prosecuted. We moved to dismiss the plaintiff’s complaint for failure to state a claim on several grounds: (1) the claims were barred by the applicable statute of limitations, (2) as private actors, the defendants could not have violated the plaintiff’s Fourth Amendment rights, and (3) the plaintiff failed to plead his claims with specificity. The trial court dismissed the plaintiff’s complaint. I drafted the briefs in support of the motion to dismiss.

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7. *BlueCross BlueShield of Tenn. Inc. v. Shelby Cty. Bd. of Educ.*, No. CH-15-0550 (Shelby Cty. Chancery Ct.) (Kyle, J.)

In 2015, I represented the Shelby County Board of Education (“SCBE”) in this suit against SCBE and CIGNA Health and Life Insurance Company (“Cigna”) seeking injunctive and declaratory relief to overturn a contract valued at approximately \$24 million per year that SCBE had awarded to Cigna. The plaintiff alleged that SCBE violated federal and state law during the procurement process. The lawsuit was filed in April 2015. The parties engaged in a significant amount of discovery and motion practice in a very short period of time because the contract was scheduled to become effective in September 2015. After substantial briefing and several oral arguments on the parties’ cross-motions for summary judgment, the trial court granted summary judgment to SCBE and Cigna. I was the lead drafter of all the pretrial motions and argued the

dispositive motions.

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8. *United States v. Peterson*, No. 13-cr-20062 (W.D. Tenn.) (Fowlkes, J.)

From 2013 to 2014, I represented Mr. Peterson, who was charged with three counts of being a convicted felon in possession of firearms. The parties litigated whether Mr. Peterson was competent to stand trial or plead guilty due to his intellectual disability. We retained experts to determine whether Mr. Peterson: (1) was competent to stand trial, and (2) would be competent to stand trial in the foreseeable future. After more than one year of litigating these issues, the government agreed to dismiss the charges against Mr. Peterson, conceding that Mr. Peterson was not competent.

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9. *White v. Empire Express, Inc.*, No. CH-08-0107 (Shelby Cty. Chancery Ct.) (Goldin, J.), 395 S.W.3d 696 (Tenn. Ct. App. 2012) (Kirby, Highers, Stafford, JJ.), 2011 WL 6182091 (Tenn. Ct. App. Dec. 13, 2011) (Kirby, Farmer, Stafford, JJ.)

From 2008 to 2012, I represented Mr. White against the defendant companies' suit alleging claims of breach of contract, conversion, and violation of the Tennessee Consumer Protection Act ("TCPA"). Mr. White worked as a truck driver for the defendants and lease-purchased a truck from them. Mr. White brought this action after the defendants repossessed the truck that Mr. White had lease-purchased. The trial court granted summary judgment to Mr. White on his breach of contract claim, and the matter proceeded to a bench trial on the conversion and TCPA claims. Following the trial, the trial court entered judgment in Mr. White's favor on all claims, awarding compensatory and punitive damages. The defendants appealed the case to the Tennessee Court of Appeals. After oral argument, the case was remanded to the trial court for further proceedings to determine whether some of the defendants' counterclaims should have been compelled to arbitration. The trial court then dismissed the claims that should have been referred to arbitration. The defendants again appealed. In the second appeal, the Tennessee Court of Appeals affirmed the judgment in Mr. White's favor on the breach of contract and conversion claims but reversed the trial court's decision on Mr. White's TCPA claim and the award of punitive damages. The parties settled the case after the appeals. I drafted the appellate briefs and the pretrial motions. I examined all of the trial

witnesses. And I argued the first appeal to the Tennessee Court of Appeals.

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10. *Longs v. Ford Motor Co.*, No. 07-cv-02653 (W.D. Tenn.) (McCalla, J.), 2011 WL 13161601 (W.D. Tenn. Feb. 10, 2011), 2010 WL 11493337 (W.D. Tenn. Nov. 11, 2010), 647 F. Supp. 2d 919 (W.D. Tenn. 2009)

From 2007 to 2011, I represented Mr. Longs in an employment discrimination action against Ford Motor Co. alleging race discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. Mr. Longs was terminated from his job with the defendant approximately two weeks after he filed an EEOC complaint against his supervisor. The case was tried twice to juries. Prior to trial, we successfully defeated the defendant's motion for summary judgment. The first trial, which lasted five days, resulted in a hung jury. The second trial, which also lasted five days, resulted in a jury verdict in Mr. Longs' favor in the amount of approximately \$1.2 million. The parties settled the case after the district court set aside the jury's verdict. I was the primary drafter of the pretrial and posttrial motions. At both trials, I also handled opening statements, the direct examination of two witnesses, and the cross-examination of one of the defendant's witnesses.

Co-counsel:

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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.)

As detailed above, I have a significant litigation practice, but most of my cases do not result in trials or appeals. I have defended approximately 150 criminal cases, with most of those cases resulting in either a plea of guilty or a dismissal. I also have defended and prosecuted hundreds of civil cases on behalf of individuals, governmental entities, small businesses, and large corporations, with the vast majority of those cases resulting in pretrial dismissals or settlements. Additionally, I have performed several internal investigations and reviews for various private and public entities.

Further, throughout my legal career, I have participated in mentoring activities for law students and young lawyers. To that end, I have served in the roles of guest speaker, panelist, and moderator for numerous events at the University of Memphis, Cecil C. Humphreys School of Law and at local bar associations. I also developed a mentoring and networking program involving the National Bar Association—Ben F. Jones Chapter and the Cecil C. Humphreys School of Law. In addition, I was involved in the development of the 1L mixer, which was created to introduce new law students to practicing attorneys. And I currently serve on my firm's professional development committee, which develops training programs for the firm's attorneys.

Finally, I have twice served in other law-related capacities. From 2011 to 2014, I was appointed by the superintendent of Memphis City Schools to serve as a tenure hearing officer for several tenure hearings. From 2015 to 2021, I was appointed by the Tennessee Supreme Court to serve as an unpaid member of the Disciplinary Hearing Committee of the Tennessee Board of Professional Responsibility.

I have not performed any lobbying activities or registered as a lobbyist.

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 served as an adjunct professor at the University of Memphis, Cecil C. Humphreys School of Law since 2011. As an adjunct professor, I coach the law school's Thurgood Marshall Moot Court Team. I have not prepared a syllabus for my coaching duties.

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 may be entitled to future compensation for services rendered while I was a member of Glankler Brown, PLLC. The amount is undetermined and will be based on income generated from my prior services. The compensation, if any, would be paid in or about February 2022.

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).

See attached Financial Disclosure Report.

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

See attached 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.

If confirmed, I would follow the Code of Conduct for United States Judges, the standards set forth in 28 U.S.C. § 455, and all other applicable principles governing recusal. I would do so in cases involving or affecting Miller Dental Health, Inc., where my wife is employed, as well as any cases involving my immediate family. I would recuse myself from any case that I worked on at my current firm or my former firm, Glankler Brown, PLLC. I would also initially recuse myself from any case where my current law firm, Butler Snow LLP,

appeared.

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

I would evaluate and resolve any potential conflicts of interest by applying the rules and standards set forth in the Code of Conduct for United States Judges and 28 U.S.C. § 455. I would also consult relevant judicial decisions and opinions by the Judicial Conference of the United States.

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.

From 2010 to the present, I have been a member of the Criminal Justice Act ("CJA") Panel for the Western District of Tennessee. As a member of the CJA Panel, I have served the disadvantaged by representing criminal defendants who cannot afford attorneys. I have handled approximately 70 appointed cases through the CJA Panel. From 2008 to 2013, I also handled appointed criminal cases in the Shelby County Criminal Court and Tennessee Court of Criminal Appeals for criminal defendants who could not afford an attorney.

Additionally, since 2020, I have served as pro bono co-counsel with the Tennessee Innocence Project seeking to overturn the convictions for attempted murder and aggravated robbery of a criminal defendant sentenced to 49 years of imprisonment. We contend that our client was misidentified as the person that committed the crimes in question. To date, we have filed a petition for DNA analysis of certain evidence presented at trial pursuant to the Tennessee Post-Conviction DNA Analysis Act of 2001, as well as a petition for fingerprint analysis pursuant to the Tennessee Post-Conviction Fingerprint Analysis Act of 2021. Approximately five percent of my time has been dedicated to this case.

From 2012 to 2019, I represented pro bono a criminal defendant who was charged with first degree murder after killing his mother. The defendant suffered from intellectual disability and had been diagnosed with paranoid schizophrenia. The primary issue in the case was whether the defendant was competent to stand trial. After the trial court found that my client was not competent to stand trial and that continued detention would violate my client's speedy trial rights, the State agreed to dismiss the case. During the time that I represented the defendant, I dedicated approximately five percent of my time to the case.

From 2007 to 2010, I handled order-of-protection cases through Memphis Area Legal Services for women who sought to obtain orders of protection against their current or former significant others. While in law school, I participated in a domestic violence clinic, which is when I began handling those cases. I continued to handle the cases when

I began practicing law. I dedicated approximately five to ten percent of my time to handling order-of-protection cases during this period.

Since 2006, I have served as a volunteer board member for the Boys and Girls Clubs of Memphis (2006 to 2018) and Streets Ministries, Inc. (2018 to present). Both entities serve disadvantaged youth. I have dedicated approximately five percent of my time to work performed for these boards.

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.

On March 3, 2021, Congressman Stephen Cohen contacted me regarding a potential vacancy on the United States Court of Appeals for the Sixth Circuit; he asked if I was interested in being considered for nomination for such a vacancy and, if so, to submit a letter of interest to him. I advised Congressman Cohen that I would be interested in being considered for nomination to the Sixth Circuit. On March 7, 2021, I submitted my letter of interest to Congressman Cohen. On May 21, 2021, the White House Counsel's Office asked whether I was interested in being considered for nomination to the Sixth Circuit. On May 24, 2021, I interviewed with attorneys from the White House Counsel's Office. Since June 2, 2021, I have been in contact with officials from the Office of Legal Policy at the United States Department of Justice. On June 17, 2021, I interviewed with counsel for Senators Marsha Blackburn and Bill Hagerty. On November 18, 2021, my nomination was submitted 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.