

**APPLICATION OF JOSEPH L. HENSLEY  
TO THE APPELLATE JUDICIAL COMMISSION FOR  
JUDGE RAHMEYER VACANCY  
MISSOURI COURT OF APPEALS, SOUTHERN DISTRICT**

***RESPONSES TO THESE QUESTIONS, INCLUDING ANY ATTACHMENTS THERETO,  
WILL BE MADE PUBLIC IF THE APPLICANT IS NOMINATED FOR THIS VACANCY***

1. State your principal occupation, place of work, and job title:  
**Judge – 29<sup>th</sup> Circuit, Jasper County, Missouri  
Jasper County Courts Building, Joplin, Missouri  
Associate Circuit Judge**
  
2. Provide answer the following questions concerning your eligibility for this position:
  - (a) Have you been a citizen of the United States for at least 15 years? **Yes**
  
  - (b) Have you been a qualified voter of Missouri for at least nine consecutive years immediately preceding your application? **Yes**
  
  - (c) Are you at least 30 years of age? **Yes**
  
3. List each state, court, or agency in which you are licensed as an attorney, and, for each, the date you were admitted, your bar number, and whether your license is in good standing. If any license is not in good standing, explain.  
  
**Missouri State Court: Admitted October 2<sup>nd</sup>, 1998; Bar Number 47662  
Missouri Western District Federal Court: Admitted October 2<sup>nd</sup>, 1998  
I have always been a member in good standing.**
  
4. (a) State the name and address of all colleges and universities attended, *other than* law school, together with the dates and degrees received.  
  
**University of Missouri – Columbia; 125 Jesse Hall, Columbia, MO 65211  
August 1991 – May 1995  
Bachelor of Arts with honors, Psychology**

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

**I attended Mizzou on a Curators Scholarship and was the first in my family to attend a college or university and obtain a degree. I graduated *Summa Cum Laude* with an Honors College diploma in Psychology, participating in and receiving the following honors as an undergraduate:**

<b>Phi Beta Kappa</b>	<b>Judge Ross T. Roberts Scholar</b>
<b>Golden Key Honor Society</b>	<b>Phi Kappa Phi Honorary</b>
<b>Phi Eta Sigma Honorary</b>	<b>Psi Chi Psychology Honorary</b>
<b>McNair Scholar</b>	<b>Pi Kappa Alpha Fraternity</b>
<b>Bright Flight Scholarship (4 years)</b>	<b>GPA - 3.95</b>

(c) If, as a student, you were suspended, placed on probation, or expelled by school authorities for any reason, describe the circumstances.

**I was never suspended, placed on probation, or expelled by school authorities for any reason.**

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

**University of Missouri - Columbia  
203 Hulston Hall, Columbia, MO 65211  
August 1995 - May 1998  
Juris Doctor**

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

**Board of Advocates**

**Moot Court Championship Finalist, 1996  
Executive Committee, 1997 Tournament Director  
Traveling Moot Court Competition (1<sup>st</sup> Team, 1997)  
Honor Code Committee (Chairperson, 1997-1998 academic year)  
Order of the Barristers  
*National Moot Court Prize*  
*Fred L. Howard Prize* for Excellence in Appellate Advocacy  
*Roscoe Anderson Award* for Excellence in Moot Court  
*Thomas E. Deacy, Jr., Prize* in Trial Advocacy  
Top 30% of graduating class**

(c) If, as a student, you were suspended, placed on probation, or expelled by school authorities for any reason, describe the circumstances.

**I was never suspended, placed on probation, or expelled by school authorities for any reason.**

6. State, in chronological order (starting with the earliest employment), your *significant non-law-related employment*. To the extent reasonably available to you, include the name and address of each employer along with the dates of employment; the position held; whether the employment was full-time, part-time, or seasonal; and the reason the employment ceased.

**I started working part-time as a farm laborer at the age of 13 on my uncle's 175 acre farm in Carl Junction, Missouri. Duties included hauling hay, cutting brush, and miscellaneous farm labor. My employer: Don Shoup, 7620 County Road 303, Carl Junction, MO 64834. Summers of 1986 to 1988.**

**From the age of 15 to 17, I worked spring and summer nights and weekends as an umpire for the Webb City Little League Baseball Association. My supervisor: Charlie Kaughman, 1821 Missouri, Carthage, MO 64836. Summers of 1988 to 1990.**

**At 16 I obtained additional summer employment at Morton Booth Cabinet Company in Carterville, Missouri. My position was warehouse worker, loading oak gun cabinets onto semi-trailers and stacking them in warehouses. My supervisor was Gary Sharp, 503 W. Main Street, Carterville, MO 64835. Summers of 1989 and 1990.**

**I also started working part-time at Pizza Hut in Webb City, Missouri at the age of 16, and worked there from 1989 to 1990 while recovering from a sports injury. I do not remember the name of my supervisor. The restaurant address was 1897 S. Madison, Webb City, MO 64870. It is no longer located at that address.**

**As an undergraduate I worked seasonally part-time at United Parcel Service (UPS) unloading trucks from approximately 2:00 a.m. to 7:00 a.m. during the winter months and assisted drivers on the delivery trucks in the day during peak holiday season. (November to January of 1991 and 1992).**

**I also worked at Tropical Liqueurs as a bartender my senior year of undergraduate and first semester of law school (1995-1996). My supervisor was the owner, Mary Dodds, 515 E. Broadway, Columbia, Missouri, 65201.**

7. State, in chronological order (starting with the earliest employment), *all law-related employment*. To the extent reasonably available to you, include the

name and address of each employer along with the dates of employment; the position held (e.g., associate, partner, law clerk, general counsel); and the reason the employment ceased.

**MYERS, TAYLOR & WHITWORTH, P.C.**

Offices in Joplin & Webb City, Missouri; Firm is now dissolved.

Summer Law Clerk, 1996

I worked there the summer following my 1L year. The employment ended when my 2L year began.

**NEWMAN, COMLEY & RUTH, P.C.**

601 Monroe, Ste. 301, Jefferson City, Mo 65101

Law Clerk, December 1996 -- August 1997

I began working part-time during the Christmas break of my 2L year, and continued through the summer between my 2L and 3L year. The employment ended when my 3L year began.

**RICHARD BEAVER, ATTY AT LAW**

398 Dix Road #102, Jefferson City, MO

Law Clerk, July 1997 - December 1997

Part-time employment for a post-conviction relief oriented criminal defense attorney. This employment ended after I assisted in completing a number of appellate briefs all due near the end of 1997.

**NEALE & NEWMAN, L.L.P.**

2144 E Republic Rd Suite F-302, Springfield, MO 65804

Attorney at Law (Senior Associate) - August 5, 1998 - August 28, 2002

I left this employment to relocate to Joplin and start my own law firm.

**THE HENSLEY LAW FIRM, L.L.C.**

1105 E. 32<sup>nd</sup> St., Joplin, MO 64802

Attorney at Law (Solo Practitioner) - September 1, 2002 - April 20, 2007

This firm merged into *Hensley & Nicholas* in April of 2007.

**JASPER COUNTY JUVENILE OFFICE ATTORNEY**

601 S. Pearl, Joplin, MO 64801

Chief Legal Counsel to the Juvenile Office - July 22, 2003 - March 1, 2007

I resigned from this position in March of 2007 because two attorneys doing most of the adoption work in southwest Missouri took other positions, creating an opportunity for my private practice.

**JASPER COUNTY SPECIAL PROSECUTOR**

610 S. Pearl, Joplin, MO 64801

Special Prosecutor - September 14, 2006 - April 19, 2007

I resigned this position when I partnered with John Nicholas in April of 2007

because he was employed as a part-time assistant prosecutor for Jasper County, creating a conflict.

THE LAW OFFICE OF HENSLEY & NICHOLAS, L.L.C.

610 S. Pearl, Joplin, MO 64801 and 122 W. 4<sup>th</sup> Street, Carthage, MO 64836

Attorney at Law, (Partner) April 20, 2007 – December 29, 2014

My partner and I closed our firm when we were both elected in November of 2014 to become Jasper County Associate Division judges.

ASSOCIATE CIRCUIT JUDGE, 29<sup>TH</sup> CIRCUIT, DIVISION V

601 S. Pearl, Rm 211, Joplin MO,

December 30, 2014 - Present

8. Describe the nature of your experience in trial and appellate courts and explain how such experience demonstrates the quality of your legal work. (*You may take as much space as you need here. It is your responsibility to redact any confidential information.*) Include in your response:

- a) **Appellate Experience:** Include a representative list of cases you have briefed and/or argued (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court and, if published, the citation; identify the client(s) you represented and opposing counsel; and give a one-paragraph description of the case and your role.

*Barr v. Jobe* -- (Mo. App. 2000) SD22834 (Unpublished)

First oral argument in the Southern District Court of Appeals. I represented the Respondent who was successful at the trial court modifying his divorce judgment. I neither tried the case nor wrote the Respondent's brief, but my mentor, Rick Schnake, allowed me to argue the case. The Judgment was affirmed. Opposing counsel was June Clark.

*Milum v. Marsh ex rel. Lacey*, 53 S.W.3d 234 (Mo. App. S.D. 2001)

I represented Elsie Funkhouser, a trustee working at Commerce Bank. The Plaintiff in this case wanted to contest the self-proving will of her deceased father. The Greene County Circuit Court held the will to be valid. The Southern District agreed and sustained the probate court judgment. I did not try this case but assisted with research on the Respondents' Brief. Opposing counsel on appeal was Don Ingrum.

*Baldwin v. Baldwin*, 109 S.W.3d 247 (Mo. App. S.D. 2003)

I represented the appellant in the appeal of his divorce Judgment. I convinced the Southern District to reverse and remand a portion of the Judgment, but the rest of the Judgment was affirmed. I did not try this case, but was retained to write the

Appellant's brief and orally argue the case. Opposing counsel was Christopher Warden.

*L.B. v. Jasper Cty. Juvenile Office (In the Interest of N.L.B.)*, 145 S.W.3d 902 (Mo. App. S.D. 2004)

I represented the Jasper County Juvenile Office. A biological mother appealed the termination of her parental rights. The attorney representing the foster parents tried the case below, while I tried the underlying child abuse and neglect action. The Southern District sustained the termination of the biological mother's parental rights and the child was subsequently adopted. Opposing counsel on appeal was William J. Fleischaker.

*P.G.M. v. Jasper Cty. Juvenile Office*, 149 S.W.3d 507 (Mo. App. S.D. 2004)

The petitioners in this case, T.M. and D.M., did not retain me until just before the trial. They had custody of a baby girl since birth following a private placement by the biological mother. The trial court terminated the parental rights of an incarcerated father based on abandonment. The case was tried by William Perry, III, but I drafted an amended petition for the Petitioners and drafted the proposed Findings of Fact and Conclusions of Law for the trial judge's signature. I fully took over the case on appeal, drafting the Respondents' Brief and orally argued the case. The Southern District affirmed the trial court's termination of parental rights and granted the adoption. Opposing counsel at trial was Michael Garrity. Opposing counsel on appeal was Gary Brotherton.

*D.K. v. Jasper Cty. Office and Div. of Soc. Servs., Children's Div. (In re E.K.)*, 154 S.W.3d 453 (Mo. App. S.D. 2005).

I represented the Jasper County Juvenile Office in my capacity as the office's Legal Counsel. A biological father appealed the juvenile court's order finding jurisdiction in his case, alleging the trial court failed to make certain statutorily required findings. The Court of Appeals agreed and reversed the trial court. I do not believe I tried the case as it preceded my employment as legal counsel for the Jasper County Juvenile Office, but I did write the Respondent's Brief and orally argued the case. Opposing counsel on appeal were Sherrie Hansen and Janice Durbin.

*Hutton v. French (In re R.S. and D.S.)*, 231 S.W.3d 826 (Mo. App. S.D. 2007)

This is a frequently mentioned case in grandparent custody rights discussions. I represented maternal grandparents, C.H. and P.H., in an action to adopt their two grandchildren (Jasper County Case No. 05AO-JU00313). The paternal grandparents intervened and requested the court grant them visitation with the children post-adoption according to a strict court ordered schedule. The trial court granted my clients the adoption but ordered a structured visitation schedule similar to a parenting plan with paternal grandparents. We appealed, arguing the trial court lacked statutory authority to enter such an award in the context of an adoption. The Southern District agreed and reversed the trial court's visitation award. I tried the case below, wrote the Appellants' brief on appeal, and orally argued the case to the

Southern District. Opposing counsel at trial was Elizabeth Davis. Opposing counsel on appeal was Richard Bender.

*In re the Adoption of F.C., M.C. and D.C.*, 274 S.W.3d 478 (Mo. App. S.D. 2008)

I represented the petitioning foster parents, A.O. and B.O., in an action to adopt three children. This case was a contested adoption between the foster parents and the maternal grandparents. We were successful after protracted litigation and a three day trial, ending on September 18, 2007 (Jasper County Case No 05AO-JU00064). The grandparents appealed. The Southern District affirmed the adoption in favor of my clients. I tried the case below and wrote the Respondents' Brief on appeal. Opposing counsel at trial and on appeal was Eric Farris.

*In re K.L.O. and N.L.O.* (Mo. App. 2009) SD29350 (Unpublished)

I represented the petitioning foster parents, C.G. and D.G., in an action to adopt two boys in protective custody because their biological parents abandoned them. On July 22, 2008, we were successful at the trial level (Jasper County Case No. 08AO-JU00076). The biological father appealed. The Southern District affirmed termination of parental rights, and the boys (then four and five years old) were adopted by C.G. and D.G. I tried the case and wrote Respondents' Brief. Opposing counsel at trial was Shannon McKinney, and on appeal was Jane Wyman.

*Finner v. Americold Logistics*, 298 S.W.3d 580 (Mo. App. S.D. 2009)

I represented the claimant, Leon Finner, in an appeal from a Labor and Industrial Relations Commission Order denying Mr. Finner unemployment compensation benefits. The employer alleged it fired Mr. Finner due to misconduct because he violated a "three safety strikes within 12 months and you're out" policy. However, Leon received three safety violations in a two month period in 2007 after filing a workers' compensation claim. We contested the last violation because the employer did not satisfy its burden that the violation was willful or intentional, but simply an accident. I wrote the Appellant's brief and orally argued the case, but unfortunately was not successful in reversing the Commission's decision. Opposing Counsel on appeal included Matthew W. Murphy and Jeannie Desir Mitchell.

*In re N.W.P.* (Mo. App. 2010) SD29776 (Unpublished)

I represented the petitioning foster parents, R.C. and C.C., who petitioned to adopt a baby boy who came into protective custody as a one-year-old due to his mother's mental health problems and physical abuse (shaken baby). On March 21<sup>st</sup>, 2009, we were successful at the trial level (Jasper County Case No. 08AO-JU00536). The biological mother appealed but the Southern District affirmed termination of parental rights, and the child (then four years old) was adopted by R.C. and C.C. I tried the case and wrote the Respondents' Brief. Opposing counsel at trial was Amanda Collins. Opposing Counsel on appeal was Daniel Erwin.

*Prather v. City of Carl Junction*, 345 S.W.3d 261 (Mo. App. S.D. 2011)

This was an appeal from a successful jury verdict against a municipality. We represented Daren Prather, a homeowner whose home was damaged by flooding. I tried the case with my partner, John Nicholas, and when the city appealed, assisted in writing portions of the Respondent's Brief and drafted a Motion to Dismiss the appeal for Appellant's briefing errors. Opposing counsel on appeal was Greg Goheen of Kansas City, Missouri. The jury trial is discussed below in section 8.b).

*In re N.L.H.F.* (Mo. App. 2011) SD30651 (Unpublished)

I represented the petitioning foster parent, D.G., in an action to adopt a young girl who came into care as an abandoned two-year-old. We were successful at the trial level on May 13<sup>th</sup>, 2010 (Jasper County Case No. 09AO-JU00511). The biological mother appealed and the Southern District affirmed termination of parental rights. The child (then three years old) was adopted by D.G. I tried the case, drafted a Motion to Dismiss the Appellant's Brief for briefing errors, and wrote the Respondent's Brief. Opposing counsel at trial was Rebecca Seidl. Opposing counsel on appeal was Daniel Erwin.

*S.M. v. E.M.B.R. (C.M.B.R. I)*, 332 S.W.3d 793 (Mo. 2011) – Missouri Supreme Court. (See trial description in section 9.b) below for more detail).

I represented M.M. and S.M., a local couple who took in an abandoned Hispanic child in Carthage and a year later petitioned to adopt him. This was a landmark adoption case where the Missouri Supreme Court reversed the decision of the Southern District Court of Appeals, which previously reversed a Termination of Parent Rights Judgment from the first trial. The case was remanded and tried over two weeks on a change of venue to Greene County, Missouri. We won the trial again on remand in 2012, which was again appealed (*C.M.B.R. II*, discussed below). I tried the case and wrote Respondents' briefs in the Southern District and the Missouri Supreme Court with the assistance of co-counsel, Richard Schnake. Opposing counsel at the first appeal included Bill Fleischaker of Joplin, Mo., Christopher Huck of Seattle, Washington, and Omar Riojas of Seattle, Washington.

*In re Adoption of J.L.D. and T.L.M.D.* (Mo. App. 2013) SD32409 (Unpublished)

I represented the petitioning foster parents, S.L. and L.L., adopting a baby girl and baby boy placed in protective custody at the ages of 1 month and 18 months due to the biological parents' chronic drug abuse and an active methamphetamine lab in their home. We succeeded at the trial level on October 23<sup>rd</sup>, 2012, proving multiple grounds for termination of parental rights (Jasper County Case No. 12AO-JU00253). The biological father appealed but the Southern District affirmed the Judgment, and the children (then two and four years old) were adopted by S.L. and L.L. I tried the case and wrote the Respondents' Brief. Opposing counsel at trial were Amanda Collins and Angela Vorhees. Opposing counsel on appeal was Brad Barton.



*S.M. v. E.M.B.R. (C.M.B.R. II)*, 414 S.W.3d 622 (Mo. App. S.D. 2013)

This is the appeal from the *second* trial on remand in this termination of parental rights and adoption matter. Still representing adopting petitioners S.M. and M.M., this two week trial involved the testimony of dozens of witnesses and a written record of three volumes and 1783 pages. The legal file was eight volumes and 892 pages. The Southern District, in an 81 page opinion (the second longest written opinion in the Southern District's history at the time), affirmed the decision of the trial judge. I tried the case again below and co-authored the Respondents' Brief with the assistance of Richard Schnake. Opposing counsel at the second appeal included Curtis Woods of Kansas City, Missouri, Bill Fleischaker of Joplin, Missouri, Christopher Huck of Seattle, Washington, and Omar Riojas of Seattle, Washington. These attorneys all represented the biological mother on appeal as well.

*In re Adoption of K.A.W.* (Mo. App. 2013) - SD32569 - (Unpublished)

I represented the petitioning foster parents, J.C. and B.C., in an action to adopt a young girl placed in their care four days after her birth due to the biological parents' inability to provide for her care. We were successful in the termination of parental rights portion after a highly contested trial (Jasper County Case No. 12AO-JU00282). The biological parents appealed, contesting weight of the evidence issues. The Southern District affirmed termination of parental rights, and the child (then two years old) was adopted by J.C. and B.C. I tried the case below and wrote the Respondents' brief on appeal. Opposing counsel at trial and on appeal was Wes Barnum.

*In re J.A.D., B.L.D., J.D.D., S.R.N., and B.T.N.*, 417 S.W.3d 327 (Mo. App. S.D. 2013)

I represented the petitioning foster parents, S.W.P. and A.L.P., in an action to terminate parental rights and adopt five children ranging in age from approximately two to nine. They were placed in protective custody in January of 2010 because of domestic violence in the home, including a firearm discharged in the children's presence. On April 9<sup>th</sup>, 2013, we successfully proved six grounds for termination of parental rights (Jasper County Case No. 13AO-JU00051). The biological mother appealed, but the Southern District affirmed the termination decision. The children were subsequently adopted by S.W.P. and A.L.P. I tried the case below and wrote the Respondents' brief on appeal. Opposing counsel at trial was Spellman Robertson. Opposing counsel on appeal was Wes Barnum.

*In re T.D.M., J.W.A.M., E.I.M., K.D.N.M., and C.C.M.* - SD33092, SD33093 & SD33094 (2014) (Unpublished)

I represented five petitioners trying to adopt a sibling group of five children ranging in age from eight to fifteen. One girl, E.I.M., was placed in a traditional foster home with C.B. and J.B. Two older girls, K.D.N.M. and C.C.M., were placed with their grandmother. Two boys, T.D.M. and J.W.A.M., were placed in a traditional foster home with A.R. and M.R. We were successful at the trial level after bench trials on November 1<sup>st</sup>, 2013 (Jasper County Case Nos. 13AO-JU00006; 12AO-JU00679, and 12AO-LU00430), proving through multiple witnesses the extreme physical and

sexual abuse the children endured. The biological father appealed, alleging seven points of error. The Southern District affirmed the termination judgments and the children were subsequently adopted by their placements. I tried the cases below and wrote the Respondents' briefs on appeal. Opposing counsel at trial included Jamey Garrity and Spellman Robertson. Opposing counsel on appeal was Daniel Erwin.

*Jasper Cty. Juvenile Office v. N.M.D. (In re J.L.D., C.M.D., M.J.D., and H.E.D)*, 444 S.W.3d 550, 553 (Mo. App. S.D. 2014)

I represented grandparents, D.L.D. and L.S.D., in an action to terminate parental rights and adopt their four grandchildren. The children were taken into protective custody during the summer of 2011 because their home was unsanitary and the children lacked proper supervision. We were successful at the trial level after a bench trial on March 6<sup>th</sup>, 2014 (Jasper County Case No. 13AO-JU00406). The biological mother appealed but the Southern District affirmed the termination of parental rights. The children were subsequently adopted by their grandparents. I tried the case below and wrote the Respondents' brief on appeal. Opposing counsel at trial was Jamey Garrity. Opposing counsel on appeal was Brad Barton.

- b) **Trial-Level Experience:** Include a representative list of cases and/or administrative hearings you have handled (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court; identify who you represented and opposing counsel; state whether the case was disposed of following a jury trial, bench trial or at what other stage; and give a one-paragraph description of the case and your role.

Excepting the first four cases in the appellate section above (*Jobe*, *Milum*, *Baldwin*, and *N.L.B.*), in every case I also represented the appellant or respondent at the trial level. Only *Prather*, discussed in more detail below, was tried with the assistance of another attorney. I was the sole attorney on all other cases from pleadings, discovery, motions, and through the trial. Rather than copy all of those cases again in this section, I included the style, date of trial, brief description and case numbers of the cases in section 8.a) above.

The following were other representative cases:

*Kirk v. Kirk* – Greene County Case No. 31100DR1808 (filed May 4, 2000)

I represented hundreds of clients in divorces, modifications, and paternity actions through the years. Mary Kirk was one of my first divorces. A day after I filed her petition for dissolution of marriage, her husband shot her in the chest with a shotgun. But Mary was a fighter, and she lived. Her husband's children from another relationship filed collateral litigation to try to raid the marital property, and I filed contempt motions to get the property delivered to Mary. I also filed a personal injury action (Greene County Case. No. 31102CC1713). The cases were ultimately

resolved when the husband died in prison, but the case dramatically influenced my understanding and representation of women victims in abusive relationships, and is still never far from my mind. Opposing counsel were Scott Hinote and Bill Crowe.

*Street v. Scroggins*, Greene County Case No. 31301AC6369

This was my first jury trial. I represented the plaintiff in a car accident case. She was injured when she was struck from behind by defendant's vehicle. I tried the case to a Greene County jury and received a plaintiff's verdict on July 18, 2002. I handled every portion of the case and the trial, from voir dire to closing argument. Opposing Counsel included Randy Cowherd and Frank Cottey.

*John and Shelly Alexander v. Prater Hardwood Products et al.* – Newton County Case No. 04NW-CV01692 (and *State ex rel. Alexander v. Stremel*, SD26817)

I represented the plaintiffs in an action to recover damages for the value of timber cut from their property. On the day of trial, November 14<sup>th</sup>, 2005, we reached a settlement with the defendant lumber company who cut the trees, but proceeded to trial against the remaining defendant neighbors who authorized the trees to be cut, resulting in a Plaintiff's verdict. This case was unique in that I had to file a Writ of Mandamus in the Southern District to enforce a timely filed motion for change of judge. Opposing counsel were Jason Higdon and Andy Wood.

*Prather vs. City of Carl Junction* – Jasper County Case No. 07AP-CC00143.

My partner, John Nicholas, and I represented Darren Prather, a homeowner in the Briarbrook subdivision of Carl Junction, Missouri. Mr. Prather's home repeatedly flooded during heavy rainfall due to the city's poor infrastructure planning and waste water engineering. We filed a petition based on inverse condemnation and negligence. We received a Plaintiff's verdict after a two day jury trial ending on November 17, 2009. I assisted with pleadings and discovery. At trial I assisted with voir dire and handled opening and closing statements and several witnesses. Opposing Counsel included Greg Goheen, Timothy Gardner, and Mike Talley. As listed above in section 8.a), we held our plaintiff's verdict on appeal.

*Fannon v. Manley* – Jasper County Case No. 05AP-FC00080-01

I represented Michelle Manley, the mother of a nine-year-old girl who lived with Michelle a majority of the time. Michelle worked locally as a Wal-Mart pharmacist, but received a promotion at a significantly higher salary with better benefits, provided she relocated to the Washington, D.C. area. The father objected. Despite the father's claims of involvement in the child's life, we proved he was exceedingly behind on his child support and other court ordered obligations and failed to exercise much of the custodial periods he was granted. After a bench trial in July of 2011, the trial court found it would be in the child's best interests to relocate with Michelle and entered a new parenting plan accommodating the move. Opposing counsel was John Podleski.

*Kuhn v. Stocam* – Jasper County Case No. 09AP-FC00194

In contrast to the *Manley* case above, this case involved the reverse scenario. I represented the father of a six-year-old boy. The child's mother wanted to relocate with the child to Tulsa, Oklahoma because her new husband received a promotion. We proved through multiple exhibits and witnesses that my client was intimately involved with his son's life, coaching him in multiple sports and spending almost every available second with him afforded by his parenting plan. In July of 2013, the trial court found it would not be in the child's best interests to relocate, sustaining our motion to prevent her relocation. Opposing Counsel was Tina Longnecker.

*In the Matter of Christian Wells Kilpatrick* – Estate No. 10AP-PR00401

I was quite often appointed to represent children because I maintained a guardian ad litem certification throughout my practice. In this case I represented an eleven-year-old girl who lost her mother to cancer at a young age. Her grandmother took care of her after that, but she also passed away. An extremely contentious four-way custody battle commenced over the girl in probate court between two sets of grandparents (maternal and paternal), the child's maternal uncle, and the child's father. The case settled during the second day of trial on June 21, 2012 based on my recommendations and a proposed parenting plan I drafted for the parties. Counsel involved included Walt Williams, Chris Hoberock, William Lasley, Duane Cooper, and Tomie Avant.

*In re T.W.* – Jasper County Case Nos. 06AO-JU00462; 06AO-JU00463; 06AO-JU00464; 06AO-JU00469; 06AO-JU00472.

This was a highly publicized school shooting case I tried as Legal Counsel for the Jasper County Juvenile Office. On October 9, 2002, a 13-year-old boy entered Memorial Middle School in downtown Joplin carrying a loaded assault rifle and opened fire. By the grace of God, the rifle jammed after the first bullet fired into the ceiling. No one was injured, despite the juvenile's multiple attempts to shoot the assistant principal while the gun was jammed. I handled the certification hearing on December 6, 2006, and the boy was certified to stand trial as an adult. Opposing counsel was Chuck Lonardo. The case was appealed through the Southern District Court of Appeals to the Missouri Supreme Court on a Writ of Mandamus or Prohibition (*State ex rel. T.W. v. Mouton*; SC88773). I assisted the Jasper County Prosecutor's office by explaining the certification law and procedure. On March 18, 2008, the Missouri Supreme Court quashed the writ, affirming the certification hearing and agreeing the juvenile could stand trial as an adult. The case proceeded to circuit court (*State v. Thomas G. White*; Jasper County Case No. 06AO-CR02770-02) where the Juvenile was sentenced to ten years on four felony counts. However, the court invoked the dual-jurisdiction provisions of the criminal and juvenile codes as set forth in § 211.073 R.S.Mo. The juvenile was placed in the custody of the Division of Youth Services in a juvenile facility until 2013, when he was placed on probation.

*Robyn Keeter v. Hertz Rent-A-Car; Injury No. 00-105265*

I represented several claimants and employers in workers' compensation matters in my first decade of practice. Robyn Keeter worked for Hertz at the Springfield Airport. She was injured bringing a rental vehicle to the terminal when she was struck head-on by another vehicle traveling the wrong way on the roundabout outside the airport. The employer argued she was acting outside the scope of her employment and denied responsibility. I tried the case before an administrative law judge in Springfield, who ruled the employer must accept responsibility. Furthermore, I successfully brought a personal injury claim against the driver of the vehicle that struck Robyn, resulting in a settlement for her injuries prior to trial. Opposing counsel in the workers' compensation case was Pat Platter.

*Mallory Kleppor v. Dyno Nobel, Inc.; Injury No. 99-140698*

I represented Mr. Kleppor, claimant in a workers' compensation case. A truck tire he was inflating exploded near his face, breaking his jaw. There were several issues in the case because Mr. Kleppor required multiple oral surgeries and he also developed a staph infection. Other issues included reimbursement for unauthorized medical care, future medical treatment, temporary total disability, and permanent partial disability. The matter was successfully resolved in my client's favor. Opposing counsel was Rex Redhair.

*In the Interest of C.M.B.R., Jasper County Case No. 07AO-JU00477*

This was a seven year battle resulting in litigation that drew national and international attention, created new law in the field of adoption, and was the most noteworthy case from my years in private practice. I represented S.M. and M.M. in the adoption of a Hispanic child they took into their home just shy of his first birthday. They knew little more than his mother was incarcerated and not legally in the country, the father was unknown, and the child's maternal aunt and uncle did not want to take care of him. The child was neglected, malnourished, and in horrible physical condition. M.M. and S.M. cared for him, obtained medical care for him and nursed him back to health. Many months later they were referred to me to discuss the possibility of adoption.

This case was tried twice. The first time was a bench trial in Jasper County, Missouri. We hired a Spanish speaking attorney for the biological mother and put on what evidence we could considering the limited amount we could discover about her. She was using aliases to try to avoid what we later learned would be her second deportation. The Court granted termination of parental rights and my clients adopted the child. However, approximately 6 months later, a group of several attorneys filed an appeal. The Southern District eventually reversed the termination and adoption, which we appealed to the Missouri Supreme Court (*C.M.B.R. I*). The Supreme Court reversed the Southern District, but ordered the case remanded for a second trial.

The second trial took place in Greene County, Missouri after a change of venue. This two week trial involved the testimony of dozens of witnesses, including doctors, psychologists, police, and the Guatemalan Ambassador. It was followed by

newspapers, radio, and the major television networks, including *20/20*, *The New York Times*, *Diane Sawyer*, and *The Huckabee Report*, as well as internationally by *Univision* and *Telemundo*. On July 18, 2012, the trial judge found multiple grounds for termination of parental rights based on abandonment and neglect. The biological mother again appealed. The Southern District, in an 81 page opinion (the second longest written opinion in the Southern District's history at the time), affirmed the decision of the trial judge (*C.M.B.R. II*). The case was appealed again to the Missouri Supreme Court, which denied certiorari, and then to the Supreme Court of the United States, which also denied certiorari. I tried both cases below while Richard Schnake assisted on the appeals. Opposing counsel at the first trial was Aldo Dominguez. Opposing counsel at the second trial included Curtis Woods of Kansas City, Bill Fleischaker of Joplin, and Christopher Huck and Omar Riojas, both of Seattle, Washington.

- c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, describe the nature and extent of your judicial responsibilities, including the dates you have served as a judge at each level, the types of dockets you have handled and any special expertise you believe is relevant to your qualifications for the position for which you are applying.

**ASSOCIATE CIRCUIT JUDGE, 29<sup>TH</sup> CIRCUIT, DIVISION V**

601 S. Pearl, Rm 211, Joplin MO 64801

December 29, 2014 – Present

**PRESIDING JUVENILE JUDGE, 29<sup>TH</sup> CIRCUIT**

530 S. Pearl Ave., Joplin, MO 64801

March 2019 -- Present

Jasper County's Division 5 is a hustling, diverse court. In 2015, my first year on the bench, Division 5 received 3989 filings. That number has steadily increased. In 2018 and 2019, my division received 9259 new filings combined, and I disposed of 9302 cases, a clearance rate just over 100%. Jasper County has two court buildings - the historic courthouse in Carthage and the courts building in Joplin. Division 5 is the only associate division that sits in Joplin, which has a population of over 50,000, is Jasper County's largest city, and is the second largest city in the Southern District. Consequently, all associate civil cases filed in Joplin are set in Division 5.

My civil docket includes virtually every type of case, from small claims, collections, and landlord-tenant cases to a multimillion-dollar class action lawsuit. The prosecuting attorney's office and victim advocates are in the Joplin Courts Building, and therefore most every criminal felony case involving a victim is filed in Joplin in Division 5, from infractions and misdemeanors to the most serious Class A felonies. Division 5 also handles all Department of Revenue administrative review cases for the county. Finally, I handle a portion of the juvenile caseload, including delinquency, abuse and neglect, termination of parental rights and adoption cases.

In March of 2019, I accepted an appointment from our Presiding Judge, Gayle Crane, to the position of Presiding Juvenile Court Judge. In addition to my responsibilities in Division 5, I supervise all juvenile court dockets and assign Circuit Judges, Associate Circuit Judges, and our Family Court Commissioner to monthly docket calendars. I also oversee our new Juvenile Justice Center and develop legal and administrative policies. I am the first associate circuit judge to be appointed to a presiding judge position in Jasper County.

In 2021, I took over a treatment court docket known as "Diversion Court" where I handle a caseload of roughly 40 juveniles from Webb City, Carl Junction, and Carthage Junior High and High Schools.

I routinely accept transfers from the Supreme Court to other counties to hear specific cases, including Newton, Vernon, Lawrence and McDonald Counties.

9. Describe any additional legal experience you believe may be relevant to the commission's decision (e.g., work as a law professor, in government, as corporate or other legal counsel, etc.).

I am a licensed mediator through the American Arbitration Association, having completed the 40 hour in-person training course in 2004. I was also a certified guardian ad litem while in private practice for over twelve years.

I taught a pre-law and paralegal studies curriculum as an adjunct professor at *Drury University* in Springfield, Missouri from August 2000 to August 2002. I taught a three hour undergraduate course every semester in courses such as legal interviewing and investigation, research and writing, business law, and constitutional criminal law.

In March of 2015, I attended a week-long Comprehensive Drug Court Judicial Training at the National Judicial College in Reno, Nevada. The program focused on starting a treatment court, funding treatment courts, assembling treatment teams, and interacting with program clients from the bench.

In August of 2017, I received an additional week-long training course on pretrial initiatives and bail reform in U.S. Department of Justice National Institute of Corrections in Aurora, Colorado.

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

Missouri Bar Association, 1998 - Present

Jasper County Bar Association – 2002 – Present  
Springfield Metropolitan Bar Association – Current Member  
Chairperson of the SMBA Young Lawyers Committee - 2000 to 2002

Missouri Association of Probate and Associate Circuit Judges (MAPACJ)  
Board of Directors, 2017 – 2021  
Secretary/Treasurer, 2021 – Present

In 2013, I was invited to join the *American Academy of Adoption Attorneys* (AAAA), an international association of approximately 400 attorneys, judges and law professors throughout the world who distinguished themselves in the field of adoption law and are dedicated to the highest standards of practice in the field. Membership is by invitation only and Fellows of the Academy must have acted as counsel in a variety of adoptions, including international adoptions, interstate (ICPC) adoptions, Indian Child Welfare cases (ICWA), and domestic cases, and maintained their practice according to the highest standards of ethics, competence, and professionalism. I am the first and only attorney from Jasper County to become an AAAA fellow.

11. Describe your efforts (e.g., work on bar committees, pro bono efforts, CLEs presented, etc.) to contribute to the improvement of the law, the legal system and the administration of justice.

While in private practice, I presented CLEs on Adoption and Termination of Parental Rights for attorneys, and Worker's Compensation topics to attorneys and employers. I also served on the Missouri Bar's *Fee Dispute Resolution Committee* for many years prior to taking the bench. Those on the committee receive special training to mediate fee disputes between clients and attorneys, and then are assigned cases in their geographic area.

I was selected to participate in the 2002-2003 *Missouri Bar Leadership Academy* class. Our service project involved a lecture series to Missouri Girl's State delegates on "coming of age" legalities such as landlord/tenant issues, entering into contracts, and personal finance and credit cards. We continued this project the following year by request.

I was Vice-Chair of the Missouri Bar Juvenile Courts and Laws Committee from 2003 to 2005.

Since becoming a Judge, I served as the judicial liaison to Jasper County's pretrial initiative, a pilot program in May of 2017 involving stakeholders from the community including law enforcement, our county Sheriff, and the Prosecuting Attorney.



Shortly thereafter, in October of 2017, I was appointed to the Missouri Supreme Court's *Task Force on Criminal Justice*. I am on the "Pretrial Subcommittee," tasked with developing practices that ensure granting pretrial release to defendants, and the conditions imposed on them by our courts, are based on relative risks of failure to appear. We also review the relative dangers that defendants pose to crime victims and communities and risk assessment tools in determining suitability of defendants for pretrial release. We evaluate conditions of release, as well as identifying opportunities for technologies to enhance compliance and public safety in the pretrial release program. I have since presented on pretrial release and bond topics to the Missouri judiciary and other criminal justice stakeholders at conferences and via WebEx.

At the request of Presiding Judge Gayle Crane, in 2018 Judge John Nicholas and I reviewed and revised all of the 29<sup>th</sup> Circuit's Local Rules, the first comprehensive revision in many years. We presented a CLE to the local bar after the rules were finalized in 2019 to discuss the extensive changes.

I frequently present CLE topics to the local Jasper County Bar. Past topics included the role guardian ad litem plays in probate court, legal and practical research on the internet, juvenile court policy and procedures, as well as the aforementioned changes to the Jasper County Local Rules.

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

- Fostering Hope - Board of Directors - 2017 to Present
- Joy in the Journey - Board of Directors - 2020 to Present
- Carl Junction Lions Club - Member - 2015 to Present
- Chamber of Commerce Member - Joplin, Webb City, Carthage, and Carl Junction
- Hope 4 You Breast Cancer Foundation - Board of Directors - July 2014 to July 2019
- Board of Directors: Webb City R-7 Schools Foundation, Inc. - 2004 - 2017
- Board of Directors: Joplin Family YMCA
- Crimestoppers Board of Directors - 2009 -2011
- Big Brothers/Big Sisters: 2004 - 2006
- Recent Alumni Select Board Member - MU class of 1998 - 2003
- Youth Baseball, Football, Soccer and Wrestling Coach (Webb City)
- Carterville Christian Church - Member since 2010
- CrossFit Level I Trainer (CF-L1)

13. Describe your activities (e.g., speeches, presentations, educational activities, etc.) undertaken to further public understanding of and respect for courts and the judicial system and to promote access to justice for all.

At one of my first CLE's as a judge, I discovered the presentations on the *Discover Missouri Courts* website. I downloaded all of the presentations to my laptop and have presented many to area elementary schools, Missouri Southern State University students, and a local Daybreak Rotary group. I have presented:

*"Fairness and the Role of the Courts: Deciding Who Wins an Argument"*

*"Good Riddance King George"*

*"Can the School Search You and Your Stuff"*

*"The Case of the Missing Recess"*

*"Battle of Skokie"*

I found that by combining various slides from different presentations I developed a very effective, interesting, and educational presentation about the Missouri court system and the Nonpartisan Court Plan.

I also prepared some of my own power point presentations that I believe are very popular with children and adults, including:

*"Why do Judges Wear Robes, and why are they Black?"*

*"Star Wars Law Pop Quiz"*

Because my court generally has a dynamic docket with cases set most days, local high school classes choose Division 5 for field trips and to observe civil trials or criminal preliminary hearings. I always take a few minutes prior to court to introduce the class to the attorneys, clerks and bailiff. Depending on the size of the class, I take them on a tour of the courtroom, the jury assembly and deliberation rooms, my chambers, and let them sit at the bench.

When I was in private practice, I lectured on estates, trusts, and non-probate transfers in Sarcoxie, Missouri with fellow attorney, William Gollhofer.

Every fall I present to a local rental property owner's association on associate circuit court procedure, Chapter 517, and the basics of different landlord-tenant actions.

Finally, as a judge, I partner with the University of Arkansas Law School to provide externship opportunities to their law students. The externships typically last the entire summer, providing students unique opportunities to observe courtroom proceedings and gain a better understanding and appreciation of our legal system and how it operates. I allow students to assist in the preparation of small claims

**judgments, a true test of their ability to focus on legal issues and evaluate the veracity of witnesses.**

14. List any published professional articles or books you have authored.

**In 2014 I authored articles at the request of an adoption support group “Joy in the Journey” ([www.joyinthejourneyministry.org/](http://www.joyinthejourneyministry.org/)) for publication on their website. The articles generally discussed adoption related topics. That group grew substantially from 2014 to the present, including a redesigned website. I was not able to find those articles online on their new website.**

15. List any special recognition or award of a professional nature you have received.

**Fostering Hope Partner 2014  
Mothers Against Drunk Driving (M.A.D.D.) Hero Award 2015 and 2016  
Daniel J. O’Toole Award, 2019 (presented to the 29<sup>th</sup> Circuit en banc) for  
efficiently managing and processing cases. This was the first time Jasper  
County received the award.**

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

**I have been an Associate Circuit Judge for Jasper County, Missouri since December 30, 2014.**

17. Provide the branches and dates of any (a) military service and (b) other public service not otherwise disclosed in this application. If discharged from the military, state whether the discharge was other than honorable. .

**I have not served in the Military.**

18. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of being an appellate judge, including participating in oral argument; performing legal research; communicating clearly and effectively, both orally and in writing; supervising the lower courts; serving on court committees and performing other administrative functions; and expeditiously deciding issues coming before the court.

**I am able, without a reasonable accommodation, to perform the essential functions of being an appellate judge, including, but not limited to, the duties listed in question 18.**

19. Were you ever refused admission to a bar of any state or federal court? If yes, provide details.

**I was never refused admission to a bar of any state or federal court.**

20. Have you ever been disciplined, admonished or cited for a breach of ethics or professional conduct by any court or bar association or committee thereof? If yes, provide details.

**I was never disciplined, admonished or cited for a breach of ethics or professional conduct by any court, bar association, or committee.**

21. If you are or were a member of the judiciary of the State of Missouri, state:

(a) Whether an order of discipline ever has been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct. If yes, provide details.

**I have never received an order of discipline from the Supreme Court of Missouri for any reason.**

(b) Whether a reprimand or admonition ever has been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Supreme Court Rule 12.07. If yes, provide details.

**I have never received a reprimand or admonition from the Commission on Retirement, Removal and Discipline for any reason.**

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

**I have never been held in contempt of court.**

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

If yes, state the style of the case, where it was filed, and explain in detail. If you are a judge and you have been sued in your judicial capacity, list only those cases where you are or were other than a nominal party.

**I have never been sued by a client.**

**I was a named defendant in *Dolores & Steve Forste v. Joseph L Hensley, Special Prosecutor for Jasper County, and John R. Briggs, Special Prosecutor for Jasper County*; (Case No. 08AP-CC00104).**

**In September of 2007, Steve Forste drove from Needles, California to Jasper County and picked up his wife Dolores's mother, Emma France, and drove her back to California. Ms. France was elderly, incompetent, and under the legal guardianship of the Jasper County Public Administrator at the time. Acting as Jasper County Special Prosecutor, I filed charges against Mr. Forste for kidnapping, financial exploitation of the elderly, and interference with custody (Case No. 07AO-CR02096). Shortly after filing the charges, I stepped down as the county's special prosecutor (as explained in answer 8, above) and Bob Briggs took over those responsibilities.**

**The Forstes sued Mr. Briggs and me in our capacities as Special Prosecutors. The case was removed to federal court, and I assume dismissed. The Forstes refocused their litigation on the Jasper County Public Administrator (Case. No. 09AP-CC00056). The Forstes ultimately lost that case after a jury trial in 2010.**

24. Have you ever pleaded guilty to, been convicted of or received a suspended imposition of sentence for a felony or misdemeanor in any state, federal or military court? *(Note this question does not require minor traffic offenses or other infractions to be listed.)*

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

**I have never pleaded guilty to, been convicted of nor received a suspended imposition of sentence for a felony or misdemeanor in any court.**

25. Have you ever been delinquent in the payment of any federal, state, county or city taxes? If yes, provide details.

**I have never been delinquent in the payment of any federal, state, county or city taxes**

26. You must attach to this application at least one, but not more than three, writing samples that comply with the requirements set out in the instructions for applicants.
1. *W.H.D. v. S.M.D.*, Case No. 18AO-JU00131 [names and other identifying information redacted]. Judgment in a highly contested domestic case. I include this case because while it is not typical of the work I have done, it is typical of the way I work. This Judgment was appealed and was affirmed in part and reversed in part. *W.H.D. v. S.M.D. (In re H.D.D.)*, 590 S.W.3d 360, 372 n.2 (Mo. App. S.D. 2019) (4-3 decision) (Lynch, J. and Burrell, J., dissenting) (Scott, J., dubitante, "I've not read a more thoughtful, sensitive, and considered judicial decision, trial or appellate.") I do not know if that statement was true, but it gives me confidence I can do the work in the Court of Appeals if given the privilege of doing it.
  2. *State v. B.W.*, Case Number 19AO-CR01248 [names and other identifying information redacted] -- Order following preliminary hearing wherein a defendant was charged with abandoning her husband's corpse because she kept his body in a freezer in her bedroom.
  3. *Saber vs. Henderson*, Case No. 15AO-AC02085 - Order denying motion to compel arbitration in class action lawsuit. Order was appealed on July 6, 2016 (SD34511). The Southern District dismissed the appeal on July 20, 2016 (unpublished).
27. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above demonstrating the quality of your work as an attorney or otherwise relevant to the commission's decision.

I grew up in a single parent home broken by divorce. As the county's juvenile office attorney and later in the adoption field, I litigated severe child abuse and neglect cases for over a decade. As a guardian ad litem, I represented hundreds of children in contested custody cases, child abuse cases, guardianships and adoptions. The "best interests of the child" concept has a *very* personal meaning to me.

My background brings a unique perspective to the Court. I started my career as an associate in what was then the largest law firm in the Southern District with nearly 20 attorneys. I later left that firm to start my own law office as a solo practitioner. Along the way I worked for the county as a juvenile office attorney and special prosecutor. I have an extensive background in civil litigation, domestic law and juvenile law, while my work on the bench the last seven years and with the Supreme Court's Criminal Justice Task force emphasize my criminal law experience. My appellate experience spans nearly 15 years before becoming a judge.

Please list the names of **five** persons whom you will ask to provide letters of reference for you with respect to your judicial qualifications. Do **not** list as a reference a judge of the court involved. As to each of the five references, **please provide name, title, mailing address, telephone and e-mail address.**

**Hon. Dan Scott**

Senior Judge  
639 W. Jaccard Place  
Joplin, MO 64801  
417-437-2112  
JudgeDanScott@gmail.com

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**Rev. Scott Smith**

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***The commission may not accept or consider letters from any additional persons beyond the five references listed in this application.***

***Please note it is your responsibility to contact your references.*** If you intend to use as a reference a federal judge or other individual who only can provide a reference upon a specific request by the interviewing authority, please advise the commission, and it will send that reference such a request.

Provide your references with the attached Guidelines for References. The commission must **receive** your letters of reference, **via e-mail** to [SDJudgeVacancy@courts.mo.gov](mailto:SDJudgeVacancy@courts.mo.gov), no later than **5 p.m. Wednesday, October 20, 2021.**