



# Indiana Judicial Nominating Commission

30 South Meridian Street, Suite 500  
Indianapolis, IN 46204  
(317) 232-4706

## Application for the Indiana Supreme Court

### Part One, Sections 1-11

#### 1. Contact/General Information

##### A. Full legal name and any former names.

Peter Ralph Foley

##### B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

Jill L. Foley, 47, wife; Occupational Therapist (part-time) at IU Health Morgan Hospital.

M.F., 16, daughter.

A.F., 14, daughter.

##### C. Business address, email, and telephone number.

Morgan Superior Court 1

P.O. Box 1556

Martinsville, IN 46151

[pfoley@morgancounty.in.gov](mailto:pfoley@morgancounty.in.gov)

765-342-1030

##### D. Attorney number.

20123-55

##### E. Month and year you were admitted to the Indiana Bar.

November 1997

##### a. Indicate current law license status, i.e. active/inactive/retired.

Active.

##### b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

N/A.

F. Date and place of birth.

September 21, 1970; Martinsville, Indiana.

G. County of current residence and date you first became a resident.

Morgan County, 1970. I have continually resided in Morgan County other than when attending undergraduate school, law school, and for one (1) year, 1997-1998.

2. Secondary Education/Military Experience

A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

Indiana University, Bloomington; Fall 1989 – Spring 1993; Bachelor of Arts in History and Criminal Justice.

B. Include with your original application a certified transcript from each school named in Subsection 2A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

See **Tab 1**.

C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty (“DD 214” paperwork).

N/A.

3. Post-Secondary Education

A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

Indiana University McKinney School of Law; Fall 1994 – Spring 1997; Juris Doctor; Class Rank not provided.

B. Include with your original application a certified transcript from each school named in Subsection 3A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

See **Tab 1**.

#### 4. Employment

- A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

Residential and Commercial Fence installation with a sole proprietorship in Bloomington, Indiana; Summer 1993.

Statehouse, Tour Guide, Indianapolis, Indiana; 1994 Legislative Session.

Olive Garden, Server, Greenwood, Indiana; April 1994 – August 1994.

Legal Intern, Marion County Prosecutor's Office, Indianapolis, Indiana, 1995.

Buschmann, Carr & Shanks, law clerk, Indianapolis, Indiana, 1996 – 1997.

Foley, Foley & Peden, Attorney, 60 E. Morgan Street, P.O. Box 1435, Martinsville, Indiana, 1997 – 2014; (associate attorney 1997 – 2001; partner 2001 – 2014).

Morgan Superior Court 1, Judge, P.O. Box 1556, Martinsville, Indiana (2015 – present).

- B. If applicable, describe the nature and extent of your practice of law (present and former), and provide the names of your partners, associates, office mates, and employers.

I engaged in the private practice of law at Foley, Foley & Peden, Martinsville, Indiana, from 1997 through December 2014. My grandfather founded the firm in 1930 and I was the third generation to practice at the firm. My practice was a typical county-seat practice, focused on the areas of probate, estate planning and trusts, real estate, family law, municipal law, and general litigation. I served as a part-time public defender for the Morgan County Courts from 1997 – 1999. I served as county attorney for Morgan County from 2001 -2014, representing the Board of Commissioners, the County Council, the Morgan County Sheriff and numerous other government agencies and departments as corporate counsel, in administrative proceedings, and in litigation matters. I also served as attorney for the Morgan County Regional Sewer District, Morgan County Economic Development Commission, Morgan County Solid Waste Management District, Morgan County Board of Health, the Lake DeTurk Conservancy District, Morgan Hospital and Medical Center (n/k/a IU Health Morgan Hospital) and local financial institutions, homeowners associations, title companies, and numerous other local businesses and individuals. My litigation practice focused on general civil litigation, including real estate and boundary disputes, contracts, probate matters, and family law. After the financial crisis of 2008 and due to the change in the economy, my litigation practice became more focused on family law, including custody disputes, child support, and parenting time issues.

My partners at Foley, Foley and Peden (n/k/a Foley, Peden & Wisco) were Ralph Foley and Mark Peden. Jim Wisco came to the firm as an associate during the last month of my practice, December 2014.

At Buschman, Carr and Shanks, I worked as a law clerk for partners; John Carr III, Steve Buschmann, and Gary Dilk, and associate David Phippen. I assisted with writing briefs and pleadings, and attended small claims matters.

At the Marion County Prosecutor's Office I worked in the Grand Jury Division for Larry Brodeur and Carl Brizzi. Another intern and I developed and wrote a trial manual for the office's trial deputies, under the direction of Prosecutor Scott Newman and Mark Massa.

## 5. Trial/Judicial Experience

### A. Describe the extent of your jury trial experience, if any.

As an attorney, I tried three (3) jury trials. As a judge I have presided over five (5) criminal jury trials and one civil jury trial (see 5.C. below). I have also presided over one grand jury proceeding.

### B. Describe the extent of your bench trial experience, if any.

As an attorney, I tried numerous bench trials (estimated to be 200 plus) on matters ranging from small claims trials to multiple day civil trials. The civil bench trials ranged from custody disputes and final dissolution hearings, to contract disputes, real estate issues, probate matters, and guardianships.

### C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.

Superior Court 1 is a general jurisdiction court, with both civil and criminal jurisdiction. Pursuant to local rules, I have jurisdiction over probate and guardianship matters, mental health matters, as well of an equal share of criminal, family law, and general civil matters with the other Morgan County courts (Morgan Superior Courts 1, 2, and 3 and Morgan Circuit Court). I have presided over other types of cases as a special judge. My court also operates a criminal mental health diversion program.

I have presided over five (5) criminal jury trials and one (1) civil jury trial during my time on the bench. The criminal jury trials ranged from an attempted murder case down to misdemeanor cases and lasted from one (1) to four (4) days. The civil jury trial was a wrongful death case lasting four (4) days and resulted in a \$3,700,000.00 plaintiff's verdict.

During my time in private practice I frequently served as judge *pro tempore* for the Honorable Mark Peden at Martinsville City Court and for the Morgan County Superior and Circuit Courts.

6. Professional Experience

*Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.*

- A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

Natasha F. George v. Harold David George, Jr., 55D01-0907-DR-289, Order on Custody and Related Matters, judicial opinion issued on January 30, 2017.

Hezekiah Joel Colbert v. State of Indiana, 32D05-1110-PC-11, Findings of Fact, Conclusions of Law, and Judgment, judicial opinion issued on January 19, 2016. The judgment was affirmed on appeal and transfer was denied. See **Tab 2**.

Raymond A. Funk v. Rahlina D. Funk, 55D01-1103-DR-546, The Court's Findings of Fact, Conclusions of Law and Decree of Dissolution of Marriage, judicial opinion issued on November 18, 2015. The judgment was affirmed on appeal. See **Tab 3**.

In the Matter of Margaret Ritcheson-Dick v. Unemployment Insurance Review Board, etal., 93A02-0706-EX-471, Appellant's Brief, filed on October 1, 2007 appellate brief before the Indiana Court of Appeals. The Review Board's decision was reversed on appeal and remanded. See **Tab 4**.

Frances E. Burnett, etal. V. Pike Lumber Co., Inc., etal., 55D01-0409-PL-557, Plaintiff's Findings of Facts, Conclusions of Law, Judgment and Order, issued on March 16, 2007. The judicial opinion issued by the trial court adopted in their entirety the proposed findings and conclusions I submitted on behalf of my client. The trial court's judgment was affirmed on appeal. See **Tab 5**.

- B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

I have testified before Senate committees in support of legislation during the 2016 and 2017 legislative sessions. In 2016 I testified in support of Senate Bill 331 before the Senate Committee on Civil Law. SB 331 sought amendment of I.C. 29-3-5-3 and I.C. 33-23-15-1, concerning the duty of a court to report the identity of a person subject to an adult permanent guardianship to the national database (NICS) for background checks for firearms permits and purchases. The legislation was approved by the Probate Committee and the Board of Directors of the Judicial Conference. The bill was significantly amended during committee and I worked with Michelle Goodman, Staff Attorney with the Indiana Judicial Center, on the amendments. The bill passed out of the Senate but died in the House. I contributed to the draft of the amendments to this bill while it was in the Senate.

During the 2017 legislative session, I testified before the Senate Committee on Judiciary in support of Senate Bill 120, which amends portions of I.C. 35-35-3-3 and I.C. 35-38-1-1, concerning plea agreements and sentencing orders. The legislation was approved by the

Judicial Conference's Criminal Law Policy Committee and the Judicial Conference Board of Directors. The bill was amended in committee and was approved on third reading on the Senate floor by a vote of 49-0. The bill is now in the House and awaiting assignment to a House committee. I am working with Staff Attorney Mike McMahon and Jane Seigel on this matter and anticipate testifying before the House committee once the bill is assigned to committee. I did not draft the bill language, but participated in the discussions which led to the amendment offered in the Senate.

- C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

N/A.

- D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

1. County Attorney for Morgan County (January 2001 through December 2014). While not comprised of a single case or a self-contained legal matter, my representation of Morgan County as their county attorney for 14 years was a most significant legal matter. As the Morgan County attorney, I held the legal needs of the people of Morgan County in trust as I advised their county officials on how to conduct county business for the benefit of the people of Morgan County. This was one of the most significant legal matters entrusted to me during my years of private practice. I was thirty (30) years old at the time of my appointment as county attorney and had only been in practice for a little over three (3) years. Two new commissioners had just been elected and the county was ready to move forward from a time of dysfunction for the Board of Commissioners and County Council. A lot of research and careful drafting was necessary in order to clean up many of the problems created by the prior administration. It took careful negotiation and drafting to implement procedural and structural processes to allow county government to function properly. One of the first tasks was to adopt a county zoning ordinance. The prior administration had repealed the prior zoning ordinance so that the county had no local planning and zoning at the county level. I also assisted with the draft and implementation of a county personnel policy. During my years as county attorney I attended all county council and board of commissioners' meetings. I provided general corporate advice and legal service to all county agencies and departments, including the highway department, health department, recorder, treasurer, sheriff and jail. My advice to the county officials included matters ranging from employment law, public access and open door law. I drafted ordinances and resolutions. I assisted with bond issues. I also had the opportunity to oversee and assist with the creation of new county departments and boards, including the Morgan County Park Board, Morgan County Regional Sewer District, Morgan County Economic Development Commission, and the Morgan County Redevelopment Commission. I took great pride in my role as county attorney and the opportunity it provided to contribute to the economic growth and civil well-being of the county. My years as county attorney gave me insight and knowledge of local government finance and the financial difficulties faced by local governments. The most significant lessons I learned from my role as county attorney were the need to work collaboratively in order to accomplish change and to achieve the goals of the public officials with whom I worked. It was necessary to work with numerous other federal, state, and local

governments, agencies, departments; elected officials and private sector businesses; and members of public; all in a fair, balanced, and transparent manner. I realize that I may be one of the younger candidates for this position, but my appointment as county attorney as a young attorney gave me the skills and experience that will allow me to serve the people of Indiana on the Supreme Court.

2. Estate of Melanie Kay Johnson v. Arnold Lumber Company, Inc., 55D01-1411-CT-2011. This was a wrongful death case tried to a jury on January 23 – 27, 2017. This case was my first civil jury trial as a judge. The case involved an automobile accident at a busy and commonly traveled intersection in Martinsville. Ms. Johnson was killed instantly when a work van pulling a trailer loaded with equipment failed to stop at a red light and collided with her vehicle. The Defendant leased the trailer and equipment to an Amish contractor. The Amish contractor also rented a van and a driver to drive his work crew and tow the trailer from northern Indiana to the Bloomington area. The loaded trailer was of sufficient weight that it necessitated trailer brakes and a brake controller in the tow vehicle. The trailer was not properly connected to the van and as a result the trailer brakes did not function. The driver was charged and convicted of the crime of Causing Death When OWI, with a Schedule 1 or 2 Drug, as an F5 felony. The driver was found to have marijuana metabolite in his blood at the time of the accident. The criminal case was also in my court and the driver pled guilty to the charges and was sentenced to 2.5 years at the Department of Corrections. The criminal case was resolved prior to the civil jury trial. The case received some local press at the time of the accident, when the driver was convicted and sentenced, and when the civil case was filed. By the time of trial all defendants except Arnold Lumber Company, the defendant who leased the trailer and equipment to the Amish contractor, had been dismissed from the case. During pre-trial hearings, the Amish defendant appeared *pro se* and accompanied by several members of his community, who were dressed in formal attire and filled all available seats in the courtroom. This was an uncommon occurrence in Morgan County and placed additional demands on me as a judge. I knew this case was significant and worked hard to be well prepared prior to the commencement of the trial. The defense made a very strong motion for a judgment on the evidence at the close of Plaintiff's case. My anticipation of the legal issues raised by the defense and prior preparation enabled me to promptly address the motion, which I denied, and keep the trial moving. The jury returned a plaintiff's verdict in the sum of \$3,717,900. The case was tried by two veteran trial attorneys who made my job much easier. This case confirmed my ability to preside over a complicated and high stakes case, while reinforcing the need to thoroughly prepare for the legal issues presented by a case.

3. Gary L. Austin, etal. v. Ozark Fisheries Inc., 55C01-0010-CP-490. This was a class action lawsuit that resulted from the development of a large residential neighborhood (300 plus lots) in Martinsville. I represented the plaintiff class. The residential development included a 35-acre lake as its centerpiece. The successor to the original developer (Ozark Fisheries Inc.) owned the lake and its dam. The lake was an amenity for the owners in the subdivision and provided a water source for the Ozark's fishery operations. The dam was in a state of disrepair and the lake water quality and water levels continued to decline. The subdivision owners demanded Ozark to repair the dam and restore the lake, but Ozark refused. Suit was

then filed. The neighborhood was developed in the early 1970's and the covenants did not provide for a homeowner's association. The covenants and the deeds did not specifically allocate the rights and obligations of the parties with respect to the lake and the dam. The subdivision owners' case turned on the discovery of promotional brochures used by the original developer in the early 1970's. The brochures provided clear evidence that the original developer, and Ozark's successor, had promised to maintain the dam and the lake for the benefit of the subdivision owners without the need for a homeowner's association. I represented the subdivision owners and their goal was to have the dam and lake repaired and maintained in the future. This case presented added difficulties because it was the neighborhood where my parents lived, that I grew up in, and where numerous friends, neighbors, and clients lived. Control of the lake and the dam was the primary goal for my clients. Because there was no homeowner's association, there was no entity in place that could make assessments or raise the revenue necessary to maintain the lake and dam. During the litigation, I was successful in defending the defendant's removal of the case to federal court. I was also successful in having the plaintiff class certified. The solution we designed for the problem of not having a homeowner's association was to establish a conservancy district, a special taxing district which would allow for the raising of revenue. The settlement agreement conveying the dam and lake to the newly formed conservancy district and allowing for Ozark to retain water rights for its fish ponds resolved the case. I served as counsel for the residents who petitioned for the establishment of the conservancy district before the Department of Natural Resources and the Circuit Court, a task which involved considerable effort to build a consensus within the neighborhood and required the technical expertise to establish the district. Once established, I served as attorney for the newly formed conservancy district. The case presented significant legal and human challenges in several respects. It was instructive in how to work to seek a solution to a problem, rather than to just win a case. The lot owners wanted the ability to control a primary amenity and asset of their subdivision, rather than simply winning a money judgment for damages. The negotiations with the owners also proved difficult. Ultimately, we were able to provide Ozark with the ability to maintain a water source for their business operations while at the same time relieving them of the obligation to maintain and repair the dam. Today the lake has been restored to its prior levels, is cleaner than it has been in years, necessary repairs have been made to the dam and its spillways, and the subdivision owners have a means to self-govern the lake and the dam for years to come. While challenging, from many different perspectives, this case taught me to focus on the best result for the client and to seek creative for solutions.

4. Frances E. Burnett, etal. V. Pike Lumber Co., Inc., etal., 55D01-0409-PL-557. This is a case from my years in private practice. I represented the plaintiff, a private landowner, who sued a corporate landowner to establish easement rights to a lane used to access his real estate. The easement lane provided my client access to the county road. The easement lane went directly through the defendant's property (Pike Lumber Co., Inc.). Pike did not want my client to use the lane. My client's real estate consisted of high ground overlooking White River and bottom land adjacent to the river. Without the use of the easement lane my client's only access to his high ground (the only ground suitable for development) would be through the often-flooded river bottoms. A portion of the easement lane appeared in a

deed in my client's chain of title, but there was a gap and a significant portion of the lane contained no dedicated easement. The key to prevailing in the case was found in the old abstract of title my client brought into the office. I studied the abstract and found that it contained two (2) separate affidavits from individuals who had personal knowledge that the lane had been used as a public way from 1884 until 1934. The affidavits were not recorded in the county recorder's office, but were admissible at trial as statements affecting an interest in property and as ancient documents (IRE 803(15) and (16)). The affidavits were the key to establishing my client's easement rights. The case was tried before the Court and the easement was established by the court. The case was then appealed and the trial court's judgment was affirmed. This case is significant because it reinforced the need to carefully review and research all available evidence. Without the affidavits set forth in the abstracts my client would not have prevailed. A second significant lesson from the case was to take the time to carefully and thoroughly draft findings of fact and conclusions of law. Both parties submitted proposed findings of fact and conclusion of law to the trial court after completion of the bench trial. My proposed findings and conclusions were adopted by the court verbatim and I believe greatly assisted in securing a favorable decision by the Court of Appeals.

5. Miscellaneous Criminal Matter. This "significant legal matter" concerned a fairly typical and nondescript criminal guilty plea and sentencing. The defendant had a significant criminal history linked to his struggles with substance abuse. The defendant was convicted of a low level (F6) felony and sentenced to a term of incarceration at the county jail. The defendant requested a sentence modification to allow him to serve a portion of his executed jail sentence at a residential treatment facility in southern Indiana. I granted the request and conducted periodic review hearings before the successfully completed the program and was discharged from probation. The defendant then requested to have his felony conviction reduced to a misdemeanor. At the hearing to reduce the felony to a misdemeanor I asked the defendant what was different about his life now, as opposed to when he committed the offense, as is my practice. This defendant told me that the difference for him was that someone actually believed in him. He stated that I had told him in an earlier review hearing that I was proud of him for his progress and complimented him that it was his efforts that were leading to sobriety and the changes in his life. The defendant stated that no one had ever told him that they were proud of him before and that my words had stuck with him and gave him confidence in himself. This case is significant for a few reasons. The case highlights the drug epidemic faced by rural and urban communities and the need to offer offenders treatment options in addition to incarceration. Most importantly for me, however, is that the case demonstrates the need to treat all people who appear before me with dignity and respect. I was completely unaware of the impact my words had had upon this gentleman until he told me. In fact, I had forgotten what I had even said to him at the review hearing, which was no more than a 15-minute hearing during a day filled with 20 plus cases on the criminal docket. Nonetheless, those moments before the court were impactful for the defendant. A judge must at all times treat people with dignity and respect.

7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice. Include a description of any management or leadership roles you undertook to achieve these goals, and describe any specific instances in which your collaborative efforts helped achieve these goals.

In 2016 Morgan County established the Residential Substance Abuse Program (RSAP) made possible by a grant awarded from the Justice Reinvestment Advisory Council. Morgan County Community Corrections received \$311,766 from the grant for 2017. The grant supports two full-time Community Supervision Assistants and one full-time Re-Entry Specialist. The RSAP program represents a collaboration between the county sheriff, jail commander, community corrections and probation staff, the county prosecutor, public defenders, and the county judges. Due to the drastic rise in intravenous drug use and the need to house more low level felons (F6) in the county jail, the county was faced with the need to attempt to do something other than simply allow the jail to become overcrowded. RSAP is a ninety (90) day intensive residential drug treatment program within the county jail. The inmates accepted into the program are housed in a separate pod under the direction of a certified drug addiction counselor. Upon the successful completion of the in-patient treatment program and approval of the sentencing court, the offender is then entered into an intensive re-entry program that consists of electronic monitoring, intensive out-patient treatment, and intensive case management by the re-entry specialist. The program was begun in 2016 and has seen much lower rates of recidivism than expected. The program has been identified as a model for other counties. The program represents the collaborative efforts of the stakeholders involved. I serve as a member of the Morgan County Community Corrections Advisory Council and worked closely with my colleges to establish the program. The key to success in any collaborative effort is for the various stakeholders to trust one another and to share a commitment to the common goal rather than a concern for individual credit or self-interest.

My court operates a Mental Health Diversion Program which I inherited from my predecessor. The program is not operated as a certified problem solving court, but it works in much the same manner. The program requires the collaboration of the prosecutor, probation department, county jail commander and sheriff, public defenders, the local community mental health provider, and the court. The program identifies misdemeanor or low-level felony offenders who suffer from a mental health condition and who are likely to respond to treatment. The intent of the program is that stabilize the mental health of the offender in order to eliminate the person's likelihood to commit a crime. The program has benefited from the Recovery Works funding from the Department of Mental Health and Addictions. Recovery Works reimbursements have allowed us to add a social worker to our mental health diversion team. I requested the use of a social worker from our community mental health provider, Centerstone. The social worker allows the offender to take advantage of many "wrap-around" services that a probation officer or the other members of the team are unable to provide. Often when an offender is accepted into the program and released from they are in need of assistance for housing, clothing, application for Medicaid or disability benefits, vocational rehabilitation opportunities, or other programs. Since first

taking over the program in January 2015 I recognized the need for a social worker, but our county lacked the funds to employ a social worker. Centerstone had social workers on staff, but required a revenue source in order to supply our program with the position. Recovery Works funding provided the revenue to allow Centerstone to devote a social worker to our program. The key to success in this instance was the ability to match the needs of our program with an available funding source. With the support of the team program team members, I was able to collaborate with our local community mental health and allow us to collectively serve those otherwise unmet needs.

- B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

I have been fortunate over the years to speak to high school, middle school, elementary school classes, both during my years in private practice and while judge, about our justice system. I have also had several high school students job shadow me as an attorney and as a judge. It is very rewarding to expose impressionable students to our wonderful profession.

- C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

I firmly believe that we must share our talent, gifts, and good fortune with others for the benefit of our community. Since passing the bar I have been involved in many charitable and public service organizations. I have served on the board of Morgan County Habitat for Humanity and the Greater Martinsville Chamber of Commerce. I have also served in leadership positions at my church, the First United Methodist Church of Martinsville. I served as either the chair of the Administrative Council or Building Committee during the transition from the Church's long-time location in downtown Martinsville to the construction of a new building at the outskirts of town. I provided leadership to build a consensus within the congregation that a move was necessary and during the site location and construction process. The congregation remained intact and now, approximately ten years later, we are on the verge of retiring the mortgage that funded the new construction.

- D. Describe the nature and extent of any *pro bono* legal services you have contributed.

As an attorney in private practice I often took cases that I knew the client couldn't afford, but represented them nonetheless. Often times a client may have some funds for an initial retainer or payment, but as the case evolved into a more complex matter could not afford to pay fees. Nonetheless, I would continue to represent the client *pro bono* or at a reduced rate. One case in particular has stuck with me. The client was an illegal immigrant involved in a custody dispute with his former wife. The parties had joint custody of the minor children. My client had remarried and was stable and working full time. I was successful in resisting the former wife's motion to modify custody; however, shortly after that decision

the client was deported and returned to Mexico. The former wife filed a renewed request for custody. I then was successful in securing custody of the minor children with the client's current wife, the children's step-mother, rather than the former wife and natural mother of the children. Once the client was deported I knew no additional fees would be paid but continued with the case in order to ensure that the children remained in a loving and stable environment. The children's mother had a substance abuse problem and was a destructive and destabilizing force in the children's life.

During almost the entirety of my private practice I represented Habitat For Humanity of Morgan County, Inc. on a *pro bono* basis. I prepared transactional documents (deeds, mortgages, purchase agreements, etc.), provided general corporate advice, and on a few occasions litigated foreclosure suits on behalf of the organization.

Since assuming the bench, I have applied for and been awarded a Family Court Project Grant in the sum of \$6,980 for 2017. The grant will support a weekly intake and referral program for indigent and *pro se* litigants in family law matters. Referrals will then be made to local attorneys willing to accept *pro bono* cases.

- E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

N/A.

## 8. Memberships and Other Activities

- A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

Membership in the Indiana State and Morgan County Bar Associations from 1997 to present. I served as president of the Morgan County Bar Association in 2001. Membership in the Indiana Judges Association, 2015 to present.

- B. List any memberships and offices you have held in civic, charitable, or service organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

I am currently a lunch mentor for the MSD of Martinsville. I eat lunch weekly with an elementary school student in need of a mentor. I have been with the same student the last two school years. The program matches a mentor with an "at risk" student.

I served as a member of the Board of Directors of Habitat for Humanity of Morgan County, Inc. for several years, from approximately 1998 through 2003 or so. I don't have the exact dates. When I left the Board, I continued to provide legal services to the organization on a *pro bono* basis through my years in private practice. I have also participated in a Habitat build day with the Morgan County Bar Association.

I served on the Board of Directors of the Greater Martinsville Chamber of Commerce for several years, including as chairman in 2003. After leaving the Board I continued to serve on committees and support the Chamber. I was on the executive committee that was responsible for the hiring of two separate executive directors.

I am a member of and have served in numerous leadership capacities for the First United Methodist Church of Martinsville. I have served multiple terms as chairman of the Administrative Council and served as Chair of the Building Committee and the Staff Parrish Committee.

- C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

None.

- D. Describe your hobbies and other leisure activities.

I enjoy spending time with my wife and two daughters, particularly vacations with just the four of us. I enjoy adventure travel and have backpacked through Australia and New Zealand, camped through East and Central Africa on a six-week overland trip, and hiked the Inca Trail to Machu Picchu with my brothers and father. I am a regular runner and have completed two marathons and at least one or more half marathons each year. I play church softball during the summer and have a regular tennis game with friends on Sunday evenings. I also enjoy reading non-fiction and most often biographies of U.S. Presidents.

## 9. Legal Proceedings

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

A small claims suit was filed against me in approximately 1995 in Marion County as a result of a minor traffic accident. My liability insurance carrier settled the matter without trial.

I have filed a few, probably less than five (5), collections suits for unpaid fees. Most were resolved by settlement.

No criminal matters or other legal proceedings.

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

None.

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each

instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

None.

- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

None.

## 10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court (contact information to be included in Part Two of this application).

Stephen A. Oliver

Timothy Currens

Joseph O'Connor

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

Hon. Jane Craney

Hon. Linda Chezem

Hon. Robert Freese

- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

Sen. Rodric Bray

Jeff Quyle

Mark Peden

## 11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.

Original application only.

- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

Dated: March 2, 2017.

/s/Peter R. Foley  
Peter R. Foley

# Waiver and Statement of Consent

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application.

The undersigned acknowledges having read the Instructions attached to the application.

The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

03/02/2017

/s/Peter R. Foley

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Date

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Applicant Signature

Peter R. Foley

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Printed Name