



Indiana Judicial Nominating Commission

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

Application for the Indiana Supreme Court

The application for the Spring 2017 vacancy on the Indiana Supreme Court includes two parts. Both Part One and Part Two must be completed. Part Two *must* be provided separately as directed in the instructions. Answers in Part One and Part Two are a matter of public record and will be supplied to the media and public upon request. However, only answers in Part One may be posted online by the Indiana Judicial Nominating Commission.

Part One, Sections 1-11

1. Contact/General Information

A. Full legal name and any former names.

Matthew Carl Kincaid

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.

- Melissa Kathryn Kincaid, 49, wife, stay-at-home mom;
- E.J. Kincaid, 17, daughter;
- G.M. Kincaid, 15, son; and
- M.K. Kincaid, 11, daughter.

C. Business address, email, and telephone number.

Boone Superior Court I
307 Courthouse Square
Lebanon, Indiana 46052

jkincaid@co.boone.in.us

765-482-0450

D. Attorney number.

20206-98

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

November of 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.

Illinois; November of 1997; retired.

F. Date and place of birth.

May 12, 1970; Lebanon, Indiana

G. County of current residence and date you first¹ became a resident.

Boone; February of 1999

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.

DePauw University; Fall 1988 – Spring 1992; Bachelor of Arts; Cum Laude; Rector Scholar 1988-1992.

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 Exhibit 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).

Not Applicable.

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.

¹ I was born in Boone County in 1970 and I lived there until 1992.

- University of Chicago Graduate School of Business; Summer 1991; Chicago Business Fellow (CBF). I did not receive a degree or certificate. I was not part of any graduation class at the Graduate School of Business and did not have a class rank. I did receive a scholarship to attend business school courses tuition-free for the summer.²
- Loyola University of Chicago School of Law; Fall 1994 – Spring 1997; Juris Doctor; Rank 89/199; Law Journal Fall 1995 – Spring 1997.

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 Exhibits 2 and 3.

4. Employment

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

- American National Bank and Trust Company of Chicago; Analyst, Senior Analyst, Officer; Chicago, Illinois; June 1992 – June 1994.
- Hamilton County Superior Court III (the Honorable William J. Hughes); Law Clerk; Noblesville, Indiana; Summer 1995.
- Pretzel & Stouffer, Chartered; Summer Associate, Associate; Chicago, Illinois; Summer 1996 and September 1997 – March 1998.
- Riley Bennett & Egloff, LLP; Associate; Indianapolis, Indiana; April 1998 – December 2002.
- Boone Superior Court I; Judge; Lebanon, Indiana; January 2003 – Current.

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 practiced primarily civil litigation typically the defense of persons and entities sued for negligence in some form or another. I also practiced in worker's compensation law defending employers. I have not practiced law since becoming a trial judge.

At Pretzel & Stouffer, I worked with and for Alan Schumacher, James LaBarge, Richard Waris and others. These three lawyers are still with the firm. It appears that

² CBFs were undergraduate students between junior and senior years from a variety of liberal arts colleges similar to DePauw, e.g., Kenyon, Carleton, Lawrence, etc. The purpose of the program was to develop interests of select liberal arts students in pursuing a Masters of Business Administration at the University of Chicago. CBFs took courses at the business school with MBA students. We also visited various businesses in Chicago including investment banks, commercial banks and consulting firms and heard presentations from these firms. CBFs also were granted a three-year option to enroll in the Graduate School of Business. After working in banking in Chicago for two years, I considered exercising this option, but ultimately decided to pursue a career in law rather than business.

the Commission may be inquiring into every lawyer affiliated with Pretzel & Stouffer during the time I was with them. I have contacted the firm and asked if it is possible to identify such a list and, unfortunately, it is not. In addition to the three mentioned, here is a list of many current partners who practiced at Pretzel & Stouffer while I was employed at the firm: David M. Bennett; Robert M. Chemers; Suzanne M. Crowley; Matthew J. Egan; Patrick F. Healy; Brian T. Henry; Scott L. Howie; Daniel B. Mills; Edward H. Nielsen; Donald J. O'Meara; Neil K. Quinn; Edward B. Ruff; Lewis M. Schneider; John V. Smith; Stephen C. Veltman; John J. Walsh, III; and Timothy A. Weaver.

At Riley Bennett & Egloff, I frequently worked with and for James Riley, Bryce Bennett, Don Smith, Raymond Seach, and Anthony Jost. All of these lawyers are still with the firm. In addition to the five mentioned, here is what I believe is a complete list of lawyers affiliated with Riley Bennett & Egloff from 1998-2002: John L. Egloff; Mary K. Reeder; Laura S. Reed; Ryan L. Leitch; Michael P. Dugan; Blair R. Vandivier; Sally A. Volland; Laura C. Hagenow; R. Troy Mulder; Julia Jackson; Charles C. Douglas; Trevor Crossen; Stacy L. Hanefeld; Sharon Luard; R. Jay Taylor; Pamela G. Schneeman; Rhonda M. Craun; Janelle K. Linder (McIntyre); J. Richard Moore; Jason J. Hoy; Etta L. Walters; James M. Shafer; M. Michele Gunyon; Kevin N. Tharp; Douglas W. Meagher; Melinda J. Gentry; Benjamin M. Habegger; Marcus S. Sedwick; and J. Mark McKinzie.

5. Trial/Judicial Experience

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

See 5C below.

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

See 5C below.

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.

I have been a general jurisdiction Indiana trial court judge for fourteen years. My docket currently includes commercial and tort civil cases of all levels of complexity; domestic relations cases; half of the criminal felonies filed in Boone County; all probate cases including estates, guardianships, trusts and adoptions; mental health cases; domestic violence protective orders; and mortgage foreclosures. I had a misdemeanor docket from 2009 until 2014. Juvenile cases, small claims, misdemeanors and alcohol related driving offenses (whatever the level of the offense) are filed by local rule in the other two courts, but I have presided and do preside over these matters as a special judge.

I have presided over approximately 100 jury trials about half civil and half criminal. My civil trial docket has included cases involving complex commercial matters, civil torts, medical malpractice, premises liability, and motor vehicle accidents. My

criminal felony trial docket has included all types of cases from class D and level 6 felonies to murder.

I have presided over 200 or more bench trials, finding facts and making legal conclusions in all types of criminal and civil cases, the latter including but not limited to domestic relations cases, contested adoptions, trust disputes and probate litigation.

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.

1. Shook, LLC. v. Indianapolis-Marion County Public Library, 06C01-0406-PL-336 – ORDER GRANTING SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS THORNTON TOMASETTI ENGINEERS AND JOSEPH G. BURNS AND DEFENDANT CHARLIER CLARK & LINARD ON COUNTS EIGHT, TEN, ELEVEN AND FIFTEEN OF INDIANAPOLIS MARION COUNTY PUBLIC LIBRARY’S FIRST AMENDED COMPLAINT – March 28, 2008. See Exhibit 4.
2. Sam Fix v. Howard Hull and Lisa Hull, 06D01-0705-CT-217 – ORDER DENYING DEFENDANT HOWARD HULL’S MOTION FOR PARTIAL SUMMARY JUDGMENT– October 7, 2008. See Exhibit 5.
3. Ron Rolston and Robert L. Pittman Farms, Inc. v. Boone County Board of Zoning Appeals, 06D01-0905-MI-331 – ORDER OVERTURNING DECISION OF BOONE COUNTY BOARD OF ZONING APPEALS ON PETITIONER’S VERIFIED PETITION FOR WRIT OF CERTIORARI – April 11, 2011.
4. Madison County, Indiana, Board of Commissioners v. Madison County, Indiana, Common Council, 80C01-1205-PL-189 – ORDER FOLLOWING HEARING OF AUGUST 22, 2012 – August 28, 2012. See Exhibit 6.
5. In the Matter of the Guardianship of Madison Best, 06D01-1401-GU-1 – ORDER APPOINTING RUSSELL BEST GUARDIAN OF THE PERSON AND ESTATE OF MADISON BEST AN INCAPACITATED ADULT – August 4, 2014. See Exhibit 7.

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.

Not Applicable.

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.

1. Volume 27 Loyola University Chicago Law Journal (1995-96). I cite-checked drafts of scholarly articles submitted for publication by legal scholars and student contributors for this volume.

2. Volume 28 Loyola University Chicago Law Journal (1996-97). I served as a member of the editorial board for this volume.

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. Indianapolis-Marion County Public Library consolidated matters, 06CO1-0406-PL-336. I served as special judge on this well-known consolidated case involving the design and construction of the parking garage beneath the renovated and expanded Indianapolis-Marion County Central Public Library. Among many pre-trial rulings, I denied a preliminary injunction, Thornton-Tomasetti Eng'rs v. Indianapolis-Marion County Pub. Library, 851 N.E.2d 1269 (Ind. Ct. App. 2006) (affirming denial of preliminary injunction); granted partial summary judgment on negligence claims Indianapolis-Marion County Pub. Library v. Charlier Clark & Linard, P.C., 919 N.E.2d 547 (Ind. 2009) (affirming summary judgment barring negligence claims under the “economic loss rule”) and granted summary judgment on indemnity claims, Indianapolis-Marion County Pub. Library v. Charlier Clark & Linard, 929 N.E.2d 838 (Ind. Ct. App. 2010) (affirming summary judgment on common law and contractual indemnity; reversing summary judgment on cross-claim and remanding for further proceedings (later dismissed by stipulation)). I presided over a five-week jury trial on the remaining claims between the Library and the structural engineer.

This case involved not only a matter of significant public importance but also the emotional effect of the challenges to the professional competence and integrity of the structural engineer. Because of the complex pretrial motions, the highly technical construction and engineering design issues, and the impact a five-week jury trial had on the rest of the Court’s docket, this was a challenging case for me. It required organization and extraordinary effort to provide the necessary focus for this case while simultaneously giving appropriate attention to the myriad of other matters that come before a trial court on a day to day basis.

No matter what the trial, I am always humbled and awed by the service our citizen-jurors provide to the justice system. But the feeling was even stronger in this case where jurors listened to five weeks of testimony in this complicated matter. I am proud of the work my court staff and I did in this case, and am honored to have been chosen to preside as special judge. A key piece of evidence in the case was a construction change order known as “P.R. 30,” a framed copy of which hangs in my office to remind me of the importance of patience and hard work in presiding over all cases.

2. State of Indiana v. Stephen Taylor, 06D01-0609-FA-114. Stephen Taylor was convicted of child molesting as a class A felony after a jury trial over which I presided. The victim was an eight-year-old boy with some special needs who had been at a day camp at a park in Zionsville. Excellent cooperation of law enforcement agencies in several jurisdictions led to Mr. Taylor’s apprehension and charge, but for this prosecution, the State had no eye witnesses other than the young victim. During his testimony, it required considerable care to remain

dispassionate and composed on the bench both to assure the accused his right to a fair trial and to make proper evidentiary rulings. The case also included a difficult search and seizure question which came up on a motion to suppress, as well as the reliance upon DNA found in a hat the perpetrator dropped at the scene. Ultimately the jury's guilty verdict and my sentence were affirmed on appeal. State of Indiana v. Stephen Taylor, 891 N.E.2d 155 (Ind. Ct. App. 2008). Later, I denied a petition for post-conviction relief, and that ruling was also affirmed. Taylor v. State, 2011 Ind. App. Unpub. LEXIS 1024 (Ind. Ct. App. 2011).

This case illustrates the care and attention that must be paid to correctly try and conclude a difficult and emotional criminal case. I have presided over other criminal cases of equal or greater gravity including murder and plenty of trials of lower classification felonies, but this criminal case stands out as significant in my career.

3. In re Adoption of H.N.P.G., 06DO1-0604-AD-4. Taking into consideration the best interests of children in making decisions is something I do on a regular basis. This case was one of the more challenging matters concerning a child. Two cases were filed by competing petitioners which I consolidated for discovery and trial. One set of petitioners was the paternal grandmother and her husband. The other petitioners were married foster parents who had cared for the child from infancy.

The case posed the complicated and fact sensitive legal questions of whether consent of the father was required to allow the adoption, and the always difficult question of what was best for a child. Incarcerated, Father did not consent to the foster parents' petition and I made sure that he had excellent counsel both to defend his parental rights at trial and to pursue an appeal as was his right.

As for what was best, both prospective adoptive parents loved the child. It was a difficult decision to choose what was right, but when I made the decision I felt I'd done justice and equity. Careful trial judges expend a lot of time and energy to get cases like this correct. I was gratified that my decision in this contested adoption was affirmed. In re Adoption of H.N.P.G., 878 N.E.2d 900 (Ind. Ct. App. 2008). Petitions to transfer and for a writ of certiorari also were denied.

4. Madison County, Indiana Board of Commissioners v. Madison County, Indiana Common Council, 80CO1-1205-PL-189. I have presided over several cases involving governmental units, but this one stands out because two governing bodies from the same county were pitted against each other. The case involved the interplay of authority of these two entities and a contentious fight over money and control over county government operations. I was chosen as special judge to preside in the case and was pleased that after a careful pre-trial ruling on key issues and with the help of a skilled mediator the parties settled the case.
5. In the Matter of the Guardianship of Madison Best, 06DO1-1401-GU-1. The issue in this case was whether a guardian should be appointed for Madison and who it ought to be. Madison Best is a delightful and kind young adult with Down's Syndrome. But her parents have had many disputes surrounding their divorce and

have been to the appellate courts several times on their dissolution. The guardianship case posed complicated jurisdictional and standing procedural questions as well as challenging substantive issues. I knew that my ruling would have to be prompt, that it would be appealed and that it should contain detailed findings of fact and conclusions to both to assist the Court of Appeals in its review and to hopefully to help the parties understand the decision.

After a three-day bench trial I was able to produce an order which the Court of Appeals commended to be “incredibly detailed, thorough, and thoughtful findings and conclusions.” In the Matter of the Guardianship of M.B., 06A01-1408-GU-355 (unpublished) (Ind. Ct. App. 2015.) I am pleased to have been praised in the opinion, but of greater significance to me is what has since happened; rather what has *not* happened. After years of protracted litigation, the parties have not been back to court on this case since my ruling. I am most proud that the order has proven durable and am hopeful for peace for this family.

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.

- Chosen by my fellow judges, I have served my judicial district as a member of the Board of Directors of the Judicial Conference since 2010.
- I have been an active member of the Sagamore Inn of Court since 2008. As a team member and leader, I have developed, written and presented edifying and entertaining legal education programs.
- I have collaborated with other judicial officers on various committees including the Civil Bench Book Committee, the Civil Jury Instructions Committee, and currently serve as a member of the Criminal Jury Instructions Committee.
- I have mentored thirteen law students as law clerks and judicial externs and two undergraduate students as interns who are both now either in law school or applying.
- I have spoken in schools to children as part of the Indiana Bar Foundation’s “We the People” program. This year I volunteered as a judge in the Foundation’s high-school mock trial competition. I have presented to groups of students on field trips to the courthouse. I participated in the dramatic production of a video aimed at educating high school students about the dangers of drunken driving and the consequences for that decision in the justice system.

- I have spoken or been a panel discussion member at 23 continuing legal education seminars and programs presented by ICLEF, the Indianapolis Bar Association, the Boone County Bar Association, and National Business Institute on such topics as trial practice, evidence, discovery, dealing with surprises at trial, expert testimony, family law presentations upon subjects including child support, parenting time, Indiana's relocation statute and attorney's fees, and probate practice.
- I have spoken or been a panel member at Judicial Education Conferences on family balance, best practices regarding unrepresented litigants, and been a dramatic reader and discussion panelist in a judicial education program focusing on the trials of famous attorney Clarence Darrow.
- I participate as a member of the Boone County Bar Association and attend meetings. Most Decembers since I have been judge I have, for the benefit of collegiality and friendship among the bar, hosted a holiday gathering for lawyers, court staff, and courthouse personnel. For six of the past seven years, I have coordinated with the help of officers of the Bar our annual Boone County Courts/Bar Association Continuing Legal Education program each November.
- On matters concerning justice, I collaborate with other non-judicial local office holders including law enforcement, community corrections, the fiscal body, the executive body and others to work together as public servants.
- I have caused Boone Superior Court I to participate in the Indiana Supreme Court and the Indiana Housing and Community Development Authority's Mortgage Foreclosure Assistance Project. Under this project, the Court directs notice to homeowners facing foreclosure of their right to request a settlement conference. The Court coordinates case management of foreclosures with a trained facilitator to attempt where feasible to enable mortgagors to reach more manageable loan repayment terms, to keep neighborhoods occupied and to allow families to stay in their homes.

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.

As a judge, I must decline and have declined any efforts or invitations to engage in political or civic initiatives that could threaten to impair my ability to be a fair and impartial judge or give the erroneous appearance of being committed to a particular outcome on a case or type of case.

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 have been an active member of St. Alphonsus Catholic Church in Zionsville. I served for three years on Parish Pastoral Council. I serve as a prayer announcer and reader of scripture during Mass. I have participated as a team member in a retreat called “CHiRP” (Christ Renews His Parish) witnessing my faith journey to reinvigorate the Christian faith of men who attended the retreat. Recently, I have undertaken a role of serving as a small group leader of our youth ministry program “Antioch.”
- I support the Zionsville Educational Foundation by attending its events and by serving two separate stints 2010-11 and 2014-15 as a member of the grants subcommittee which is group of citizens who review Education Foundation grant applications from teachers in the Zionsville School District, discuss and vote upon them to award grant funding to proposals which enhance the education of Zionsville school children and adolescents.
- I coached youth soccer and basketball in Zionsville.
- I have been a Cub Scout den leader.

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

- I participated as a lawyer in the Ask a Lawyer program of the Indianapolis Bar Association.
- While practicing law and without charge, I represented an individual charged with a misdemeanor.

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

I have not taught in a formal curriculum such as at a law school or undergraduate degree pre-law course. I have participated in the IU McKinney School of Law externship program for nine years typically during the summer. This program allows law students to obtain law school credit under the supervision of judges in central Indiana and upon the fulfillment of the requirement of volunteering a required number of hours as judicial externs. I review the work and contribution of the students, provide constructive critique and mentoring and report their progress to the extern program director at IU McKinney. As noted above, I have spoken at numerous continuing legal education programs for which attorneys and judges have received credit towards their annual continuing legal education requirements as determined by the Indiana Supreme Court.

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.

- Board Member; Indiana Judicial Conference; 2010 – Current. The Board, chaired by the Chief Justice, meets approximately quarterly to discuss matters pertinent to the administration of justice in Indiana. I along with my fellow representative Judge Felix represent District 12. We are responsible for keeping the judges of the district informed, soliciting their input and for voting on various subjects brought before the Board.
- Member/Board Member; Sagamore Inn of Court; 2008 – 2010 as a member and 2011 – Current as a board member. The Inn of Court is international organization of lawyers and judges with local chapters including the Sagamore Inn dedicated to advancing skill, competency and civility in the legal profession. The Board meets to discuss programming within the Inn, membership invitations, budgeting, and other Inn business.
- Member; Indiana State Bar Association; 1997 – Current.
- Member; Defense Trial Counsel of Indiana; 1999 – 2001.
- Member; Boone County Bar Association 1998 – Current.
- Member; Indiana Judges Association; 2003 – Current.

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.

Member; Rotary Club of Zionsville; 2002-2009 (President 2007-2008). Rotary is an international organization of local clubs dedicated to providing service. During my time in Rotary, I organized two art auction fundraisers, served on a scholarship selection committee, and was responsible for a time for procuring guest speakers.

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.

Not Applicable.

D. Describe your hobbies and other leisure activities.

I am an avid runner having completed nine marathons. I enjoy sports, creative writing, acting in community theater productions, working in the yard, going out to dinner with my wife and/or friends, an occasional game of golf and my children's extracurricular activities.

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.)

Civil Matters:

I have never, as a plaintiff or other petitioner, filed a lawsuit against anyone.

Srivastava

As for being a defendant, I, along with many other judges, other public servants, entities, and citizens have been sued by Carolyn Srivastava. Ms. Srivastava is a serial filer who since 2004 has been subject to a screening process by the United States District Court for the Southern District of Indiana for any suits she may file. Several years ago, I served as a special judge in her case against several Marion County judges. Shortly thereafter, I found myself a defendant in a lawsuit she filed in Marion County Superior Court. Next, she sued me in Hamilton County Superior Court II. Next, she sued me in Monroe Circuit Court.

I do not remember the particulars of Ms. Srivastava’s claims about me and my co-defendants other than that the allegations were bizarre, vitriolic, perversely amusing, and without merit. The three cases are: Carolyn Srivastava v. David Hamilton, et al., 49DO3-0512-PL-50413 (Marion Superior Court 3 December __, ³ 2005); Carolyn Srivastava v. Afni, Inc., et al., 29DO2-1208-PL-8687 (Hamilton Superior Court 2 August 21, 2012); and Carolyn Srivastava v. Bank of America Corporation, et. al., 53CO1-1307-CT-1297 (Monroe Circuit Court July 17, 2013).

As for other parties, Ms. Srivastava was the only plaintiff. The following table lists the defendants in the three lawsuits:

| | | |
|---|--|--|
| 49D03-0512-PL-50413 (removed by 1:06-cv-131) | 29D02-1208-PL-8687 (removed by 1:12-cv-1295) | 53CO1-1307-CT-1297 (removed by 1:13-cv-1212) |
| David F. Hamilton; Board of Trustees Indiana University; Adam Herbert; Charles Bantz; Gerald Bepko; Richard Schreiner; D. Craig Brater; Norman Lefstein; Susannah Mead; Hal Broxmeyer; Maureen Harrington; David Burr; Kenneth Johnson; Thomas Carroll; Mark Renner; Steven Frank; Caryl Dill; Sharon Lovell; Matthew Kincaid; Dan Habing; Philip Scaletta; P. Frederick Pfenninger; Prudential Financial, Inc.; Miriam Bahcall; Peter Donahoe; Julian Herz; Marian Herz; Paul Fulkerson; Steve Carter; Randy Irwin; Retirement Living, Inc.; St. Vincent Hospital; United States of America. | AFNI, Inc.; Mark Bannatyne; John Bartholomew; Evan Bayh; Tracy Brown; Ken Campbell; Amy Castanares; Michael Castellarin; Mayor City of Indianapolis; College Park Club, Inc.; Faye Craig; J. Jeffrey Edens; Jose Evans; Janet French; The Hanover Insurance Group, Inc.; Donald Harris; William Haynes; Matthew Headley; Marian Herz; Joseph Hogsett; Eric Holder; Rex Joseph; James Kennedy; Matthew Kincaid; Thomas Koppel; Eugene Lausch; John Layton; Andrea Lee; Kristin MacBain; Brian Mahone; Linda Major; Olivia McKinney; Patricia Morrell; Sharon Murphy; Leslie Page; James Payne; Michael Pence; Karl Rove; Becky Sayre; James Schillaci; Michael Sontag; Mark Sullivan; Tennessee Supreme Court; Richard Young; Gregory Zoeller; United States of America; Board of Education of the Metropolitan School District of Pike Township; College Park Congregation of Jehovah's Witnesses, Indianapolis, Indiana, Inc. | United States of America; Edward Demarco; Nationstar Mortgage, LLC; Bank of America Corporation; Experian; Ronald Hollinger; Matthew Kincaid; David Mills; Metropolitan Development Commission; Ken Campbell; Tippecanoe County Commissioners; Tracy Brown; Hamilton County Highway Department; Carol Schmitz; Joan McFarland; Board of Education of the Metropolitan School District of Pike Township; The Preserve at Willow Springs, LLC; Karl Rove; Universal Builders of America, Inc.; Michael McRobbie; Lauren Robel; Gary Roberts; Hannah Buxbaum. |

³ I cannot be sure of the date suit was filed. The case is not appearing on Odyssey case records for Marion County.

The three suits against me (as well as all of the other defendants) were dismissed.

Study

I was also sued by John Study in Study v. Meyer, et al., 2:15-cv-101 in the United States District Court for the Southern District of Indiana. Mr. Study was a criminal defendant in a case in Boone County which ended with his conviction.

As for other parties, Mr. Study was the only plaintiff. Co-defendants along with Todd Meyer and me were Ken Campbell, Michael T. Nielson, Mike Kennette, Kent Eastwood, Ronald Leffler, Charles Davis, Henry Flores, Alan Pippin, Michelle Gibson, "Mr. John Doe #1," Anthony Harris, Kim Funk, Alyssa Harrison, Jason Reynolds, Craig Fouts, Brian Stevenson, Boone County, "Mr. John Doe #2," Mr. John Doe #3," and Brevard Extraditions, Inc. I never filed an appearance or obtained representation. The suit against me (as well as all the other defendants) was dismissed.

Bankruptcies/Dissolutions

Not Applicable

Criminal Matter

In 1998, I was a defendant in a misdemeanor State of Indiana v. Matthew C. Kincaid, 98151175, Marion Superior Court 13. While backing out of a parking space, I had a very slight contact with a parked car, which I thought caused no damage. I should have verified that, but regrettably did not do so. As I was about to leave the lot, I was stopped by an Indianapolis police officer who happened to be nearby and he pointed out that there was a scratch on the fender. I was cited for failure to stop after an accident involving property damage, a B misdemeanor (greater than \$250.00 of damage.) I was offered a diversion agreement, and promptly paid restitution of \$369.31. The case was ultimately dismissed after I completed the diversion agreement.

Other

State of Indiana ex rel. John O. Study v. Boone Superior Court I, et al., 06S00-1305-OR-330 (Ind. 2013) (April 30, 2013). I was the respondent in an original action for a writ of mandamus sought by a bank robbery defendant. The Indiana Supreme Court dismissed the action. This is the same defendant who sued me in Federal Court in 2015 described above.

- 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.

See 9A above.

- 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.

Not Applicable.

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

Not Applicable.

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).

1. Tony Patterson;
2. Drew Soshnick; and
3. Jan Carroll.

- 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).

1. Honorable John Baker;
2. Becky McClure; and
3. Tom Easterday.

- 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).

1. Bill Soards;
2. Shari Richey; and
3. Tim Haak.

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.

See Exhibit 8 to Original.

- 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.)

See Cover Sheet.

3-1-2017

Matthew C. Kincaid /s/

Date

Applicant Signature

Matthew C. Kincaid

Printed Name