

Application for Judicial Vacancy Indiana Appellate Courts

PART ONE

This document will become a matter of public record and may be published on the courts.in.gov website once your application is complete, so do not include confidential information that must be redacted.

1. Contact/General Information

- A. Full legal name and any former names.

**Carol Nemeth Joven
Carol Alice Nemeth (maiden name)**

- 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.

**James A. Joven, husband, age 55, Marion Superior Court Judge
Thomas Michael Joven, son, age 20, college student
Nathaniel James Joven, son, age 19, college student
C.M. Joven, daughter, age 17, high school student**

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

**Williams & Piatt, LLC
1101 North Delaware Street
Indianapolis, IN 46203
carol@williamspiatt.com
(317) 633-5270**

- D. Attorney number.

18091-53

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

October 1994

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.*

Ohio, 1995, inactive

I am also admitted to the following federal courts:

United States Supreme Court (2012)

United States Seventh Circuit Court of Appeals (2003)

United States District Court for the Southern District of Indiana (1994)

United States District Court for the Northern District of Indiana (1994)

- F. Date and place of birth.

September 10, 1969

South Bend, Indiana

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

Marion County, Indiana, since January 1995

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. **As part of your Supplemental Materials, provide a transcript—including a certified transcript for your original hard copy—for each school listed; redact your Social Security number if it appears on the transcript.*

Indiana University, Bloomington

Dates enrolled: Fall 1987 to Spring 1991

Degree: B.A., Economics with High Distinction

Phi Beta Kappa

Certificate: Liberal Arts and Management Program (LAMP), an interdisciplinary program of the Business School and the College of Arts and Sciences

Scholarship: Hoosier Scholar Award

- B. 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. **As part of your Supplemental Materials, provide 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. **As part of your Supplemental Materials, provide a transcript—including a certified transcript for your original hard copy—for each school listed; redact your Social Security number if it appears on the transcript.*

Indiana University, Bloomington

Dates enrolled: Summer 1991-Spring 1994

Degree: J.D., *cum laude*

Academic Honors and Awards:

Graduated in top 20% of class

Indiana Law Journal, Second Year Associate and Third Year Editorial Staff

American Jurisprudence Award for Civil Procedure (top grade in class)

Scholarships:

Glenn D. Peters Scholarship Recipient

School of Law Fellowship Award

4. Employment

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

Williams & Piatt, LLC, Of Counsel

1101 North Delaware Street, Indianapolis, Indiana

July 2021-present

Price Waicukauski, Joven & Catlin, LLC (and related predecessor firm names)

301 Massachusetts Avenue, Indianapolis, IN

June 2003-June 2021

Managing member, January 2017 to June 2021

Non-equity Member, 2005-2021

Associate, June 2003-2005

White & Raub, LLC
Indianapolis, IN
Associate
November 1998-June 2003

Office of the Indiana Attorney General
Deputy Attorney General
Indianapolis, IN
Advisory Services Section, Appellate Division, and Tort Litigation Section
August 1995-November 1998

The Honorable John G. Baker of the Indiana Court of Appeals
Indianapolis, IN
Judicial Clerk
January 1995-August 1995

During law school:

Summer 1992: Summer Associate at May Oberfell & Lorber in South Bend
School year 1992: part-time law clerk at Kelley Belcher and Brown in Bloomington
Summer 199: summer clerk for City Attorney of South Bend

- 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.

The majority of my practice has been in civil trial and appellate litigation, in both state and federal courts. I have represented plaintiffs and defendants in a variety of areas of the law, including business litigation (i.e., antitrust, trademark infringement, breach of contract, and breach of fiduciary duty), professional malpractice (legal, medical, and accounting), civil rights, products liability, premises liability, transportation, personal injury, and criminal law (appellate).

As a judicial clerk for Judge Baker, I gained experience on both civil and criminal appeals. Then as a Deputy Attorney General, I handled both criminal and civil appeals. I also advised administrative agencies, reviewed state contracts, and proposed administrative rules. Until June 2003, my litigation practice was primarily civil defense. Since 2003, my practice has focused primarily on representing plaintiffs in complex civil litigation, although I have continued to do some defense work.

Since 2013, Martindale Hubbell has recognized me with an AV Preeminent Rating, which its website describes as “the highest peer rating standard” and is “given to attorneys who are ranked at the highest level of professional excellence for their legal expertise, communication skills, and ethical standards by their peers.” In addition, since 2019, I have been recognized by Super Lawyers for Business Litigation and since 2020 have been recognized by Best Lawyers in America for Legal Malpractice (plaintiffs).

As detailed in Section 5 below, throughout my career, I have participated in ten jury trials as well as several bench trials and an arbitration hearing.

With respect to appellate practice, I have drafted and submitted several hundred appellate briefs and have presented multiple oral arguments in appellate courts, including the Indiana Court of Appeals and the Seventh Circuit. Appellate practice is what I enjoy the most.

In the past year or so, I have represented clients in five civil appeals. Two of them were related matters in which a lawyer from another firm engaged me to handle the appeals, and we successfully persuaded the Court of Appeals to reverse two condemnation orders that took our clients' land without a hearing. Two other appeals were related child custody matters (one of which is currently pending on a petition to transfer). The fifth case involves an appeal of a civil judgment in favor of our client, in which the defendants have filed a petition to transfer. In that case, I presented oral argument to the Indiana Court of Appeals on May 2, 2022.

Current Firm:

Williams & Piatt, LLC

July 2021-present

Since July 2021, I have been of counsel with the firm and continue to do both trial and appellate litigation in state and federal courts. My current practice includes business litigation, legal malpractice, medical malpractice, and certain civil rights claims. The firm has two principal members: Joe Williams and James Piatt. Both myself and Ronald J. Waicukauski are Of Counsel with the firm. The firm also employs Brad A. Catlin as an attorney. Since my association with the firm, it has also employed Anne Medlin Lowe.

Prior Employment:

1. Price Waicukauski Joven & Catlin LLC, Indianapolis June 2003-July 2021

I was employed at this firm (and its predecessors, including Price Waicukauski & Riley, LLC and Price Jackson Waicukauski and Mellowitz, P.C., for the majority of my career. During that time, my practice included business litigation and professional malpractice (including legal, accounting, and medical), civil rights, products liability, and personal injury. I also engaged in appellate practice and had the opportunity to work on an appeal in involving federal constitutional claims, in which the United States Supreme Court granted our petition and heard oral argument.

During my employment with the Price firm, at various times its members included Henry Price, Ronald Waicukauski, Larry Jackson, Jim Mellowitz, Will Riley, Amy DeBrotta, Jana Strain, Brad Catlin, and myself. Associates or other attorneys who I recall included Joseph Williams, James Piatt, Jamie Kendall, Heather Barnes, and R. Davy Eaglesfield III, and Yvonne Ballesteros.

2. White & Raub LLP, Indianapolis

1998- June 2003

We represented clients in civil litigation in state and federal courts, primarily representing defendants. I represented clients in various areas, including transportation (primarily trucking accidents), professional liability (including legal, accounting and engineering), products liability, construction, and premises liability.

During my tenure at White & Raub, the firm's partners included Ronald Waicukauski, Nicholas Nizamoff, Richard Riegner, Tom Grau, Keith Gaston, Cynthia Locke, and Pam Paige. William Wick was of counsel. My fellow associates included the following: A. Kristine Lindley, Heidi Goebel, Kyle Hanrahan, Edward Bielski, Ronald Weldy, Matthew Schafer, and Dorie Maryan.

3. Indiana Office of the Attorney General

1995-1998

As a Deputy Attorney General for the State of Indiana under Attorney General Pamela Carter and Attorney General Jeffery Modisett, I worked in three sections of the office, described below. There were many attorneys with the office. My supervisors in each of my sections are listed below.

Tort Litigation Section: I defended the State, its agencies, and employees in civil proceedings, including a jury trial in Hendricks County in which I represented the Indiana Department of Transportation arising out of an accident in a construction zone. My supervisor was Yasmin Lamberson Stump.

Appeals Division: I briefed many civil and criminal appeals in state and federal courts and presented oral arguments to the Indiana Court of Appeals and the United States Court of Appeals for the Seventh Circuit. My supervisors were Jon Laramore and Geoffrey Davis.

Advisory Services Section: My duties included advising administrative agencies concerning rule promulgation and administrative hearings. I also viewed proposed administrative regulations for statutory compliance and state contracts for form and legality. My supervisor was Anne Mullin.

4. The Honorable John G. Baker, Indiana Court of Appeals

1995

As a judicial law clerk for Judge Baker, my duties included reviewing the briefs and the record in criminal and civil appeals, conducting legal research, and assisting Judge Baker in analyzing the issues raised on appeal, preparing initial drafts of appellate opinions, and working with Judge Baker and my two co-clerks in finalizing opinions. My co-clerks were Laura Spitzberg Carafiol and Kerrie Lorimer Wagner.

5. Trial/Judicial Experience

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

I have actively participated in approximately ten jury trials. My participation includes first and second chair experience and one or two trials in which we worked as a team of three. In these trials in state and federal courts, we represented both plaintiffs and defendants, and there were various types of claims at issue.

1. 1998 Hendricks County truck accident in construction zone.

A colleague and I represented the Indiana Department of Transportation (INDOT) in the defense of a claim arising out of a truck accident in a construction zone. As a new litigator, I presented opening argument, questioned some witnesses, and made legal arguments to the judge. The jury returned a verdict for the plaintiffs.

2. 2001 Hamilton County legal malpractice.

I served as second chair in an approximately three-week legal malpractice trial in which the partner and I defended a lawyer from a claim arising out of his representation of his clients in transactions regarding Southern Indiana coal mines. The case had a lengthy history and was document-intensive (at a time before electronic filing). The plaintiff sought millions of dollars, but we obtained a defense verdict for our client. This victory was a significant relief for our client who had been defending the lawsuit for many years.

3. 1999-2002 Hamilton County truck accident.

I served as second chair in a trial arising out of a truck accident in which the partner and I defended a gas company and its truck driver. The jury returned a verdict for the plaintiff who sustained personal injuries when he was struck by the truck driver.

4. 2004 Tippecanoe/Boone County legal malpractice/product liability.

Initially filed in Tippecanoe County, this case was tried in Boone County before then Judge David (now Justice David) as special judge. This case involved a legal malpractice claim that arose out of an underlying product liability claim. We obtained a verdict for our clients in the amount of approximately \$3.6 million, which the Court of Appeals affirmed on appeal. *Clary v. Lite Machines Corp.*, 850 N.E.2d 423 (Ind. Ct. App. 2006). This victory was significant to the clients, who had been injured in their new business due to their prior lawyer's malpractice. After obtaining that recovery, the clients were able to develop their business.

5. 2009 medical malpractice Tippecanoe Circuit Court.

In this case, we tried a medical malpractice claim arising out of a negligent retinal surgery. (Our client happened to be one of our clients in the Lite Machines case noted above). The trial court excluded certain key evidence (enlarged copies of angiogram photos) and refused to give certain instructions regarding digital evidence of the photos. The jury returned a defense verdict, but we appealed. The Court of Appeals reversed on grounds that the enlarged photos were improperly excluded and that the jury should have been instructed about how to review the digital images of the angiogram photos that had been admitted. *Arlton v. Schraut*, 936 N.E.2d 831 (Ind. Ct. App. 2010). This case demonstrated the importance of digital evidence, including how it is presented to a jury and made available to them during deliberations.

6. 2012 legal malpractice Tippecanoe Superior Court.

I represented a client who brought a legal malpractice claim against her divorce lawyer. The jury returned a verdict for the defendant. This was the first case I tried as first chair.

7. 2013 medical malpractice trial after appeal and remand.

We retried the medical malpractice claim in Tippecanoe County, which is discussed above. During the trial, we reached a settlement with the medical provider. Shortly thereafter, we filed a claim for additional compensation with the Indiana Patient’s Compensation Fund. After many years of litigation, the recovery in this case was significant to our client, who sustained permanent loss of vision resulting from the negligent surgery.

8. 2014 trademark infringement/abuse of process United States District Court for the Southern District of Indiana.

In this 4-day trial, we represented Christopher Muylle in defending against trademark infringement and eight other claims (seven of which were rejected before trial). Our client asserted a counterclaim against the plaintiffs for abuse of process. The jury found for our client on all claims, rejecting the plaintiffs’ trademark claims and awarding him money damages on his abuse of process counterclaim. In addition, the district court awarded additional attorney fees to our client, which the Lanham Act allows for certain prevailing parties in “exceptional cases.” The plaintiffs appealed, and the United States Court of Appeals for the Seventh Circuit affirmed. Even after the judgment was affirmed on appeal, we dealt with various issues in attempting to collect on the judgment, including the plaintiff’s bankruptcy filing and various proceedings supplemental. As a result of our efforts, our client now owns the trademark that the plaintiffs wrongfully accused him of violating.

9. 2018 antitrust claim United States District Court for the Northern District of Indiana.

Two of my colleagues and I represented a shopping center developer in a 2-week jury trial. The jury returned a verdict in our clients' favor in the amount of \$2.4 million. After the trial, the parties reached a confidential settlement. My participation during the trial included handling jury selection and five witnesses, including direct examination of one of our client representatives, cross examination of the defendant's expert economist, direct examinations of two real estate appraisers, and the cross examination of one of the defendant's employees. During the trial, I also made various legal arguments to the court. Interestingly, of the approximately eight lawyers who actively participated in the trial (*i.e.*, had speaking roles), I was the only woman.

10. 2021 false reporting claim Johnson County.

My colleague and I represented our client in a 5-day jury trial of her statutory claim against her ex-husband and his then girlfriend for knowingly making false reports of child abuse or neglect. Notably, this was the court's first jury trial after Covid. The jury returned a verdict in favor of our client, awarding her compensatory and punitive damages. The defendants appealed, and I presented oral argument to the Indiana Court of Appeals in May 2022. The Court of Appeals affirmed. The defendants have recently filed a petition to transfer.

11. My service as a juror.

Finally, years ago I had the opportunity to serve as a juror in a criminal case in the Marion Superior Court. The case involved domestic battery, and I served as the foreperson. As a litigator, it was interesting to participate in a trial as a juror and to take part in deliberations. As both a juror and a lawyer, it was also interesting to hear what the prosecutor had to say after the verdict.

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

I have participated in two multi-day bench trials, at least several small claims trials, and a multi-day arbitration hearing.

1. 2009 Hamilton County fraudulent transfer and related claims.

In this multi-day bench trial, we defended a former Consecro director and his wife against fraudulent transfer and unjust enrichment claims. We succeeded in protecting a substantial portion of their assets.

2. 2017 Marion County breach of employment contract.

We represented a lawyer who asserted contract claims against her former law firm. Previously, the trial court had granted partial summary judgment to the law firm as to our client's claims arising from the years 2008 and 2009, concluding that the claims were barred by the applicable two-year statute of limitations. We appealed, and the Court of Appeals reversed, concluding that the trial court erred in granting the employers' motion for partial summary judgment and remanding for trial. After a two-day bench trial, which had been scheduled for at least one more day, the parties reached a settlement.

- 3. I have represented clients in several small claims cases, including at least one involving landlord/tenant issues and at least one involving personal injury/property damage.**
- 4. In August 2020 arbitration hearing.**

We represented a college professor/former administrator against her employer in a three-day binding arbitration hearing before a private arbitrator, which involved contract claims and issues concerning tenure. The arbitration hearing was conducted much like a bench trial, with the parties presenting evidence and testimony to the arbitrator. After the hearing, the arbitrator issued a written decision awarding a judgment to our client. Subsequently, the parties entered into a confidential settlement.

What made this hearing unusual is that we conducted it as a virtual/live hybrid to address Covid concerns. The arbitrator participated virtually from one location. The parties, their counsel, the court reporter, and most of the witnesses were at the same location but participated virtually from different rooms. This effort involved much creativity, cooperation, flexibility, and patience among all those involved, and it worked.

- 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.

While I do not have experience as a judge, I served as a judicial law clerk for the Honorable John G. Baker of the Indiana Court of Appeals, where I assisted him with analyzing issues on appeal, preparing for oral arguments, and drafting/finalizing opinions, in both civil and criminal cases. I enjoyed working on appeals exclusively, and I also enjoyed working closely with Judge Baker and my two fellow clerks.

One case that I specifically recall assisting with drafting the opinion was *Welch v. Scripto-Tokai Corp.*, 651 N.E.2d 810 (Ind. Ct. App. 1995). This was a products liability in which the plaintiffs sued the manufacturer of a lighter for strict liability and negligence. The Court of Appeals affirmed the trial court's grant of summary judgment in favor of the defendants on grounds that the lighter was not "unreasonably dangerous" as defined in

the Product Liability Act and that there was no duty to warn of its dangers because any danger posed by the lighter was “open and obvious.”

6. Professional Experience

**As part of your Supplemental Materials, include as writing samples four selections (in total) from the written materials listed below in Questions 6A through 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. Plaintiff’s Brief in Response to Motion for Summary Judgment Filed in United States District Court for the Northern District of Indiana

Caption: *Gumwood HP Shopping Partners, L.P. v. Simon Property Group, Inc.*

Cause No. 3:11-cv-00268-JD-CAN

Date filed: August 21, 2015

Description: This brief was filed on behalf of our client in response to the defendant’s motion for summary judgment on our clients’ antitrust claim. The district court denied the defendant’s motion, and the case was tried to a jury in 2018, resulting in a verdict and judgment in our client’s favor.

2. Plaintiff’s Brief in Opposition to Defendant’s Amended Motion to Accept Jurisdiction of Interlocutory Appeal filed in Indiana Court of Appeals

Caption: *Saint Joseph Regional Medical Center Mishawaka v. Nemeths*

Cause No. 20A-CT-01898 (Trial Court Cause No. 71D05-2002-CT-000054)

Date filed: October 28, 2020

Description: This brief was filed on behalf of my clients in response to the hospital’s motion requesting that the Court of Appeals accept jurisdiction of the case to determine whether the trial court erred in denying the hospital’s motion for summary judgment in a medical malpractice case. The Court of Appeals denied the motion, remanding the case to the trial court for further proceedings. The case later settled.

3. Brief of Appellant filed in Indiana Court of Appeals

Caption: *Meyer v. City of Rushville*

Cause No. 21A—PL-00278

Date filed: June 6, 2021

Description: This brief was filed in support of my client’s appeal of the trial court’s order condemning his property. On September 23, 2021, the Court of Appeals reversed and remanded to the trial court for further proceedings.

4. Response to Petition for Rehearing filed in Indiana Court of Appeals

Caption: *Meyer v. City of Rushville*

Cause No. 21A—PL-00278
Dated filed: October 12, 2021

Description: After the Court of Appeals reversed the trial court’s condemnation order (See No. 3 above), the City filed a Petition for Rehearing, asking the Court of Appeals to reconsider its decision because it (*sua sponte*) relied on a version of a statute that was not in effect at the relevant time. In this Response, I suggested that if the Court granted rehearing to correct that error in its reasoning, that it should reverse for the reasons we had argued in our Appellant’s Brief. On November 4, 2021, the Court of Appeals did just that.

5. Brief of Appellee filed in Indiana Court of Appeals

Caption: *Ramey and McHenry v. Ping*
Cause No. 21A-CT-02103
Date filed: March 4, 2022

Description: This brief was filed in response to the defendants’ appeal of the judgment in favor of our client, which was obtained after a jury trial in June 2021. On May 2, 2022, I presented oral argument to the Court of Appeals. On June 13, 2022, the Court of Appeals affirmed the judgment for our client. The defendants have filed a petition to transfer.

- 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.

As a Deputy Attorney General in the Advisory Services Section, one of my duties was to review proposed regulations for statutory compliance. One of the specific rules that I recall reviewing addressed underground storage tanks. To the best of my knowledge, this would have been the proposed version of the rule that was under consideration in or around 1995.

- 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.

Jana K. Strain and Carol A. Nemeth, *Recent Developments in Indiana Tort Law*, 39 IND. L. REV. 1289 (2006).

Jana K. Strain and Carol A. Nemeth, *Recent Developments in Indiana Tort Law*, 38 IND. L. REV. 1379 (2005).

While serving as a Deputy Attorney General, I assisted with researching and drafting *Discovering the Impact of the “New Federalism” on State Policy Makers: A State*

Attorney General’s Perspective, 32 Ind. L. Rev. 141 (1998), which was authored by then-Indiana Attorney General Jeffrey A. Modisett. The article addressed “new federalism,” or the shifting of power from the federal government to the states.

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. The antitrust case discussed above (Section 5(A)(9)) was one of the most significant legal matters I have worked on in my career for several reasons. First, it is difficult for antitrust plaintiffs to prevail because the elements of an antitrust claim are difficult to prove. This is especially true in a tying case, such as ours, where it is necessary to define a “relevant market” and then show that the defendant had “market power” in that relevant market. Many antitrust cases are resolved in favor of defendants before trial on motions to dismiss or motions for summary judgment. Although we worked as a team on this case, I was responsible for much of the briefing. Before trial, we overcame a substantial motion to dismiss and a motion for summary judgment filed by the defendant (see Writing Sample No. 1 referenced above and included with the Supplemental Materials). As discussed above, I contributed substantially at trial, including handling the examination of five witnesses. Surviving the hurdle of dispositive motions and then winning at trial was a huge victory for our client, who the jury determined was substantially injured by the anticompetitive acts of the defendant.

Second, it was significant because the legal and factual issues were incredibly complex and interesting, and we had top-notch adversaries. During discovery, we reviewed thousands of documents produced by the parties and many third parties. We deposed many witnesses in multiple different states. The defendant was a large international company represented by a large international law firm, which has “a deep and talented roster of antitrust practitioners” and is ranked as “one of the best antitrust practices in the United States, as well as Europe and Asia.” Meanwhile, antitrust was a new area of law to me, having never had an antitrust course in law school. (But my background as an economics major in college did come in handy).

Finally, this case was significant to me due to my personal connections to the case and our client. One of our client representatives was a friend of mine from grade school and high school. It also gave me the opportunity to try a case in my hometown. In fact, one of the guards at the federal courthouse said to me, “your grandfather did my adoption.” My parents came and watched part of the trial.

2. *Armour v. City of Indianapolis* 566 U.S. 673 (2012).

I assisted with the briefing, including the petition for *certiorari* to the U.S. Supreme Court in this case involving an equal protection claim arising out of a decision of the City of Indianapolis to forgive Barrett Law assessments of certain taxpayers who chose to pay their assessments in installments and only paid a fraction of the assessment, while failing to give any refund to their similarly situated neighbors who

paid their total assessments in one lump sum. The Supreme Court granted *certiorari* and heard argument on February 29, 2012. Unfortunately, the Supreme Court held that the City's differing treatment of these property owners had a rational basis and did not violate equal protection under the Fourteenth Amendment.

While we did not get the result we wanted for our clients, it was an amazing experience for me to participate in a case briefed and argued before the U.S. Supreme Court in D.C. While my firm partnered with a D.C. firm who presented oral argument, my colleague and I attended the argument as additional counsel. Nine Supreme Court justices were looking down on us from their elevated bench right in front of us.

Another thing I will always remember is how Paul Clement, counsel who argued on behalf of the City of Indianapolis, presented his entire oral argument without using any notes. That struck me because a good appellate argument should be more of a conversation with the judges than a prepared speech.

3. *Murray and Massey v. Conseco, Inc. and Conseco Services, LLC (2003-2009)*

These related cases arose out of Conseco's Director & Officer Loan Program and included various multimillion dollar claims and counterclaims asserted in multiple state and federal courts (including bankruptcy courts) in Indiana, Illinois, and New York. We represented two former directors of Conseco, Inc. and asserted various claims and counterclaims, including fraud claims against Conseco entities. We also brought claims against third parties, including Conseco's outside accountant and financial advisor. We argued several appeals (in both state and federal courts) and ultimately conducted one bench trial in Hamilton Superior Court No. 1 (*Conseco Services, LLC v. Massey*).

These related cases were significant because they were complex, involving many and varied factual and legal issues of both substantive and procedural law. They were document-intensive, hotly contested, and consumed a large portion of my time over approximately six years of litigation. I spent hundreds (if not thousands) of hours on these cases, including extensive motion practice, sometimes filing multiple briefs in one day and as many as five or more briefs in one week. (During this time period, two of my three children were born, and at one point we had three children under four years old). Over the course of this representation, I gained experience and knowledge about a variety of different areas of the law, including both substantive and procedural law.

4. Retained sponge medical malpractice (2018-2022)

I represented a client and his wife in a medical malpractice case, in which the client underwent a surgery and never fully recovered. Almost a year later and after experiencing increasing abdominal pain and other issues, he went to his primary care physician who did a scan and discovered that the medical providers had left a surgical

sponge in his body. Later the same day, he had surgery to remove the surgical sponge. Subsequently, he had complications from the sponge removal surgery, which resulted in an additional hospital stay.

One might think that a retained sponge would be an easy and quick case to resolve. It was not. It took several years of litigation, including going through the medical review panel process before the Indiana Department of Insurance, bringing a claim in St. Joseph County against the hospital, and then bringing a claim in Marion County with the Indiana Patient's Compensation Fund. We finally settled with both the hospital and the Fund.

This case was significant to me because the clients were my brother and his wife, and I was able to help them after a terrible experience. It convinced me that there is no "slam dunk" case in representing a plaintiff in medical malpractice.

5. *Muylle* trademark/abuse of process case (see Section 5(8) above describing the trial).

Beginning in early 2013, my colleague and I represented Mr. Muylle for many years in prosecuting his abuse of process claim and in defending him against the plaintiffs' various claims, including trademark infringement. We represented him in discovery, trial, appeal, and collections. At trial, we obtained a judgment in his favor on all claims, including his abuse of process claim. As part of our collection efforts, I also participated in the bankruptcy proceeding that the underlying plaintiffs had filed, which the U.S. Bankruptcy Trustee dismissed. Ultimately, the parties reached a settlement agreement in 2020.

This case is significant because it shows how abusive litigation can be used as a weapon to significantly harm people. The expense and stress of the lawsuit, in which the plaintiffs' goal was to put our client and his partner out of business, took a toll on our client. Such abusive litigation also harms the court and the legal process.

But the case also shows that the justice system ultimately works and there is a remedy for such conduct. As mentioned above, as a result of our efforts, our client now owns the Wine and Canvas trademark that the plaintiff had wrongfully accused him of violating. And he is still in business.

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.**

I have worked toward the improvement of the law, the legal system, and the administration of justice primarily through my active participation in the Indianapolis Bar Association and the Indianapolis Bar Foundation as well as my presentation of other continuing education seminars and my representation of plaintiffs in legal malpractice claims.

1. Indianapolis Bar Association

Since around 2010, I have been a member of the Executive Committee of the Appellate Practice Section of the Indianapolis Bar Association. In 2017, I served as Chair of the Executive Committee. The Section provides services to its members, including Continuing Legal Education programming, moot courts to help lawyers prepare for appellate oral arguments, networking opportunities with appellate practitioners and judges, and scholarships to national training programs or bar association conferences.

As set forth below, I was also a member of the Executive Committee of the Women and the Law Division from about 2011-2013.

a). Continuing Legal Education

Currently and for many years, I have served as the Chair of the CLE Committee of the Appellate Practice Section of the Indianapolis Bar Association. In this role, I have planned many seminars on issues of appellate practice, including the annual Appellate Roundtable, for which I have served as a moderator or co-moderator for many years (see Section 7(E) listing those in which I served as a moderator).

b). Indiana Appellate Institute

During my tenure on the Executive Committee of the Appellate Practice Section, we created the Indiana Appellate Institute (IAI), which helps lawyers prepare for upcoming appellate arguments by offering “moot” or practice arguments before panels of seasoned appellate practitioners (or those with relevant subject area experience). These volunteers review the briefs and case law and during the moot act as appellate judges, asking the types of questions that appellate judges might ask during the actual argument. The mission of the IAI is to help raise the level of oral advocacy before the Indiana Court of Appeals and the Indiana Supreme Court, though we have also assisted lawyers with federal oral arguments. These moots are free of charge for those who are presenting oral argument for the first time in the Indiana appellate courts or for those who represent clients with limited means. I regularly volunteer as a judge for these moot arguments. Generally, these lawyers appreciate the service and indicate that it has helped them in preparing for their arguments.

c). Amicus briefs

The Appellate Practice Section also has an amicus committee, which may submit “friend of the court” briefs to the Indiana appellate courts when cases involve issues of Indiana appellate procedure that may impact people other than the parties to the case, including appellate lawyers and their clients. I have been a member of the amicus committee and have contributed to at least several amicus briefs that have been filed with the Indiana appellate courts.

For example, I was one of several who submitted an amicus brief in the Indiana Supreme Court in the case of *County Materials Corp. et al. v. Indiana Precast, Inc.*, 21S-PL-00565, filed October 15, 2021 (addressing the issue of appellate courts addressing issues not addressed by the parties and encouraging the scheduling of oral arguments when requested). Subsequently, the case was “retransmitted” to the Court of Appeals, who heard oral argument.

d). Mentoring

From about 2011-2021, I participated in the Indianapolis Bar Association’s Women and the Law Division’s mentoring program. This program was formed when I served on the Women and the Law Division’s Executive Committee. The mentor program provides an opportunity for young or less experienced attorneys to learn from more experienced lawyers, but it is also a wonderful way for more seasoned lawyers to share what we have learned while developing relationships with other lawyers.

2. Indianapolis Bar Foundation (2020-current)

a). Grant Committee (2022)

As a member of the Foundation’s Board of Directors, and this year’s Co-Chair of the Community Empowerment Grant Committee, I participated in soliciting grant applications, reviewing applications and presentations, and facilitating the Committee’s selection of this year’s grant award winner, Indiana Disability Rights, Inc. With the grant funds, IDR will create an accessible Advanced Directives (AD) Toolkit for people with intellectual or developmental disabilities and hold related workshops.

b). Visibility Committee (2020-2021)

As a member of the Foundation’s Board of Directors, I have also participated in its fundraising efforts, including as a member of the Visibility Committee. Among other things, I helped to promote the annual Day of Giving, assisted with gathering donations for the Foundation’s online auction, and assisted with promoting the Foundation at other Bar Association functions.

3. Other seminars. In 2011, I prepared written materials and gave a presentation called “Ethics and Social Media” as part of a seminar hosted by the National Business

Institute. In 2014, I gave a presentation on changes and proposed changes to the Indiana Appellate Rules, as part of an annual seminar hosted by the Indiana Trial Lawyers Association conference.

4. Representation of legal malpractice plaintiffs. For years, I have represented clients who are the victims of legal malpractice. When lawyers are negligent in representing their clients, it may result in damage to their clients. Clients rely on their lawyers to represent them competently. Because of the relationship between the profession of law and the processes of government and law enforcement, legal malpractice may also result in decreased confidence in the justice system. My representation of plaintiffs in legal malpractice improves the legal profession by holding lawyers accountable when they commit negligence in representing their clients.

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.

During multiple elections (2006, 2008, 2010, and 2012), I volunteered for political campaigns and elections for Marion County and Lawrence Township Republican candidates by walking in parades and passing out flyers at polling sites. I also knocked on doors (which was a bit outside of my comfort zone). During this time, I also attended many township, county, and state Republican Party events, including annual Lincoln Day dinners.

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.

Currently, I am a member of the Indianapolis Bar Foundation Board of Directors (“the charitable arm of the Indianapolis Bar Association”) and the Co-Chair of the Foundation’s Community Empowerment Grant Committee. The Foundation annually awards a grant to a non-profit organization for a project that provides public education and understanding of the law, provides direct delivery of legal services, or advances justice. With my co-chair, we facilitated the selection process for this year’s grant award winner, Indiana Disability Rights, Inc. With the grant funds, IDR will create an accessible Advanced Directives (AD) Toolkit for people with intellectual or developmental disabilities and hold related workshops.

As a member of the Foundation’s Board of Directors, I have also participated in the Foundation’s fundraising efforts, including as a member of its Visibility Committee and in promoting its annual Day of Giving. Due in part to the successful fundraising efforts last year, we plan to award a second grant this year to another community organization.

As discussed above, I regularly volunteer as a judge for moot court arguments with the Indiana Appellate Institute, including for lawyers who represent clients of modest means and have scheduled appellate arguments.

I have also served as a judge for moot court arguments at both Indiana University law schools and at Wabash College.

Since around 2014 or 2015, I have been a Member of the Board of Directors of Lawrence Summer Kids Camp (LSKC). For several years, I have been the Vice-President. The camp is associated with Lawrence United Methodist Church. Its mission is to “open our facilities to children and families. To build bridges to the various ethnic communities around Lawrence. To develop Christian ethics in the children who attend our program. To develop physical and mental well-being. To provide safe, supervised activities.” The camp also provides leadership opportunities for teens and young adults, with many former campers later serving as volunteer counselors-in-training or counselors.

For many years, I have volunteered at our children’s elementary and high schools, St. Simon the Apostle Catholic School and Bishop Chatard High School. This year, for example, I am serving as a “table captain” for Chatard’s Annual Fund Dinner, which helps raise funds for tuition assistance and teacher compensation. I have also volunteered for school athletic teams, including taking admissions or selling concessions at athletic events.

At my prior firm, for several years, I organized my firm’s participation in the March for Hunger Campaign led by the Office of the Attorney General.

I have also volunteered at Gleaners Food Bank, Shepard Community Center, and Coburn Place.

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

I represented a gentleman with an intellectual/developmental disability in guardianship proceedings in Hancock County.

I have participated in the Legal Lines program sponsored by the Indianapolis Bar Association.

Although not initially intended to be *pro bono* work, while with my current firm and my prior firm, I have performed extensive services for several clients over the years who were unable to pay our fees, particularly in my prior firm. We were fortunate that our firm had the resources and was committed to continuing to represent these clients, who were victims of those who abused their power or the legal system itself. We were able to help them obtain justice despite their inability to pay.

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

I have served as a moderator or co-moderator for the following specific programs hosted by the Appellate Practice Section of the Indianapolis Bar Association:

**10/20/21 Appellate Roundtable
12/16/20 Appellate Roundtable
12/18/19 Appellate Roundtable
9/13/18 Appellate Roundtable
10/11/17 Appellate Roundtable**

I have also presented at the following seminars:

**2011 Ethics and Social Media (through National Business Institute)
2014 changes and proposed changes to the Indiana Appellate Rules (through Indiana Trial Lawyers Association)**

8. Memberships and Other Activities

- A. List any memberships and offices you have held in professional organizations, including dates and descriptions of both the organization’s purpose and your involvement.

Indianapolis Bar Association (purpose to “serve [its] members, promote justice, and enhance the legal profession”)

Appellate Practice Section:

**Member of Executive Committee since at least 2010
Former Section Chair (2017) of Section
Current Chair of the Section’s CLE committee (and chair of the CLE committee for multiple years since 2010)
Former member of Section’s Amicus Committee (for several years)**

Women and the Law Division:

**Former Member of Executive Committee (approximately 2011-13)
Co-Chair of the 2011 and 2012 Antoinette Dakin Leach Award committee
Participant in the Division’s Mentoring Program**

Indianapolis Bar Foundation: with a mission “to advance justice and lead positive change in Indianapolis through philanthropy, education and service”)

**Member of Board of Directors since 2020
Distinguished Fellow since 2021
Co-Chair of the Community Empowerment Grant Committee (2022)
Member, Planned Giving Committee (2022)
Former Member, Visibility Committee (2020-2021)**

Indiana Trial Lawyers Association: (“dedicated to the constitutional rights of open access to the courts and protection under the law for all persons in Indiana”)

Sustaining member

Indiana Law Club (member for many years)

Indiana State Bar Association (member until 2022)

Indianapolis American Inn of Court (member years ago)

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

As discussed above, since 2020 I have been a member of the Board of Directors of the Indianapolis Bar Foundation, and I am currently Co-Chair of the Community Empowerment Grant Committee.

As explained above, since around 2014 or 2015, I have been a Member of the Board of Directors of Lawrence Summer Kids Camp (LSKC). For several years, I have been the Vice-President.

Since 2002, my family and I have been members of St. Simon the Apostle Catholic Church, where I currently serve as a Minister of Hospitality. I previously taught Sunday school and served as co-coordinator of the Children's Liturgy of the Word. Years ago, I was a member of the St. Simon's Women's Club, which provided service to the church and the greater community as well as social activities for members.

- C. List any memberships and offices you hold in social clubs or organizations. If any club or organization restricts 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.

Much of my free time is spent with my husband and our three children, including attending their volleyball matches, track meets, and swim meets. Recently, I had the pleasure of watching our son, Nate, pole vault on the beach in Michigan. We also enjoy playing cards or board games, attending concerts or musicals, and getting together with our large extended family.

I also enjoy baking, reading, and traveling, including family vacations and an "annual" girls' trip with my college roommates. One of my favorite trips was hiking in Aspen in the summer 2020. A highlight of road trips with my family is listening to our three kids belt out every single word while listening to the Hamilton soundtrack in the car.

I try to exercise regularly, mostly walking our attention-loving dog, a black lab mix. Recently, I have started to play pickleball.

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.)

On April 30, 2019, William and Penelope Stillwell filed a *pro se* complaint against me, and my colleagues, Ron Waicukauski, Brad Catlin, and our firm in the Marion Superior Court, alleging legal malpractice, negligence, attorney deceit, and fraud. Cause No. 49D12-1904-CT-17404. On January 8, 2020, Judge Dietrick granted our motion for judgment on the pleadings. On January 9, 2020, the Stillwells filed an appeal *pro se*, under Cause No. 20A-CT-69.

In a memorandum decision dated June 16, 2020, the Indiana Court of Appeals affirmed the judgment on the pleadings in our favor. In rejecting the malpractice claim, the Court stated that “the Stillwells’ claim for legal malpractice fails because an attorney-client relationship was never formed.” In rejecting their claim for attorney deceit, the Court stated that “[t]he pleadings and documents of which we may take judicial notice, however, do not support the Stillwells’ claims.” And in rejecting the Stillwells’ alleged fraud claim, the Court stated “[i]t is clear from the pleadings and documents of which we may take judicial notice that under no circumstances could the relief the Stillwells seek for fraud on the court be granted.”

On July 29, 2020, the Stillwells filed a petition for rehearing, which the Court of Appeals denied on August 6, 2020. On September 3, 2020, they filed a petition to transfer, which the Indiana Supreme Court denied on January 21, 2021.

- 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.

Not applicable.

- 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.

None, to the best of my knowledge. I pay estimated self-employment taxes quarterly.

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 an Indiana Appellate Court (*contact information to be included in Part Two of this application*).

Mark J. Crandley

John D. LaDue

Linton Childs

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

Ronald J. Waicukauski

The Honorable Edward Najam

The Honorable John G. Baker

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

Libby Yin Goodnight

Kara McGee

John Phair