

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.

Stephen Richard Creason

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.

- Katie Marie Creason (43), wife, self-employed social worker and therapist
- E.R.C. (14), child
- G.M.C. (11), child
- E.A.C. (7), child

C. Business address, email, and telephone number.

Marion Circuit Court
Community Justice Campus
675 Justice Way
Indianapolis, Indiana 46203
stephen.creason@indy.gov
317-327-4010

D. Attorney number.

22208-49

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

October 2000

1) Indicate current law license status (i.e. active/inactive/retired).

Active

2) 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.

While I am not admitted to practice in any other state, I am admitted to the bars of the following federal courts:

- Supreme Court of the United States, February 2004, active;
- U.S. Court of Appeals for the Seventh Circuit, April 2001, active;
- U.S. Court of Appeals for the Sixth Circuit, May 2017, active;
- U.S. District Court for the Southern District of Indiana, October 2000, active;
- U.S. District Court for the Northern District of Indiana, October 2000, active.

I am also a registered civil mediator in Indiana (2016) on inactive status.

F. Date and place of birth.

August 6, 1975, in Danville, Illinois

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

Marion County, 1977 (most recently 2011)

3. 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.*

Wabash College, Crawfordsville, Indiana
August 1993–May 1997
Bachelor of Arts

- High Pass, Senior Comprehensive Examination, 1997

- William Norwood Brigance Speakers Bureau Award, 1997
- James E. Bingham Award (pre-law studies), 1997
- National Runner-Up in Student Congress event, National Forensic Competition, Delta Sigma Rho-Tau Kappa Alpha Nationals, 1996
- Delta Sigma Rho–Tau Kappa Alpha forensic honorary society, 1996
- Indianapolis Water Company Eagle Scout Scholarship, 1993
- Various need- and merit-based scholarships from Wabash College (no record of precise details), 1993–1997

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

4. 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 Robert H. McKinney School of Law

August 1997–August 2000

Doctor of Jurisprudence

Class rank not known and unreported on transcript

- Dean’s List, 3L year

Oxford University (United Kingdom), Brasenose College

Summer 1999

Certificate, ungraded

Summer program in post-modernism criticism

5. Employment

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

Marion Circuit Court

Indianapolis, Indiana

Magistrate, January 2022–present

Office of the Attorney General

Indianapolis, Indiana

Chief Counsel of Appeals, April 2010–December 2021

Section Chief of Habeas Corpus and Capital Litigation, January 2004–April 2010

Deputy Attorney General, October 2000–January 2004

Law Clerk, February 1999–October 2000

Indiana University Robert H. McKinney School of Law

Indianapolis, Indiana

Adjunct Professor of Law, August 2011–July 2018

National Association of Attorneys General

Washington, District of Columbia

Supreme Court Fellow, September 2005–June 2006

Crossroads of America Council, BSA, Inc.

Indianapolis, Indiana

Camp Counselor, July–August 1997, June–August 1998

J.C. Penney Company, Inc.

Bradenton, Florida

Associate, June–July 1997

- 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 have more than two decades of legal experience as a judicial officer, litigator, counselor, and government executive who is committed to service to others. I have extensive experience before all levels of appellate, trial, and administrative tribunals across civil, criminal, and juvenile law.

I serve as a judicial officer on the Marion Circuit Court, a trial court with primarily a civil and juvenile docket. I preside over half of the civil litigation docket (which includes plenary, tort, collections, mortgage foreclosure, eviction, and miscellaneous civil cases) and the court’s entire docket in tax matters, proceedings supplemental, and judicial review of administrative agency actions. I also assist in the Court’s Paternity Division, which handles the vast majority of Marion County’s juvenile paternity and reciprocal support cases. Many litigants who appear in my cases are self-represented and seek the assistance of our judiciary in what may be their only personal interaction with the courts. This is an opportunity to bring the principles of servant leadership to our judiciary. I strive to make every litigant’s experience friendly, respectful, and humane while hearing their case in a fair, timely, and decisive manner.

My fellow judicial officers at the Marion Circuit Court are:

- Tiffany Vivo, Judge
- Susan Boatright, Juvenile Magistrate
- Stefanie Crawford, Juvenile Magistrate
- Eleanor Finnell, Juvenile Magistrate
- Laura Gaskill, Juvenile Magistrate
- Melissa Hayden Kramer, Juvenile Magistrate

Before joining the judiciary, I practiced in the Office of the Indiana Attorney General for nearly 23 years where the principles of public service and servant leadership defined my work. I served in the administrations of six Attorneys General of both major political parties and have represented state government under the leadership of five Governors of both parties. My time in government service included nearly 12 years as the Chief Counsel for the Appeals Division, which is the State’s chief appellate attorney and executive, leading a staff of fifty employees including about one-quarter of the Office’s attorneys.

My practice primarily focused on criminal, civil, and administrative law issues, but I also gained substantial experience in juvenile law, trial practice, and advising clients outside of litigation. I regularly litigated matters that included constitutional, statutory, regulatory, property, public safety, civil rights, juvenile, family, election, contractual, and employment disputes. I regularly appeared before tribunals ranging from county trial courts to the U.S. Supreme Court. I also worked with the state

legislature and with diverse stakeholders to improve government in all three branches. My clients were not only state government offices and agencies, but also individuals, such as when a state employee was sued in their personal capacity for an action taken at work, or when individual legislators, judges, and executive branch officials sought representation for their professional decisions.

Finally, I was privileged to teach law at the Indiana University Robert H. McKinney School of Law for seven years. Upon the request of then-Vice Dean Paul Cox, I created a seminar-level course on governmental law. The course exposed students to the myriad areas of substantive law that government lawyers may handle, with a particular focus on the practical and ethical challenges that attorneys in public service often face. The course also had an optional internship component where students could put their coursework into practice within state government. The course was popular, and many of my former students chose to work at various levels of government or in a wide variety of public service settings after graduation. I particularly enjoy keeping in touch with them and seeing their careers flourish.

6. Trial/Judicial Experience

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

As an attorney, I did not have occasion to try a case before a jury, as my practice was primarily focused on appellate matters and similar litigation matters that are considered solely by judges.

However, in that practice, I reviewed the trial proceedings in thousands of criminal and civil cases that were tried in nearly every court in our state, as well as in federal district courts. From this, I gained insight into the diversity of practice in courtrooms throughout Indiana and a special appreciation for the variety of approaches lawyers and judges can take toward similar issues. Being an appellate lawyer also included helping trial teams avoid issues that can lead to reversals on appeal. I frequently assisted prosecutors and civil trial lawyers with recommendations, research, and strategic advice in numerous cases being tried before a jury, often in the middle of trial.

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

I've served as lead counsel in six capital (death penalty) post-conviction relief evidentiary hearings in Indiana trial courts. These hearings are bench trials that come after the jury trial and first appeal, and usually review issues related to the trial and appellate attorneys' performance, newly discovered evidence, and other claims that could not have been litigated in the earlier stages. These hearings lasted a week or longer and involved numerous expert and lay witnesses.

I also appeared before trial courts all across the State (state and federal court) in a variety of criminal and quasi-criminal proceedings that were tried before the bench. These included habeas corpus petitions, extradition hearings, motions for various injunctive relief, and motions to correct error or for relief from a judgment. I developed a particular expertise in handling emergency motions practice and evidentiary hearings on those.

As an appellate attorney, I presented over 70 oral arguments before the Indiana Supreme Court, U.S. Court of Appeals for the Seventh Circuit, and Court of Appeals of Indiana. I have also personally briefed hundreds of criminal and civil appeals before those courts, as well as the Supreme Court of the United States.

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 serve on the Marion Circuit Court as its magistrate for the Civil Division. In this role, I preside over half of the Court's civil cases arising in plenary, tort, collections, mortgage foreclosure, eviction, and miscellaneous case types. I also preside over all the court's docket in tax matters, proceedings supplemental, and judicial review of administrative agency actions. I also assist as needed in the Court's Paternity Division, which handles the majority of Marion County's juvenile paternity and reciprocal support cases. I particularly enjoy the ability to work on a wide variety of issues. This is somewhat unusual in the Marion County judiciary because many of our courts tend to specialize in discrete areas of law or practice.

In my eight months of judicial service, I've presided over one civil jury trial—the first one in Circuit Court for many years—and several bench trials. I've also presided

over hundreds of final evidentiary hearings in cases where there is not a right to a trial.

I also manage much of the court's day-to-day operations, as well as long-range planning. I oversaw the Circuit Court's physical move from its longtime home in downtown Indianapolis' City-County Building to the new courthouse in the Community Justice Campus on the near southeast side. This move was more complicated for the Circuit Court than for most of the other courts given its larger staff and physical footprint in both buildings. I've promoted greater training among judicial officers and court staff alike because no one can thrive in their work without being educated well on how best to accomplish it. I'm also leading our efforts to modernize the Court's case management procedures and workflows so that we can serve the public better, more efficiently, and increase the community's respect for its judiciary.

People primarily appear in court because they need the court's assistance with matters that couldn't be resolved in other ways. It's rare for a litigant to *want* to be in court, and most do so under difficult circumstances. They rightly expect to be treated with respect and dignity, to have the judge fully and attentively hear their case, and to receive a timely and fully reasoned decision that is fairly based on the law and evidence. I approach the role of judge straightforwardly: treat every person kindly, patiently, and respectfully; be an active listener to the arguments and information presented; rigorously maintain neutrality; hold counsel to high standards of competence and professionalism; and be thoughtful, respectful, and empathetic. I'm successful when the parties know that I have been thoughtful in my consideration and understand how and why I made my decision. Regardless of the outcome of their case, I hope that people who appear before me believe that they have been treated fairly and justly.

Prior to my appointment in the Marion Circuit Court, I was prohibited from serving as a judge pro tempore because to do so while also being a deputy attorney general would have constituted unconstitutional dual-office holding.

7. 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) Order Denying Motions for Partial Summary Judgment, *City of Carmel v. Barham Investments, LLC, et al.*, No. 49C01-1712-PL-46760 (Marion Cir. Ct. March 1, 2022). This order resolved summary judgment motions at the damages stage in three related eminent domain cases that were consolidated before me for pre-trial purposes. In it, the Court finds that trials should be conducted in these cases to answer lingering questions about how much compensation is owed three landowners who had real property and easement rights taken by the City of Carmel in order to reconstruct the intersection of North Keystone Avenue and East 96th Street on the county line between Marion and Hamilton Counties. **See Tab 4.**

2) Order Denying Relief Under Trial Rule 60(B), *In re 2019 Marion County Tax Sale*, No. 49C01-2109-TP-032369 (Marion Cir. Ct. August 11, 2022). This order denied a Trial Rule 60(B) motion for relief from a judgment where a tax deed was issued after a piece of real property was sold following the failure of the property owner to pay property taxes for multiple cycles. The procedural and substantive arguments made in this case were quite complex and novel, but the order cuts through the complexity and resolves the issues by finding that the tax deed was not void for lack of service as a matter of constitutional due process, therefore under current precedent I lacked discretion to reopen the judgment, void the purchaser's deed, and allow the former property owner to make belated property tax payments. **See Tab 5.**

3) Supplemental Brief of the State of Indiana, *Zanders v. State*, No. 15S01-1611-CR-571 (Ind. Aug. 17, 2018). This brief was filed after the U.S. Supreme Court remanded this criminal appeal back to the Indiana Supreme Court for reconsideration in light of an intervening U.S. Supreme Court decision finding a new warrant requirement for cell phone records. The brief persuaded the Indiana Supreme Court to affirm the armed robbery convictions based on overwhelming other evidence of guilt notwithstanding the trial court's admission into evidence the

defendant’s cell phone records that were given to police without a warrant. **See Tab 6.**

4) Brief of the Attorney General, *State ex rel. Commons v. Lake Superior Court*, No. 45S00-1303-OR-209 (Ind. April 18, 2013). This brief was filed in an original action to defend the constitutionality of merit selection for Lake Superior Court judges. When a vacancy occurred on the county’s juvenile court, the remaining Superior Court judges collectively declared the merit selection system to be unconstitutional. Certain magistrates who wanted to apply for a vacancy filed a mandamus action in the Indiana Supreme Court, and the State appeared only to defend the constitutionality of the statute, which the Court upheld. **See Tab 7.**

5) Brief of the Indiana Recount Commission, *White v. Ind. Democratic Party*, No. 49S00-1202-MI-73 (Ind. Feb. 14, 2012). This brief filed on behalf of the Recount Commission in an post-election challenge to the results of the 2010 Secretary of State election. The brief successfully persuaded the Indiana Supreme Court that the Commission properly determined that the election was properly conducted notwithstanding allegations against the elected candidate.

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.

1) Senate Enrolled Act 398, § 5 (2020). I drafted an enacted bill that facilitates citizenship education and character development in public schools in cooperation with Congressionally-recognized youth serving organizations (which are The American Legion, Big Brothers-Big Sisters of America, Boy Scouts of America, Boys and Girls Clubs, Future Farmers of America, and Girl Scouts of the USA), while protecting schools from litigation exposure.

2) House Enrolled Act 1150 (2019). I drafted the final language of several operative parts of his enactment that established a Wrongful Conviction Fund and legal mechanism by which mistakenly convicted individuals may, in lieu of litigation, seek compensation from the State for the time that they were imprisoned wrongfully. Indiana was one of the few states that didn’t have a compensation fund for exonerated people that the State has wronged. I worked closely with the House

author to craft language that allowed this important piece of legislation criminal justice reform legislation to finally be passed.

3) Senate Enrolled Act 424 (2020). I drafted this substantial revision of the enabling legislation for Indiana's Address Confidentiality Program, which provides victims of crime with an anonymous official address so that their actual physical address remains confidential and shields them from those who have harmed them in the past. This law allowed my Victim Assistance Program team at the Attorney General's Office to greatly expand this program's scope and admit many more participants than before with greater security. This program is a game changer for many victims of domestic abuse as they struggle to make a new life free from violence and, hopefully, fear.

4) Senate Enrolled Act 261 (2015). I was the primary draftsman of several versions of a bill that further defined the ability of the prosecution to appeal questions of law in criminal cases.

5) Indiana Rules of Appellate Procedure for Electronic Filing Pilot Project (2015) and subsequent amendments to the Rules of Appellate Procedure implementing electronic filing (2016–2017). I served on the committee tasked by the Supreme Court project to update the Rules of Appellate Procedure for use in the initial pilot project for electronic filing in the appellate courts. I then worked with the Supreme Court's standing Committee on Rules and Procedure to finalize the draft rules before submission to the Court and continued to serve on a working group that proposed subsequent revisions as we gained experience with electronic filing in Indiana courts.

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) S. Creason, The Value of Procedure, 80 IND. LAW JOURNAL 102 (2005). This article was part of the Law Journal's symposium about reform of capital punishment systems. My article, which accompanied remarks given during the symposium, discussed the importance and policy purposes behind procedural rules during the appeals process in capital cases specifically, and criminal matters generally.

2) Schweitzer, S. Creason, and M. Leforestier, SUPREME COURT REPORT (Nat'l Ass'n Att'ys Gen., Washington, DC, March–July 2006). Authored summaries of new U.S. Supreme Court decisions on criminal law and related cases issued in the latter half of the October 2005 term of the Court, as well as summaries of criminal cases where the Court had granted certiorari review for the next term. Contributing to this journal was part of my Supreme Court Fellowship.

3) S. Creason, *A Broader View of Recent Sentencing Revision Cases*, INDIANA LAW BLOG, http://indianalawblog.com/archives/2013/07/ind_courts_a_br.html (July 22, 2013). A commentary piece on the role of the appellate courts in reviewing and revising criminal sentences on appeal, as well as correcting misunderstandings about the Attorney General's Office's approach in handling those cases.

4) S. Creason, *Seventh Circuit Practice: Common Errors and How to Avoid Them*, THE APPELLATE ADVOCATE (Ind. St. Bar Ass'n, Indianapolis, IN, Spring 2006). An article for the State Bar Association Appellate Practice Section's publication that discussed procedural errors frequently made by attorneys handling appeals in the Seventh Circuit and made recommendations as to how practitioners could avoid those pitfalls.

5) S. Creason, *Seventh Circuit Practice: The Future of Citation to Unpublished Decisions in Federal Court*, THE APPELLATE ADVOCATE (Ind. St. Bar Ass'n, Indianapolis, IN, Winter 2005). My article, for the publication of the State Bar Association's Appellate Practice Section, discussed a major change in the Federal Rules of Appellate Procedure that for the first time allowed attorneys to cite unpublished appellate court decisions in the federal Courts of Appeals.

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) **Criminal Justice Reform.** I was privileged to be involved with Indiana's modern criminal justice reform effort from its nascent days. The first serious effort at reform came in 2010 when Governor Daniels made it a priority of his administration to identify how Indiana's Criminal Code could be revised to be smarter on crime, particularly as criminal sentencing and high recidivism rates impacted an ever-growing prison system. I was Attorney General Zoeller's designee on the Criminal

Code Evaluation Commission, a multi-disciplinary committee of stakeholders in state government that undertook a data-driven study of Indiana’s criminal statutes, sentencing policy, and its system of state prisons and county jails. With the assistance of researchers from the Pew Center on the States, the Council of State Governments, the Sagamore Institute, and IUPUI, we studied data, trends, and outcomes to identify several ways in which state criminal justice policy had to become smarter.

The Commission has two primary legacies. First, we realized that state and local governments need more data about what was occurring in Indiana criminal justice system. In response, Indiana took its first steps to collect, organize, store, and share this information. Second, comprehensive criminal code reform was reviewed, debated, drafted, and introduced in the General Assembly for the first time since 1976. This resulted in a series of enactments in 2013 and 2014 that represented a near complete revision of Indiana criminal statutes. I became primarily involved in the code revision efforts given my expertise in criminal statutory law and interpretation, and was charged with defending the revisions before the appellate courts after enactment.

One change that emerged from criminal code reform was a policy directive from the legislature for state agencies to implement evidence-based practices wherever possible in the criminal justice system. Under the leadership of the Indiana Supreme Court and the Indiana Judicial Center, Indiana joined the forefront of a nationwide effort to bring evidence-based decision making (EBDM) to bear on both large-scale policy decisions and in determinations at the individual offender level. EBDM, which is the practice of using research to inform decisions throughout the justice system, is a remarkably simple proposition with incredibly difficult challenges to overcome. Although Indiana’s judiciary had been working on evidence-based practices in areas for several years, that approach had not taken root in the rest of state government or at the county level.

We organized a “state team” consisting of a broad group of stakeholders in and out of government, as well as several county teams to identify opportunities in their communities to implement EBDM. I participated as the Attorney General’s representative to the state team. The county teams voluntarily implemented pilot programs using evidence-based practices and collected more data to track progress

along the way. The overwhelming success of these pilots led to even more pilot counties and a robust state EBDM initiative.

Another aspect of this initiative has been to bring greater focus to solving the need, identified by the Criminal Code Evaluation Commission, for more robust data collection and sharing. Indiana's justice system is highly fragmented, and there are many hurdles to solving the state's data problem. But a decision based on evidence and research is only as good as the data behind it, so the efforts begun by the EBDM state team continue and significant progress has been made.

My contributions to the state EBDM team primarily focused on training and education efforts across a wide range of disciplines within the justice system, as well as to provide legal support to the state team's work. These efforts included organizing a multi-day Indiana Criminal Justice Summit hosted by the Attorney General's Office to highlight various evidence-based practices and reforms that are used at the national, state, and local levels.

Aside from those committee-based roles, I saw another opportunity to impact criminal justice reform in 2019. In that year, a bill to create a Wrongful Conviction Compensation Fund was reintroduced in the General Assembly after having failed in earlier sessions. At that time, Indiana was among a minority of states that lacked some form of compensation for people who were wrongfully convicted in state court. This had negative effects on both the wrongfully incarcerated and on our justice system. Obviously, a wrongful conviction is devastating to those involved and it unjustly sidetracks a person's life in myriad ways. I also saw how the lack of a compensation system increased the number of lawsuits that were virtually impossible to win due to judicial immunity. I volunteered to draft amendments to the bill for the author that persuaded skeptical colleagues in the House and Senate, as well as advocacy groups outside of government, to finally create a fund. It took several drafts and tweaks, but we finally created a product that defused opposition and allowed House Bill 1150 to be enacted and signed into law. My role was behind the scenes, but it made the difference with many legislators.

Criminal justice reform is an ongoing effort, not a static event. It also impacts every Hoosier's life. I am proud of my contributions to Indiana's criminal justice reform efforts over more than a decade. I look forward to continuing my work in appropriate ways now that I have joined the judiciary.

2) **Constitutional Litigation.** Even before I began law school, I was attracted to the idea of practicing constitutional law, which is likely why I became so interested in appellate practice. What I didn't appreciate at that time was the enormous responsibility of litigating a constitutional issue, particularly before the highest tribunals in your jurisdiction. Immediately upon joining the Attorney General's Office, my mentors impressed upon me the importance of that responsibility. As they correctly insisted, when it comes to constitutional law a government lawyer's primary responsibility is to assist the court in getting the rule right rather than winning that particular case. In other words, our duty was to the Constitution itself, and I literally swore oaths to that effect. To be sure, every lawyer has that same duty, but other lawyers also have clients to whom they owe special duties. A government lawyer has no greater client than the state and federal constitutions.

I never forgot that fact.

I've litigated countless constitutional issues. While many were "routine" issues—such as a search and seizure matters—others were issues of first impression or opportunities to ask a court to expound on a provision that had not previously been given much attention by courts. I particularly enjoyed issues of Indiana constitutional law, and I believe that the appellate judges and justices appreciated my advocacy and advice on those questions. The state constitutional issues I've litigated include distribution of powers between the judiciary and legislature, special legislation, freedom of speech, open courts, speedy trials, searches and seizures, victim's rights, due course of law, privileges and immunities, bailable offenses, excessive fines, double jeopardy, taking of property, ex post facto laws, hunting and fishing, education funding, and eligibility to run for state office, among others.

One example of a significant constitutional issue I argued was a case about how the federal and state protections against unreasonable searches or seizures interplay with data collected by cell phone service providers that reveal a person's approximate location when using a mobile phone. In that case, police complied with a federal statute that allowed law enforcement to obtain "cell site location information" from a cell phone service provider *without a warrant*. The defendant challenged the evidence under both the state and federal constitutions, and I defended the convictions using well-established tests from federal and state precedent. The

analysis under Indiana's Constitution is different from that under the federal Constitution, a fact that ended up being highly significant. After the Indiana Supreme Court affirmed the convictions, the defendant sought review in the U.S. Supreme Court. While that petition was pending, the Court decided a different, but factually similar, case that changed the federal constitutional rule. Our case then returned to the Indiana Supreme Court for reconsideration, and the court affirmed on a different ground. The brief I submitted upon remand is included in this application as a writing sample. **See Tab 6.**

My experience in constitutional litigation included many civil matters as well. In these cases, undertaken because of the duty of the Attorney General's Office to defend statutes, frequently defended the constitutionality of a statute or court rule. One example is when I defended on appeal a trial judge's decision, based on Indiana Judicial Conduct Rule 2.17, to refuse to release an audio recording of a court proceeding to a Fort Wayne television station so that it could broadcast it for a news story. The station alleged that the judge misapplied the Rule or, alternatively, that the Rule violated the First Amendment. My brief used a complex line of First Amendment precedent to illustrate how there is no broad journalistic right to unfettered access to court records and the Rule does not work an unconstitutional prior restraint on speech. Of course, Rule 2.17 still allowed the station to report on the court proceeding, albeit in a different manner than how the station wanted. The Court of Appeals unanimously affirmed the judge's decision and upheld the constitutionality of the Rule.

I litigated far more federal constitutional issues, particularly criminal procedure matters, in my career. Many of these cases were habeas corpus petitions that I handled in the federal courts. Habeas corpus is a procedure that allows state prisoners to raise the federal constitutional issues from their criminal appeals in federal courts after the state courts have had an opportunity to rule upon them. Another way of thinking about this kind of habeas corpus is that I defended the decisions of our Court of Appeals and Supreme Court before federal judges who had limited authority to effectively overrule the state courts on federal law matters. Over the 20 years that I worked on habeas cases, I saw nearly every kind of criminal law-related constitutional issue possible. I even won a rare summary reversal by the U.S. Supreme Court after the Seventh Circuit incorrectly turned an issue of state law into a federal constitutional one. That expertise led me to train lawyers across the country

on several occasions about how to do habeas work, which combined by interest in constitutional law and passion for teaching law.

While these cases are exciting and even fun to a constitutional law geek, they also have very real consequences for the citizens of Indiana. I'm proud to have worked on them so that the courts could decide these important issues and keep government in check. Some of these cases will have lasting impact, and I hope it is impact for the betterment of our society. Whether I "won" or "lost" was never the point, it was my duty and privilege to give serious argument to difficult cases. As a judicial officer today, I expect and appreciate counsel who approach their cases with a similar philosophy.

3) **Amicus Curiae Practice.** When practicing, I occasionally represented the State or a client as a "friend of the court," or amicus curiae. I am particularly proud of two cases, both involving the Access to Public Records Act (Indiana's version of a freedom of information act), where I was involved in using amicus briefs to inform the appellate courts of the State's unique views of how public records should be widely accessible except in narrow circumstances. In the first case, a county health department instituted a policy of refusing to release death certificates to the public, and a local newspaper sued under APRA. The State encouraged the Supreme Court to require a county health department follow public access laws and compel disclosure of death certificates to journalists notwithstanding the county's privacy concerns that death certificates include a cause of death. As the Supreme Court ultimately held, there are no statutory exceptions for death certificates and there exist important public health reasons for open records in this context.

In another public records case, the State filed a brief supporting a county E-911 dispatch center when a television station sued to force the release of recordings of 9-1-1 calls. The calls at issue were made about unsolved crimes and police believed that public release of the calls could compromise ongoing investigations. The case saw national interest groups filing amicus briefs in support of the station. However, our brief bolstered the county's arguments that the statutory exception for investigative records can include 9-1-1 calls and that law enforcement legitimately use that statutory exception to the Act in this context. The Court of Appeals agreed and the station declined to appeal further.

But the most significant amicus briefs that I have written were filed in the U.S. Supreme Court. I have been the primary author of seven amicus briefs in criminal law and procedure cases. These briefs were joined by the chief prosecutors from other states and expressed common viewpoints on criminal law before the Court. The role of counsel for an amicus curiae is unlike being an advocate for any other client, and it is well known how helpful amicus briefs are to the Supreme Court's work.

For example, Justice Ginsburg cited my brief in the Court's majority opinion in *Oregon v. Ice* and discussed arguments we made that weighed heavily in the majority's decision. See 555 U.S. 160, 171–72 (2009). And my brief in *Burton v. Stewart* was awarded a "Best Brief Award" as one of the best briefs filed in the Court during that term.

The U.S. Supreme Court cases in which I was the principal author of an amicus brief include:

- *Baldwin v. Reese*, No. 02-964 (federal habeas corpus procedure);
- *Burton v. Stewart*, No. 05-9222 (retroactivity of new constitutional sentencing rules);
- *Oregon v. Ice*, No. 07-901 (right to jury trial for aspects of criminal sentencing);
- *Briscoe v. Virginia*, No. 07-11191 (right to cross-examine forensic analysts);
- *Wood v. Allen*, No. 08-9156 (federal habeas corpus procedure);
- *J.D.B. v. North Carolina*, No. 09-11121 (*Miranda* warnings for juveniles); and
- *Betterman v. Montana*, No. 14-1457 (right to speedy trial for resentencing).

This work began after I was awarded a fellowship at the Supreme Court through a program for state attorneys general. For several months in 2006, I worked daily at the Court observing arguments and assisting in the preparation of cases being argued and briefed by lawyers in public and private practice who represented governmental entities. Amicus curiae practice was a significant part of that fellowship, which was a once-in-a-lifetime opportunity. As a result, I developed a niche sub-practice of U.S. Supreme Court briefing that allowed me to contribute in this unique way to the development of law.

4) **Capital Punishment Matters.** Some of the most significant matters that I've handled have been the State's capital punishment cases. These are unquestionably the most important criminal cases, not only because they involve some of the most heinous crimes imaginable, but because they implicate the most serious and solemn power that a government has: the ability to take a life. Consequently, prosecutors who handle death penalty cases must act with the highest ethical standards, ensure fairness at all stages, and remain consummate professionals, setting aside one's personal views. From 2004 to 2010, I led the unit of prosecutors in the Attorney General's Office who handled all death penalty litigation after the trial occurred. And from 2010 to 2021, while those matters fell to my ultimate responsibility as Chief Counsel of Appeals, other members of my team handled them day-to-day.

In those roles, I was involved in over fifty capital cases at both the trial and appellate levels, including twelve executions. Those cases involved appeals before the Indiana Supreme Court; post-conviction hearings in county trial courts; habeas corpus litigation in the federal trial and appellate courts; clemency proceedings before the Parole Board; civil lawsuits attacking the process; and advising officials as to their duties in the process. Each case presented unique circumstances and involved different concerns, but all required heightened fairness, zealous advocacy for justice, and proper application of the law.

This meant two seemingly contradictory things. First, any time it was reasonable to do so—and in most occasions it was—we were unflinching, zealous advocates in defense of the judgments of jurors and judges, decisions of prosecutors and defense counsel, and acts of investigators and correctional officials. At the same time, when the circumstances required, we were unafraid to confess error on appeal, settle cases for new trials or lesser sentences, decline to appeal adverse rulings, or advise officials in favor of executive clemency. I made decisions in the latter category on several occasions in capital cases (and far more in non-capital criminal appeals). Justice and ethics require prosecutors to always maintain an open mind and evaluate cases from different angles, particularly when new information comes forward.

Maintaining this approach required discernment and sound judgment, skills that I honed while litigating capital cases. At times, those decisions were unpopular with trial prosecutors, defense attorneys, police investigators, a victim's family, or even a judge. I may not have been entirely comfortable with the situation myself. But I firmly felt that when a person's life is literally on the line, then I owe my best

judgment after dispassionate reflection. I believe that this approach also allowed prosecutors, judges, and state officials to confidently rely upon my advice and advocacy to ensure that Indiana's capital punishment system remained eminently fair and accurate.

That philosophy was shared among a group of some of the most ethical, talented, and effective prosecutors around the nation who were dedicated to ensuring the fairness of capital punishment if our states were to have it. In 2005, I was invited to join a commission of experts at the U.S. Department of Justice's Office of Justice Programs, created immediately after President Bush announced the Capital Case Litigation Initiative during the State of the Union address. Our commission designed three separate curricula for federally funded trainings for trial judges, prosecutors, and defense counsel with the goal of improving the delivery of justice at the trial level in capital cases across the country. I then helped train lawyers through the National District Attorneys Association, which was selected to carry out the trainings for prosecutors. Our work improved the critical training available to defense counsel, and it made possible the first training of its type for judges through the National Judicial College. The legacy created by that commission still exists through grant funding made available through the DOJ.

I later joined the board of directors of the Association of Government Attorneys in Capital Litigation in 2012, which is a national bar association of prosecutors who litigate death penalty, life without parole, and other complex homicide cases. I organized its national conference in 2014, served as the Association's president in 2014–2015, and was honored with its William Shafer Award in 2018 for my service in educating prosecutors nationwide.

On a personal note, I'm not an enthusiastic supporter of capital punishment. I took seriously my responsibility to prevent personal ambivalence from interfering with my duty. That view of a lawyer's obligation to one's client seems increasingly quaint in today's environment, but it's still an important value that experienced practitioners in criminal law appreciate. I mention this set of experiences because they represent significant work with serious consequences that requires the utmost ethics, professionalism, and integrity. I feel the same about any lawyer who has grappled with criminal practice, and capital litigation in particular.

5) **Election Law.** My public law practice caused me to be involved in several election law cases during my tenure. The most notable is likely my representation of the Indiana Recount Commission in the litigation surrounding the 2010 election for Indiana Secretary of State. This election was controversial in part because Charlie White, who won the election, was alleged to have committed fraudulent acts related to his voter registration. The election culminated with the state Democratic Party filing an election contest with the Indiana Recount Commission. When the Commission denied the challenge, the party brought the matter to the courts, and the trial court reversed the Commission's determinations. I represented the Indiana Recount Commission and its three members—not the political party or candidate—in the Commission's appeal to the Indiana Supreme Court. The Supreme Court adopted my clients' position that challenges to the eligibility of a candidate must be raised well before election day, and not after an election has taken place. It's an important election law precedent that reminds political actors that the judiciary is not ordinarily the proper place to decide elections and that judges must be highly reticent to overturn elections absent substantial electoral fraud.

My other election law cases include the successful defense of a precinct redistricting statute that was challenged by a county political party chairperson on constitutional grounds. In that case, the Indiana Supreme Court reversed a trial court and found that the statute was in fact constitutional and not unjustified special legislation. Yet another case involved one of the few criminal prosecutions for voter fraud. A team under my supervision indicted and obtained convictions of a county official who illegally handled absentee ballots cast in his own election. We also successfully defended those convictions on appeal.

Courts are appropriately reluctant to interfere in elections and the laws governing them, but there are appropriate occasions in which judicial review should occur. In every case, however, the judiciary should proceed carefully so as not to harm the franchise. I believe that my advocacy in these and several other cases helped those courts navigate that territory and reach fair results that ensure our democratic processes.

8. 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'm privileged to have been a part of several efforts to improve the law and the administration of justice during my career. I've done this in five ways: leadership in promoting high ethical standards and quality educational opportunities for prosecutors in Indiana and nationally, justice reform efforts from within government, modernizing court rules and practices during the digital transformation, bar association leadership, and teaching law to students.

I feel passionately about the need for quality continuing education opportunities for lawyers, and particularly for prosecutors, given the unique power that they wield over criminal justice. One of my first opportunities to make a difference in this way was when I was invited to serve on a commission organized by the U.S. Department of Justice at President George W. Bush's direction to study, recommend, and implement improvements in training to judges, prosecutors, and criminal defense attorneys regarding death penalty cases.

Here in Indiana, I was a longtime member of the Indiana Prosecuting Attorneys Council's Capital Litigation and Critical Incident Review committees, both of which review major criminal cases upon request by a county prosecutor and give advice on litigating those horrific cases. I served on the board of directors of a national prosecutor bar organization, the Association of Government Attorneys in Capital Litigation, before chairing its national educational conference and then serving a term as its national president. AGACL trains prosecutors and other government lawyers who handle homicide and other complex violent criminal prosecutions on the legal, ethical, and practical concerns in this specialized area of litigation. It recognized me with its William Shafer Award in 2018 for my commitment to continuing education.

I've also served Indiana's justice system as a member of the Criminal Code Evaluation Commission and the state team for Indiana's highly successful Evidence-Based Decision-Making Project, both of which focused on criminal justice reform by bringing data to bear on decisions made by judges, prosecutors, law enforcement, and correctional administrators. I discuss my work in criminal justice reform in more detail in Section 7(D).

Both as a judge and a lawyer, I've worked with in the judicial branch to improve the legal system by modernizing its procedures and taking innovative looks at how to improve judicial decision-making. I assisted with modernizing court procedures by being involved with two major revisions of the Rules of Appellate Procedure, first as a law student when the entire rules were rewritten, and then fifteen or more years later as we revised the rules to facilitate the transition to digital appellate practice. During the transition to e-filing, which began with the appellate courts, I took a leadership role to rewrite portions of the Indiana Rules of Appellate Procedure and make them applicable to an e-filing world. I then served on a task force to monitor and help improve e-filing through its first several years.

When the Court of Appeals and Supreme Court considered a switch from transcripts to video recordings of trial proceedings for appellate review, I organized a pilot program in conjunction with the Court of Appeals and the criminal defense bar to test those waters. The pilot resulted in a near unanimous agreement to keep transcripts as the main mode of appellate review. That project is proof that sometimes advancements come in having tried alternatives and found them to be lacking.

As public records access is an interest of mine, I also served on the Public Access to Court Records Task Force, which recommended to the Supreme Court policies for making court records accessible to the public through electronic means. I was recently reappointed to its successor body, the Records Access and Management Committee. Our committee studies improvements, solves problems, and makes recommendations to the Court regarding judicial record management policies.

And in 2019, I served on a committee tasked with assisting the Supreme Court to choose the Indiana Public Defender. That opportunity allowed me to contribute in an important way to helping enhance the state's public defense system and offer

insight to the Supreme Court about what the Public Defender’s Office needed to successfully fulfill its vital mission.

I’ve been involved in my state and local bar associations for many years, particularly in those organizations’ Appellate Practice Sections. I am the immediate past chair of the ISBA’s Appellate Practice Section and have been a member of the executive committee for the Indianapolis Bar Association’s section for several years. In those roles, I focused on continuing legal education and organized several CLE programs on criminal law, civil rights, appellate litigation, and mediation. I also organized training events for the National Attorneys General Training Institute, state Prosecuting Attorneys Council, and internally within my office. For over a decade, I also moderated an active email-based discussion list for several hundred prosecutors and government attorneys who handle habeas corpus litigation in federal courts across the country. It became the de facto national network and resource for government attorneys in that highly specialized area of law. Additionally, soon before joining the bench, I had started to take on a larger role in the American Bar Association’s Council of Appellate Lawyers. CAL helps convene the Appellate Judges Education Institute, an annual national appellate bench-bar conference.

Finally, I developed and taught a course at the IU McKinney law school on governmental law entitled Representing the Government. The law school wanted students to have opportunities to learn about the unique practice of public service attorneys and explore (and critique) with them the challenges that governmental lawyers face. Many of my former students have gone on to serve in various public service positions across the country.

- 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.**

For several years, I was involved in the Republican Party as a precinct vice-committeeman and a delegate to three State Conventions. I also was involved with the Indiana Federation of College Republicans in various leadership roles. I also

volunteered with the Richard Lugar for Senate campaign and assisted in various campaigns around the Montgomery County area during college.

I participated multiple times in the Indiana Supreme Court’s and Indiana State Bar Association’s “Why Lincoln was a Lawyer: Abraham Lincoln, the Law and Civic Education” program. This involved speaking to students at Hancock County elementary schools about President Lincoln’s years as a practicing attorney, and how that experience shaped and prepared him for the presidency.

On the past several Election Days, I’ve spoken to students in the school systems in Marion County’s Lawrence Township and in Hancock County for the Indiana Kids Election program. I led discussions about the presidential and senatorial election systems and taught students about real world examples of how elections work and their ramifications. This past year, perhaps unsurprisingly, students were particularly interested in how the recount systems and judicial review proceedings work. This was an opportunity to discuss the role that the judiciary plays in our democracy.

Finally, as a longtime leader in the local Boy Scout council, I was heavily involved in expanding the Cub Scout and Boy Scout programs to include girls and young women, even before the national organization officially did so. Another priority in the past several years has been my membership committee’s efforts to expand outreach to the African American, Latino, and Burmese American communities to include more youth of diverse backgrounds into the Scouting movement. We had significant success before the pandemic hit, which has been an event that has strained Scout groups. I strongly believe that all youth should have access to character and citizenship programs, and I particularly believe in the role of Scouting to help make that possible.

- 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 remain active in my community through Scouting, my church, our kids' schools, and my alma mater. I developed a commitment to volunteerism through my experience as a Boy Scout in the 1980s and early 1990s. In fact, Scouting has impacted my life immensely. My family had very modest means, and I worked to help make ends meet. No one in my family had graduated college, let alone attended graduate or professional school. And while my parents worked hard to provide for us, we had few resources to draw upon. It was Scouting that filled those gaps for me. It exposed me to new possibilities, challenged my abilities, and introduced me to a life of service and leadership. In return, I'm committed to give back even more to an organization that literally changes lives in profound ways.

What makes Scouting so impactful to young people is how it builds character, instills good citizenship values, and establishes healthy habits all at the same time. I've been active in Scouting since 1982 when I became a Cub Scout at my elementary school. That experience continued throughout high school and college. At that time, I was honored to serve in elected youth leadership positions at the state level for several years. In many ways, my Scouting experiences as a youth inspired me to dedicate my career to public service.

As an adult, I've served in various leadership roles, some that directly serve youth and others that are more executive in nature. I led a Cub Scout Pack for several years as Cubmaster, which allowed me to directly impact the kids in my neighborhood and surrounding community. I now serve as the committee chair of the Scouts BSA Troop at my church. This position manages the many behind-the-scenes needs of a dynamic and active Scout troop of over 30 youth so that they can live the adventure of Scouting, too.

My service to the larger Scouting movement has included several roles in the Crossroads of America Council, which is the local BSA organization that serves nearly 30,000 boys and girls across 26 central Indiana counties. I've served on the Council's executive board of directors, chaired one of the Council's districts, and given leadership to several standing committees. During the 2020 legislative session, I volunteered countless hours in writing and shepherding a bill through the General Assembly to address the legal concerns that many public schools had with allowing Scout groups to use school facilities. This service is rewarding in a very different way than working directly with the Scouts in my children's groups. By volunteering at a macro level, I hope to make it possible to include countless more children who

otherwise might not benefit from the nation’s greatest character and citizenship building program.

I’m also actively involved in our children’s schools, our church, and my alma mater. My wife and I volunteer in a variety of ways with the Lawrence Township schools attended by our children. I’ve been asked by teachers to speak about law, the judicial system, and our electoral process on several occasions, which I particularly enjoy. I’ve also volunteered with the Dads’ Club, parent-teacher association, Math Pentathlon, and Robotics teams.

At our church, my wife and I have co-taught faith formation classes to fourth and fifth graders, which is a wonderful way to interact and connect with young people in a particularly meaningful way. We have some great conversations about what faith means in both abstract and concrete ways, how we can live our faith in our daily lives, and how they can impact their community by living their faith. Our students give me inspiration and renew my confidence in the future. I also serve as a lector and have volunteered with adult retreat programs.

I’m also an involved alumnus of Wabash College, and I continue to volunteer with its Pre-Law Society and the annual undergraduate moot court competition. I’ve been a volunteer judge for the long-running competition for about two decades and was a championship round judge together with Court of Appeals Judges Robb and Pyle in 2017. I’ve also organized panel discussions with lawyer alumni about opportunities for students in law and public service. Wabash opened a world of possibilities for a kid from the east side of Indianapolis that I didn’t know was possible. I hope that my contributions open similar opportunities for today’s students.

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

Through the Joseph Maley Foundation, I provided *pro bono* assistance to parents of children with disabilities when maneuvering through the Individual Education Plan (IEP) process in the public schools. I first experienced the IEP process when my son was diagnosed with a muscular disorder that severely impacts his motor skills and speech. As he began school, he started receiving services from the school district

through an IEP. While my wife—who is a social worker—and I eventually figured out how to maneuver through the system and advocate for our son, that isn't the experience for most families in similar situations. The Joseph Maley Foundation provided many opportunities for our family when our son was younger, so I was an early volunteer for a program that connected lawyers with families who were struggling through the IEP process. Volunteer advocates provide *pro bono* advice and advocacy assistance during IEP conference meetings. I found that merely being a friendly ally during the nuanced bureaucratic process can make a huge difference for a family that's already facing plenty of other challenges with their child.

Over the course of my career, I've given *pro bono* representation to college students who required legal assistance with issues regarding harassment, protective orders, and freedom of speech. I also provided *pro bono* representation to the Boy Scouts of America for government affairs work before the Indiana General Assembly related to passage of a bill that facilitated cooperation between public schools and congressionally recognized patriotic organizations during the 2020 legislative session. See Section 7(B)(1).

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

From 2011–2018, I was an adjunct professor of law at the Indiana University Robert H. McKinney School of Law. I taught courses on governmental law and the practice of state attorneys general.

I particularly enjoy organizing and participating in continuing legal education seminars and conferences. The following is a list of those in which I have been involved:

- Presenter, *Lunch at the Bench with the Marion Circuit Court*, Indianapolis Bar Association, June 2022 (opened the Circuit Court's doors at the new courthouse at the Community Justice Campus and introduced improvements to the Circuit Court to practicing attorneys)
- Indiana Prosecuting Attorneys Council, regular presenter on various topics at their several conferences each year from 2004–2021
- Moderator, *Don't Throw Away Your Shot: Federal Appellate Jurisdiction in the Seventh Circuit*, Indianapolis Bar Association, April 2021 (organized and moderated a

panel discussion on the jurisdiction of federal appellate courts and handling jurisdictional issues in appeals to the U.S. Court of Appeals for the Seventh Circuit)

- Faculty, *Habeas Corpus Practice*, National Attorneys General Training Institute, April 2021 (presented on the statute of limitations for federal habeas corpus petitions to habeas practitioners from attorneys general offices nationwide)
- Faculty, *Appellate Practice Advocacy*, Ind. Continuing Legal Education Forum, November 2019 (panelist on criminal law practice topics)
- Moderator, *Habeas Corpus Roundtable*, 40th Annual Conference, Association of Government Attorneys in Capital Litigation, August 2019 (led roundtable discussion of topics related to habeas corpus litigation in federal courts)
- Panelist, *Indiana Supreme Court Annual Roundup*, Federalist Society Indianapolis Lawyers Chapter, September 2018 and September 2019 (panelist discussing Indiana Supreme Court decisions issued in the prior fiscal year)
- Moderator, *Appellate ADR: A Discussion of the Practice*, Indianapolis Bar Association, August 2018 (organized and led discussion among practitioners and jurists on the benefits and rules governing mediation during an appeal)
- Panelist, *E-Filing Panel Discussion*, Indianapolis Bar Association, July 2016 (participated in a panel discussion with a practicing attorney and Supreme Court/Court of Appeals staff about e-filing best practices and procedures)
- Moderator, Attorney General’s Criminal Justice Summit on Criminal Justice Reform and Evidence-Based Practices, May 2016.
- Mentor, *Mentor Match*, Indiana State Bar Association and Office of the Attorney General, February–December 2016 (mentored an attorney through a joint mentoring program of the ISBA and OAG)
- Presenter, *Combating Public Corruption in the United States*, Faculdades Integradas Espirito Santenses (FAESA) American Law Program, September 2015 (discussed with Brazilian law students the mechanisms and methods in American law of discouraging, policing, and prosecuting public corruption)
- Panelist, *Police Use of Force*, Indianapolis Bar Association, September 2015 (participated in a panel discussion with other attorneys about legal issues related to the use of force by police, body cameras, and related topics)
- Moderator, *E-Filing in the Indiana Appellate Courts: Preparing for the Future of Appellate Practice*, Indiana State Bar Association, May 2015 (moderated a panel discussion that introduced the electronic filing system to appellate practitioners at the “Evening with the Appellate Judges” ISBA event)

- Faculty, *Advanced Habeas Corpus Practice*, National Attorneys General Training Institute, April 2015 (presented on the statute of limitations for federal habeas corpus petitions to habeas practitioners from attorneys general offices nationwide)
- Moderator, *Criminal Appeals*, State Solicitors and Appellate Chiefs Conference, National Association of Attorneys General, July 2014 (led a discussion of recent U.S. Supreme Court decisions and other national criminal law issues at a meeting of the heads of appellate practices in state attorneys general offices nationwide)
- Panelist, *Cameras in the Courtroom: An Update on the A/V Transcript Pilot*, Indianapolis Bar Association, April 2014 (discussed experiences with the pilot project undertaken by the Supreme Court to study the feasibility of recording trials and using video “transcripts” instead of written transcripts at the appellate level)
- Faculty, *Habeas Corpus Practice*, National Attorneys General Training Institute, February 2014, May 2013, October 2009, and April 2009 (at each seminar, presented on federal court jurisdiction over habeas corpus petitions, restrictions on filing successive habeas petitions, and federal appellate procedure in habeas cases)
- Presenter, Deputy Attorney General University (DAGU), Office of the Attorney General, November 2013 (presented on the appellate process and emergency motions practice, OAG policy, and best practices related to preparing a case for appeal)
- Co-Chair, *Evening with the Appellate Judges CLE Program*, Indiana State Bar Association, May 2013 (served as emcee of the CLE portion of the program and interviewed Justices Massa and Rush as the then-newest members of the Indiana Supreme Court)
- *Litigation Topics*, Sagamore American Inn of Court, March 2013 (presented the portion of program on practices disfavored by judges and issues about protecting the record for appeal)
- Panelist, Indiana Criminal Justice Summit, October 2012 (served on panel discussing possible legislative solutions to issues impacting the presentation of forensic and expert testimony caused by the U.S. Supreme Court’s changes to the law on the Sixth Amendment’s right of confrontation in criminal trials)
- Planning Committee, Annual Conference of the Association of Government Attorneys in Capital Litigation, 2012–2021 (planned the leading national training conference for prosecutors in life without parole and capital murder prosecutions and appeals; served as conference chair at the August 2014 conference)

- *Mediation*, Sagamore American Inn of Court, April 2012 (created multimedia presentation for discussion of mediation skills)
- Presenter, Indiana Criminal Justice Summit, October 2010 (presented on the appellate and collateral review procedures in Indiana death penalty cases)
- *Judicial Selection*, Sagamore American Inn of Court, September 2010 (member of team that organized panel discussion on judicial selection in Indiana)
- Faculty, *Capital Litigation Seminar*, Indiana Prosecuting Attorneys Council/National District Attorneys Association, October 2006 (moderated a panel discussion of elected prosecutors on how they decide whether to seek the death penalty or life without parole for a murder suspect, and co-presented a session on protecting the record for appeal)
- Organizer, *Capital Litigation Training Course*, National College of District Attorneys, October 2005–2008 (served on a committee of prosecutors from around the nation that developed a national training course on prosecuting death penalty cases that arose out of President Bush’s Capital Punishment Improvement Initiative)
- Symposium Panelist, *Toward a Model Death Penalty Code: The Massachusetts Governor’s Council Report*, Indiana Law Journal, Indiana University Maurer School of Law, September 2004 (served on panel discussing the application of procedural rules in capital punishment cases)
- Faculty, *Developing Appellate Skills Seminar*, Indiana Continuing Legal Education Forum, November 2003 (served as a reviewer and provided critique of mock appellate briefs written during the seminar)
- Faculty, *New Indiana Appellate Rules Seminar*, Office of the Attorney General, November 2000 (presented about a portion of the new Rules of Appellate Procedure to a group of government attorneys, public defenders, and judicial law clerks)

9. 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.

- Indiana State Bar Association, 2000–present
 - House of Delegates, 2020
 - Appellate Practice Section
 - Section Chair, 2019–2020
 - Section Secretary, Vice-Chair, and Chair-Elect, 2016–2019
 - Council member 2012–present

The ISBA is the largest legal organization in the state and strives to advance the profession of law and secure a more effective administration of justice; promote reforms in the law; and encourage excellence in legal education for both the law student and the practicing lawyer. The Appellate Practice Section Council is the governing body for the section that encourages and plans continuing legal education forums for those in appellate practice and works to simplify and expedite appellate procedure where appropriate.

- American Bar Association, 2000–2003, 2011–present
 - Judicial Division
 - Conference of State Trial Judges
 - Appellate Judges Conference
 - Council of Appellate Lawyers
 - Government Appellate Lawyers committee
 - Litigation Section
 - Appellate Practice, Ethics & Professionalism, Privacy & Data Security, and Criminal Litigation committees

The ABA is the national bar association. The Judicial Division works to promote an independent judiciary and plan educational opportunities. The Council of Appellate Lawyers does the same with a focus on appellate practice and the judiciary. The Litigation Section provides educational opportunities and publications on matters related to courtroom litigation.

- Seventh Circuit Bar Association 2012–present

An association of trial and appellate lawyers practicing in the federal courts located within Illinois, Indiana, and Wisconsin.

- Indianapolis Bar Association, 2014–present

- Appellate Practice Section, executive committee 2016–2021

A bar association of Indianapolis area lawyers and judges. The Appellate Practice section provides CLE opportunities related to appellate practice; sponsors the Indiana Appellate Institute, a program that provides moot courts to counsel preparing to argue cases in state and federal appellate courts; and occasionally prepares friend-of-the-court briefs on issues of practice and procedure.

- Association of Government Attorneys in Capital Litigation, 2004-2021

- William Shafer Award, 2018
- President, 2014–2015
- Vice President, 2013–2014
- Board of Directors 2012–2021

AGACL is the national bar association of prosecutors who are involved with prosecuting capital homicides and other major felonies. Its priority is hosting an annual national conference of prosecutors for training on ethics, skills, and policy issues surrounding litigation of these cases.

- Federalist Society for Law and Public Policy Studies, 1997–present

- I.U. School of Law—Indianapolis Chapter, 1997–2000
- Indianapolis Lawyers Chapter Board, 2000–2010

The Federalist Society is an organization of conservative and libertarian law students, lawyers, professors, and judges that promote the rule of law, individual liberty, separation of powers, and a restrained judiciary. The Indianapolis lawyers chapter board plans monthly luncheon speakers on a variety of timely legal topics of interest to central Indiana lawyers.

- Sagamore American Inns of Court, 2010–2014

The American Inns of Court is a national bench-bar organization modeled after the British Inns of Court and is aimed at fostering skills, professionalism, and

ethics among litigators and judges. The Sagamore Inn is one of two Inns of Court in Indianapolis.

- Philadelphia Society, 2014–present

An organization of scholars, educators, business leaders, clergy, professionals, and public officials interested in pressing economic, political, cultural, and other issues, as well as fostering a discussion about freedom and its future around the world.

- National Association of Extradition Officials, 2001–2021

NAEO is an organization that educates, trains, and supports extradition officials in the respective states and promotes uniform laws pertaining to extradition matters.

- United States District Court for the Southern District of Indiana Historical Society, 2010–present

This historical society promotes awareness of and educates the public about the history of the federal courts in Indiana.

- Supreme Court of the United States Historical Society, 2006–2009

This organization promotes the history of and scholarship about the United States Supreme Court.

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.

- Boy Scouts of America, 1982–present
 - Eagle Scout, 1988
 - Silver Beaver Award, 2018
 - Crossroads of America Council: Executive Board of Directors, 2016–2019; Membership Committee Chair, 2019–2021; Special Awards Committee Chair, 2015–2019
 - Northeast & Fall Creek Districts: District Chairman, 2016–2019; District Committee, 2008–present

- Scouts BSA Troop 446: Committee Chair, 2020–present; Committee Member, 2019–2020
- Cub Scout Pack 444: Cubmaster, 2016–2019; Den Leader, 2014–2016, Committee Member, 2020–present
- Boy Scout Troop 488: Assistant Scoutmaster, 1993–2005
- National Eagle Scout Association, 1988–present
 - Central Indiana NESAs Committee, 2008–2017
- Camp Staff, Camp Belzer, summers 1989–1998
 - Boy Scout Day Camp Program Director, 1994–1996
 - Cub Scout Day Camp Counselor, 1989–1993, 1997–1998

The Boy Scouts of America is a congressionally chartered youth organization that is part of the World Scout Movement. It provides several youth programs that build character, teach citizenship, and develop personal fitness. Its programs serve boys and girls, young men and women from age 5 through 21 in Cub Scouts, Scouts BSA, Venturing, and STEM Scouts. It also provides programs at schools and community-based organizations through its Learning for Life and Exploring programs. The Crossroads of America Council is the BSA’s organization in central Indiana.

- St. Simon the Apostle Catholic Church
 - Lector, 2019–present
 - Faith formation teacher, 2018–2021
 - Welcome retreat leader, 2019–2020

The St. Simon parish serves the Catholic community on the far northeast side of Indianapolis, Lawrence, McCordsville, and the surrounding areas.

- Foundation for a Traditional Wabash, Ltd.
 - Board of Directors, 1997–2010

The Foundation is a non-profit organization that supports Wabash College students who publish the Wabash Commentary, an independent publication at the College that voices conservative and libertarian views on campus life and activities.

- 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.

None.

- D. Describe your hobbies and other leisure activities.

In my spare time, I enjoy spending time with my family, photography, tinkering with technology, board and card games, camping, hiking, and canoeing.

10. 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.)

Coleman v. Creason, No. 77D01-0306-MI-173 (Sullivan Super. Ct., June 26, 2003)
prisoner's petition for writ of habeas corpus, dismissed prior to service for failure to state claim

- 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.

No.

- 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.

No.

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

No.

11. 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*).

Stacy Uliana

Bryan Babb

Philip Sever

- 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*).

Judge Tiffany Vivo

Angela Sanchez

Jon Laramore

- 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*).

Chris Kaufman

Darren Kemper

José Lusende