

**FRIENDS OF LEE CLEVELAND**  
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September 23, 2016

Gatekeepers Association of Alabama  
1800 John Rogers Drive  
Irondale, Alabama 35210  
Attention Lawrence Conway

RE: October Jefferson County  
Judicial Political Forum

Dear Mr. Conway:

I plan to attend the candidate forum on Monday, October 24, 2016. Gatekeepers Association requested answers to 10 questions related to the candidate forum. I have attached my resume as requested and this letter answering the questions to my email response.

1. Why are you pursuing this office? I am pursuing this office because I believe that my experience and my study of the law can bring to the court the kind of judge Jefferson County needs. When it comes to deciding cases involving landlord-tenant disputes and claims that do not exceed \$10,000, experience matters. Although appeal to the circuit court is permitted, many of the parties that appear in District Court do not have the resources to appeal. Consequently, the District Court judge decides their case, and that decision is most often final.

2. Who are your five largest contributors? My five largest contributors are people that I work with at church and lawyers that I have worked with over the years.

3. What is your judicial philosophy? I believe that the judge should follow the law and apply the law as it is written, either in statutory or case law form, to the facts that the district judge determines from the evidence. The rules of evidence exist to guide the trial judge in determining the facts. Because, one or both litigants in the District Court are likely to not have an attorney representing them, the rules of evidence should not be rigidly applied to preclude relevant evidence; they should be liberally construed to do substantial justice to the parties.

4. What are your three highest priorities in your judicial practice? If elected to the bench, first and foremost it is to be impartial: that is, to come into the case with no preconceived notions of who should win and who should lose and to treat each person as equal before the law; second, it is to listen carefully to the testimony and the story that each person has to tell to determine what

actually happened; and finally to apply the law as it is written in the cases and the statute to what I determined actually happened.

5. Where do you find motivation and inspiration for your job? As a practicing attorney, I find motivation and inspiration in helping people. My clients are diverse. In many cases my clients are individuals suing insurance companies or larger businesses. In some cases my clients are small businesses, and in some cases they are larger businesses. Regardless of who my client is, when their problem is resolved by a settlement that is agreed to by all parties I am satisfied that I have helped them. When a trial is necessary, I do my best to provide the best result possible under the law and the facts. As a judge, I would apply this philosophy to help the parties either settle the case between themselves or by applying the law to the facts resolve their dispute.

6. Approximately how many cases have you been the lead counsel on? I have practiced law for 31 years and, honestly, have lost count. I have tried jury and non-jury cases in most of the counties in north and central Alabama, in the federal courts for the Middle District and Northern District of Alabama. A quick count has indicated that I have represented parties and over 30 appeals; two matters in the Supreme Court of the United States of America, several cases before the Eleventh Circuit Court of Appeals, over a dozen cases in the Alabama Supreme Court, and several cases in the Alabama Court of Civil Appeals.

7. If we were to inquire with opposing counsel with whom you previously opposed in a trial or legal proceeding, what do you think would be their characterization of you? How would you describe yourself? I think that they would characterize me as a lawyer who represented my client well and was knowledgeable in the law. I would describe myself as an advocate for my client, who applies my skill at legal analysis and my experience as an attorney to recommend the best options for my client under the circumstances and will represent my client zealously within the bounds of the law in a judge trial, jury trial, or on appeal.

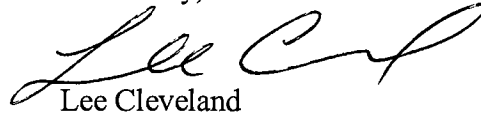
8. Describe your current family life. My wife, Diane, and I have been married for 35 years this November. We are both active in our church, enjoy watching Alabama football on weekends during the fall and working on projects around the house during the spring and summer. Each winter we have decided on a home improvement project to jointly carry out and then in the spring or summer completed it. We enjoy family gatherings at our house for birthdays, Thanksgiving, the 4<sup>th</sup> of July, and other holidays. We open our home for church choir parties and dinner on New Years Eve for Christmas International House students when our church hosts the students.

9. What are some of your community activities? I live in the Highland Park neighborhood of Birmingham, and occasionally attend neighborhood association meetings. I have served on the Birmingham Bar Association Civil Court Procedure committee. Previously I was active in the Greater Birmingham Area Chamber of Commerce. Our church builds a Habitat for Humanity house every year and I have been active in working on the house in the 1990's and 2000's. More recently, I have been working on church supported water projects with Living Waters for the World in Kenya. I currently serve as Clerk of the Session (board of elders) at South Highland Presbyterian Church and on the Board of Directors of the South Highland Child Development

Center (church child day care center).

10. What church do you attend and what is your pastor's name.? I attend South Highland Presbyterian Church on Highland Avenue in Birmingham. The senior pastor is Ed Hurley and the associate pastor is Jim Truesdell.

Yours truly,

A handwritten signature in cursive script, appearing to read "Lee Cleveland".

Lee Cleveland

## KENNETH LEE CLEVELAND

### EXPERIENCE PRACTICING LAW

September 1985 - Present: **Attorney** Cleveland & Cleveland, P. C., 2330 Highland Avenue South, Birmingham, Alabama 35205.

Duties and Skills - Represent clients in all phases of contested and uncontested legal proceedings. Preparation of complaints answers, motions, petitions, and discovery. Trial preparation and trial of civil litigation including interviewing witnesses, conducting depositions, examination of witnesses in court, preparation of jury charges, conducting opening statements, and conducting closing arguments in jury and non jury trials. Legal research and brief preparation for summary judgment, discovery, motion practice, and trial briefs. Preparation of post trial motions, notice of appeal, and requests for other post judgment or prejudgment appellate relief. Preparation of briefs with legal analysis and argument of legal positions to appellate courts and oral argument before appellate courts. Experience includes federal and state civil courts, bankruptcy courts, probate courts, patent and trademark prosecution. Transactional experience includes the preparation of deeds, wills, and contracts.

### Notable Accomplishments:

***E. R. G. v. E. H. G.*** \_\_U. S. \_\_, 132 S. Ct. 1535, 182 L. Ed. 2d, 161, 80 U.S.L.W.3475 (2012). When the court requested a brief in opposition to the petition for certiorari, I was counsel of record responsible for the brief. The brief argued that the Alabama court correctly determined that the rights of parents under the Fourteenth Amendment rendered the grandparent visitation statute unconstitutional. The petition was denied.

***Williams v. BellSouth Telecommunications, Inc.***, 373 F.3d 1132 (11<sup>th</sup> Cir. 2004). I represented Mrs. Williams in the district court and in the Eleventh Circuit as sole counsel. The brief asserted that ERISA participants were entitled to the heightened arbitrary and capricious standard of review under the facts in the case. The court applied the heightened standard and declared the methodology used for review for all participant claims under ERISA. This methodology remains in use.

***Watts v. BellSouth Telecommunications, Inc.***, 316 F.3rd 1203 (11<sup>th</sup> Cir. 2003). I represented Ms. Watts in the district court and in the Eleventh Circuit as sole counsel. The brief asserted that the summary plan description governed over conflicting language in an ERISA plan and that the language should be construed against the drafter. The court held that the language was ambiguous, construed it against the drafter, and determined that the claim was timely, as the language was construed to waive exhaustion of administrative remedies.

***Henderson v. BellSouth Telecommunications, Inc.***, No. 00-15506 (11<sup>th</sup> Cir. March 16, 2001). I represented Mrs. Henderson in the district court and in the Eleventh Circuit as sole counsel. The brief argued that the Norris-LaGuardia Act did not preclude injunctions in ERISA actions even though they included employment disputes. The court held that because ERISA was a comprehensive scheme, the Norris-LaGuardia Act did not preclude injunctions in ERISA actions.

*Wilson v. Jones*, 251 F.3d 1340 (11<sup>th</sup> Cir. 2001). I along with co-counsel represented Ms. Jones district court and in the Eleventh Circuit. The brief asserted that a strip search of a DUI suspect, incident to placing such suspect in a general population facility and the policy allowing such searches for suspect held over night, violated the Fourth Amendment. The court held such searches violated the Fourth Amendment and would no longer be permitted (precluding the placement of such suspects in general population).

#### JURISDICTIONS ADMITTED TO PRACTICE LAW

Licensed to practice law in **Alabama** (1985) and before the **United States Patent and Trademark Office** (1986).

Admitted to practice in the **Supreme Court of the United States of America**, the **United States Court of Appeals for the Eleventh Circuit**, the **United States District Court for the Northern District of Alabama**, and the **United States District Court for the Middle District of Alabama**.

#### TEACHING EXPERIENCE

September 2002 - Present:

**Adjunct Professor of Law**, Birmingham School of Law, 231 South 22<sup>nd</sup> Street, Birmingham, Alabama 35233; Supervisor: Dean James Bushnell - 205-322-6122.

Duties are teaching Uniform Commercial Code, ancillary statutes, rules, and regulations (2002-present); Agency, Partnership and Limited Liability Entities (2011); and Civil Procedure (2011).

#### EDUCATION

##### **J.D. University of Alabama School of Law**

Tuscaloosa, Alabama - May, 1985 GPA 3.284/4.0 (top 30%)

##### **B.S. in Mechanical Engineering, University of South Carolina**

Columbia, South Carolina - May, 1982

#### ARTICLES PUBLISHED

*Where to File - Birmingham or Bessemer Cut-Off?* - by Charles Cleveland and Kenneth Lee Cleveland, published in the Birmingham Bar Association Bulletin, Fall 2005

#### CONTACT INFORMATION

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