

## Iowa State Judicial Nominating Commission

### Application Questionnaire for Nathan A. Callahan

1. State your full name. Nathan Alden Callahan
2. State your current occupation/title (Lawyers identify name of firm, organization, or government agency; judicial officers identify court):
  - a. Associate District Court Judge for Black Hawk County
  - b. Office: Black Hawk County Courthouse; 316 E. 5<sup>th</sup> St., P.O. Box 9500, Waterloo, Ia. 50704-9500; (319) 833-3302
3. Age: 58
4. City of your residence: Cedar Falls, Iowa
5. State the periods of your military service, if any, including active duty, reserves or other status. Give the date, branch of service, your rank or rating and your present status.
  - a. 1972 – 1976: Active duty in the United States Coast Guard; Quartermaster, Second Class, (E-5); switched to inactive reserve in 1976.
  - b. 1976-1978: Inactive reserve. Received Honorable Discharge in 1978, with National Defense Medal; Good Conduct Medal; and Meritorious Unit Commendation.
6. List each college and law school you attended, including the dates of attendance, the degree awarded, and your reason for leaving each school if no degree from that institution was awarded.
  - a. Northwestern School of Law at Lewis & Clark College, Lake Oswego, Oregon, 1980 – 1984; degree awarded: JD
  - b. University of Iowa, Iowa City, Iowa; 1977 – 1979; degree awarded: BA in History
  - c. Simpson College, Indianola, Iowa, September, 1976 – December, 1976. No degree awarded; transferred to University of Iowa to pursue a BA and go on to law school. Reason for leaving Simpson centered on age & experience differences between me as a vet and freshman at a small college.
  - d. Morningside College, Sioux City, Iowa, September, 1971 – December 1971. No degree awarded. I left school due to military induction and my decision to join the U.S. Coast Guard.
7. List all courts in which you are presently admitted to practice, including the dates of admission in each case. Give the same information for administrative bodies having special admission requirements.
  - a. State of Iowa: admitted by motion in 1992. Iowa Supreme Court, Iowa Judicial Branch, 1111 E. Court Ave., Des Moines, Iowa, 50319, (515) 281-5911
  - b. State of Alaska (inactive status), admitted 1985. Alaska Bar Association, P.O. Box 100279, Anchorage, Alaska, 99510-0279; (907) 272-7469

8. Describe chronologically your work experience, including your law practice experience, including with respect to your law experience:

- a. Whether you served as a clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk.
- b. Whether you practiced alone, and if so, the addresses and the dates.
- c. The dates, names and addresses of law firms or offices, companies, or governmental agencies with which you have been connected, and the nature of your connection with each.
- d. Any other relevant particulars.

1. 1981 – 1984. I spent about two years working full time as a legal assistant in the Washington County Counsel's Office in Hillsboro, Oregon, while in law school. I worked full time and went to school at night. I appeared in court hearings under the Student Appearance Rule for the Oregon Supreme Court, and represented the County in ordinance enforcement hearings, mental health commitment hearings, tax valuation hearings, and worked on appellate briefs. I spent about one year as a clerk for what was then a District Court Judge, Hon. Robert Mills (deceased) in Clackamas County District Court in Oregon City. This job involved my making official court records with recording equipment, and processing routine court orders for the limited jurisdiction court. This was also a full-time job.
2. 1984 – 1985. I moved to Kenai, Alaska, after graduating from law school in 1984 and worked for about six months for the City of Kenai, Alaska, as a Legal Assistant for the City Attorney, Tim Rogers (deceased). This job involved assisting in developing municipal ordinances and land use laws, and some pleading and brief drafting for the City Attorney. This included limited appellate work.
3. 1985 – 1991. I worked as a prosecutor for the Alaska Attorney General's Office, first as an Assistant District Attorney in the Kenai office, where I prosecuted misdemeanors and lower level felonies. The job included doing my own appeals on misdemeanor cases, and I did a number of cases that resulted in published decisions in the Pacific Reporter, 2d. I next was appointed District Attorney in Kodiak in 1987 where I ran a small prosecutor's office, and did mainly felony litigation. In 1989 I returned to Kenai where I was appointed District Attorney to be in charge of that office. The work for this position included the administration of the office as well as felony and misdemeanor case loads.
4. 1992 – 1993. I moved back to Iowa to raise my daughters and be closer to family. I took a position with the James Walsh P.C. in Waterloo, Iowa as an

associate attorney. This position involved primarily civil litigation, with an emphasis on insurance defense, but also some plaintiff work. I also did some limited federal practice including an appeal to the 8<sup>th</sup> Circuit, and appellate work in Iowa. Cases I worked on resulted in published decisions in the Federal Reporter, the N.W.2d Reporter, and one decision in the 8<sup>th</sup> Circuit.

5. 1993 – 1996. I began a law practice in Waterloo in a partnership with David Dunakey and Kurt Klatt under the name Dunakey, Klatt & Callahan. This arrangement did not work well for me, and I left to open my own practice, the Callahan Law Firm in downtown Waterloo within about six months. As a sole practitioner I worked primarily in civil litigation, and criminal defense. I did some limited administrative law work.
6. 1996 – 2000. I took a position with the State of Iowa Public Defender's Office as First Assistant in the Black Hawk County Public Defender's Office in Waterloo. This position primarily involved major felony litigation.
7. 2000 – present. I was appointed to the bench as an Associate District Court Judge in April, 2000, and have been on the bench now for a little over ten years. This position is in a limited jurisdiction court, and involves primarily misdemeanor and class D felony cases, small claims, and other miscellaneous litigation matters, as well as appeals from decisions of magistrates.

9.

- a. What has been the general character of your legal experience, dividing it into periods with dates if its character has changed over the years? As outlined above, my career has always focused on litigation. My practice has been mainly in the area of criminal law, but has also included civil litigation, administrative law, appellate litigation, as well as family law, juvenile law, and the administration of offices.
- b. Generally describe your typical clients, and mention the areas, if any, in which you have focused. When working for a municipal governmental entity, that entity would be my client. When working as a prosecutor, the State of Alaska was my client, or more correctly, the People of the State of Alaska. When working in criminal defense, the defendant would be my client. When working in civil litigation, the client was typically someone who was insured, or someone who was seeking redress from property damage or injury. Likewise, in other areas of litigation, as in generally any area of litigation, my client was a person with need for legal relief, and was generally in a difficult or unfortunate situation.

10. With respect to your legal experience:
- a. Did you appear in court or other tribunals regularly, occasionally, or not at all? If the frequency of your appearances has varied during this period, describe each such variance, giving the dates thereof. Due to the focus on litigation throughout my legal career, I have always been appearing in various courts or administrative tribunals.
  - b. What percentage of these appearances was in:
    - i. Federal Courts: limited experience; not more than 1% over the years.
    - ii. State Courts of record: extensive experience as a litigation attorney and as an Associate Judge: 90%
    - iii. Other tribunals: (I include administrative and appellate work here) 9%
  - c. What percentage of your litigation was:
    - i. Administrative: 5%
    - ii. Civil: 15%
    - iii. Criminal: 80%
  - d. State the approximate number of cases or contested matters you tried to conclusion (rather than settled) within the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel. While I had extensive experience as a trial lawyer prior to my appointment to the bench, over the last ten years I have worked exclusively as an Associate District Court Judge. This experience has included presiding over a significant number of jury trials as well as court trials to the judge without a jury.
  - e. What percentage of these trials were:
    - i. Jury: 80% (This is a very rough approximation.)
    - ii. Non-jury: 20% (This number could be higher depending upon the number of small-claims trials.)
  - f. Describe to what extent your practice has been in areas other than appearances before courts or other tribunals. State the nature of your practice, including the approximate percentage of time spent in each area of practice. My practice and experience outside of cases involving appearances before courts or other tribunals is limited. The percentage of time spent on such matters would not be significant in relation to my overall experience.
11. Describe three of the most significant legal matters which you have personally handled. If they were litigated matters, give the citations if available. Give a capsule summary of the substance of each matter, and a succinct statement of what you believe to be the particular significance of it. Identify the party or parties whom you represented; describe in detail the nature of your participation and its outcome. State as to each matter (a) the dates of your involvement, (b) the individual name and address

of co-counsel and of counsel for each of the other parties, and (c) as to any litigated matter, the name of the court and the judge before whom the case was tried.

- a. I was specially assigned to the case of State v. Sholom Rubashkin, Allamakee County Case no. SMCR009342, *et al.* This case involved numerous charges against the operators of the Agriprocessors meat processing plant for violation of Iowa's child labor laws. The case involved extensive pretrial motion practice, and ultimately proceeded to a jury trial that lasted over three weeks. While the child labor laws have been on the books for many years, they have resulted in precious little reported litigation. But these laws have recently become more pertinent as the Iowa workforce now includes more immigrant laborers, many of whom are often under the age of 18. The trial was held in May, 2010. While plea bargains were entered into as to other defendants, the plant manager, Sholom Rubashkin, proceeded to a jury trial. The jury ultimately acquitted the plant manager for willful violation of the various child labor law violation allegations. The case was well-tryed by experienced and capable counsel for both sides: Tom Miller, Laura Roan, and Elizabeth Reynoldson from the State of Iowa Attorney General's Office, and F. Montgomery Brown, Mark Weinhart, and Holly Logan for the Defendant. (Addresses are provided in references below.)
- b. I was the attorney for the Defendant in State v. McKinney, a murder trial in Black Hawk County involving an allegation of shaken baby. The State was represented by Black Hawk County Attorney Tom Ferguson. (Black Hawk County Courthouse, 316 E. 5<sup>th</sup> St., Waterloo, Ia., 50703) The trial was held in 1998. The trial involved extensive expert testimony on both sides, and was, in my view, an important trial in regards to forensic medical evidence in cases of that nature. The trial resulted in a hung jury, and was later resolved through a plea agreement.
- c. I was the attorney for the State of Alaska in St. v. Shephard, a murder trial held in Kodiak, Alaska in 1988. The Defendant was represented by appointed counsel, Steve Cole from the Kodiak Public Defender's Office, and then at trial by Michael Karnavas. Steve Cole is now a judge in Kodiak. (Kodiak Superior Court, 204 Mission Rd., Room 124, Kodiak, Ak., 99615-7312; (907) 486-1623) This trial involved two charges of first degree murder. The deceased were brothers who worked a remote fishing site on Kodiak Island. The defendant worked for them. The significance of the trial is that it was one of the first criminal trials in the nation to successfully utilize DNA evidence in a prosecution. We were able to prove that the blood inside of the cabin was from the offspring of the parents of the victims, and thereby prove where they had been killed, and disprove the defendant's version of events provided to the State Troopers. The trial resulted

in a guilty verdict for a lesser-included offense following extensive forensic evidence and a claim of self-defense.

12.

- a. Have you ever held judicial office? If so, give dates and details including the courts involved, whether elected or appointed, periods of service, and a description of the jurisdiction of each of such courts with any limitations upon the jurisdiction of each court. I am currently an Associate District Court Judge, and was originally appointed to the position in April, 2000. I have held the position since, and have been through two retention elections. The jurisdiction is limited to civil claims below \$10,000.00, and to criminal matters that do not exceed the class D felony level. The jurisdiction further includes juvenile court, small claims, and appeals of magistrate decisions.
- b. If during the preceding five years you have been subject to the reporting requirements of Court Rule 22.10, answer the following and provide an explanation of the reasons for any delay:
  - i. Have you filed timely rule 22.10 reports (due on the tenth day of each month)? – Yes.
  - ii. How many matters have you taken under advisement for longer than 120 days? - None.
  - iii. How many matters have you taken under advisement for longer than 180 days? None.
  - iv. How many matters have you taken under advisement for longer than 240 days? None.
  - v. How many matters have you taken under advisement for longer than a year? None.

13. Have you ever held public office other than judicial office? If so, give details, including the office involved, whether elected or appointed, and the length of your service, giving dates. I consider the appointments as District Attorney in Kodiak and Kenai, Alaska to be a public office, even though I was an employee of the State of Alaska Attorney General. These were appointed positions, and I was appointed by the head of the Criminal Division, Larry Weeks, who is now a Superior Court Judge in Juneau. I was not subject to election. I was the District Attorney in Kodiak from 1987 – 1989, and the District Attorney in Kenai from 1989 – 1991.

14. Are you now an officer, director, partner, sole proprietor, or otherwise engaged in the management of any business enterprise or nonprofit organization? If so, give details, including the name of the enterprise or organization, the nature of the business, the title or other description of your position, the nature of your duties and the term of your

service. I am not an officer, director, partner, sole proprietor, or otherwise engaged in the management of any business enterprise or nonprofit organization.

15. Have you ever been convicted or pled guilty to any federal law or regulation, state law or regulation, county or municipal law, regulation or ordinance, excluding convictions that have been properly expunged? If so, give details and disposition. Do not include traffic violations for which a fine of \$250 or less was imposed, unless you were arrested. I have not.
16. Have you ever been assessed or threatened with the assessment of a civil fraud or any criminal penalty in connection with the reporting of or failure to report your federal or state income taxes? If so, give particulars. I have not.
17. Have you ever been the subject of a no-contact order? I have not.
18. Have you ever been the party to any legal proceeding? If so, give the particulars. I was sued by a member of an "ultra-patriot group" in Alaska when I was a prosecutor doing cases involving driver's licenses. Ken Cole was one of the individuals who contended that, due to various constitutional principles, people didn't need driver's licenses to legally drive. I had reported him to the local police when I saw him driving out of the courthouse parking lot. Cole was stopped by the Kenai police. Cole then sued me in Federal Court in the State of Alaska, I think around 1986. The case was ultimately dismissed by the Court for not having any legal grounds to proceed against me. I was also the subject of a prisoner law suit by a person I represented in a post-conviction relief action in Black Hawk County, Iowa. I am sorry; I don't recall his name. This happened around 1995. I had let the case be dismissed administratively at my client's written instruction. The written instruction was signed by him. When the case was dismissed he sued me for not pursuing his case. That suit against me was dismissed by motion as well.
19. Have you ever been publicly disciplined or cited for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give the particulars. As I recall, this was a private reprimand, but in the interest of disclosure, I am reporting this incident. When I was in a partnership with Dunakey and Klatt, a telephone book ad that the firm used was reported for an ethical violation as it appeared to show that I was specialized to practice in the area of probate law, and I was not. This was a violation of rules regarding attorney advertisements. I was given a private reprimand for the ad, which I accepted. I had a number of ethical complaints filed against me by people I represented while with the Waterloo Public Defender's Office. None of them were founded or resulted in any disciplinary action.
20. Furnish at least two examples of legal articles, books, briefs, or other legal writings which reflect your personal work. Indicate the degree to which they represent your

personal work. Please do not provide writing samples that would disclose confidential information, such as a brief submitted in an involuntary commitment proceeding, unless identifying information is removed to obscure the identity of the parties and any information that may allow disclosure of the identity of the parties. I have attached copies of two orders authored by me, one an appeal of a small claim decision, and the other a ruling on a suppression issue in a criminal case. They were written by me alone, although some of the text in these decisions paraphrases materials from reported cases. To that extent there are portions which were not original from me; only the use of them in the context of the decision.

21. List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions. I have none to report. I was an average student in law school.
22. List all bar associations and professional societies of which you are a member and give the titles and dates of any such offices which you have held in such groups. List all chairmanships of any committees in bar associations and professional societies, and memberships on any committees which you believe to be of particular significance. (e.g. grievance committee). I am a member of the Black Hawk County Bar Association; the Iowa Bar Association; the Iowa Judges Association; and the Alaska Bar Association (inactive status). I have not held office in any of those organizations, or been the chair of any committee.
23. Describe any participation you have had in pro bono legal activities and include dates. As a judge I do not participate in such activities, although I have helped to support the local Iowa Legal Aid office with donations.
24. Describe your activities in organizations other than bar associations or professionals associations or professional societies, including civic, charitable, religious, educational, social and fraternal organizations. I am a member of the Unitarian Universalist Society of Black Hawk County and AARP.
25. List not more than five names and addresses of those persons who are in a position to comment upon your qualifications for judicial position and of whom inquiry may be made by members of the commission without embarrassment to you.
  - a. Laura Roan, Assistant Attorney General; 2<sup>nd</sup> Floor, Hoover Bldg, Des Moines, Ia., 50319 (515) 242-6227
  - b. F. Montgomery Brown; Brown & Scott, P.L.C., 1001 Office Park Rd., Suite 108, West Des Moines, Ia., 50265
  - c. Craig Ament, Ament Law Firm, 311 E. 4<sup>th</sup> St., Waterloo, Ia., 50703, (319) 232-2700



- d. Greg Griener, Waterloo Public Defender's Office, 304 1<sup>st</sup> National Bldg,  
Waterloo, Ia., 50703 (319) 291-2535
- e. Tammy Banning, Banning Law Office, 211 E. 5<sup>th</sup> St., P.O. Box 1586, Waterloo, Ia.,  
50704-1586 (319) 232-3370

26. Why are you seeking this position? There are several reasons. First, I think that I am well qualified, based upon my background as a litigation attorney as well as my experience as a judge working with a busy trial court docket. The combination of these two qualifies me for the position. My trial experience runs the gamut from murder cases to municipal ordinance infractions; from automobile accidents to divorce. Second, I think that the justices who were recently removed were all good justices, and I felt it would be appropriate to apply as a demonstration of support for them. Finally, just being able to apply for this position is a personal honor. Few are selected to "carry the torch" for a short while during our lifetimes and careers. To me this is an incredibly important responsibility in a constitutional democracy, and I would be honored by an opportunity to help carry that torch forward a little ways further in time.
27. How would your appointment enhance the court? I would bring extensive experience in litigation, including extensive courtroom experience at many levels, to the appellate bench. I have an ability to analyze problems and situations fairly quickly and have a very practical approach to this process. I consider myself reserved in terms of intervening in court decisions absent an error of law or abuse of discretion at the trial court level, and some demonstration of actual resultant harm. I believe that I can express myself clearly, and that I am able to apply legal principles to fact situations in understandable language.
28. State any other information which may reflect positively on you or which you believe would assist the Commission in selecting nominees. I have nothing to add. You should feel free to contact any attorney mentioned in this application for a totally confidential communication about my abilities and qualifications. I would never inquire of them or you regarding such communications. Thank you.

Submission of this questionnaire expresses my willingness to accept appointment to the position of Justice of the Iowa (Supreme Court, Court of Appeals), if tendered by the Governor.

Dated \_\_\_\_\_ Signed \_\_\_\_\_