



ESTABLISHED 1934

## JUDICIAL CANDIDATE QUESTIONNAIRE

The answers to the following questions will appear on the websites of the *Detroit Free Press*, the Oakland County Bar Association, and the League of Women Voters - Oakland Area. Please be concise in your answers. Answers to the questions on page 9 will appear in the League of Women Voters Oakland County Voter Guide.

### INSTRUCTIONS:

1. Answer all questions completely and accurately and return this questionnaire to Jennifer Roosenberg at [jroosenberg@ocba.org](mailto:jroosenberg@ocba.org).
2. Print the Certificate of Accuracy. Sign, scan, and return it to the email listed above, fax to (248) 334-7757, or mail to the Oakland County Bar Association, ATTN: Jennifer Roosenberg, 1760 S. Telegraph Rd., Suite 100, Bloomfield Hills, MI 48302.

**COMPLETED QUESTIONNAIRES AND CERTIFICATE OF ACCURACY MUST BE RECEIVED AT THE OAKLAND COUNTY BAR ASSOCIATION BY**

***THURSDAY, AUGUST 1, 2018 AT 5:00 P.M.***

### I. PUBLIC INFORMATION:

1. Name: **Jake Cunningham**
2. Name as it will appear on the ballot: **Jake Cunningham**
3. Judicial Office you are seeking: **Judge, Sixth Judicial Circuit Court  
Oakland County, Michigan**
4. Campaign website address: [www.jake4judge.com](http://www.jake4judge.com)  
<https://www.facebook.com/jakeforjudge>
5. Community in which you live: **Ferndale, Michigan**
6. Date of Birth: **August 10, 1985**  
  
Place of Birth: **Pontiac, Michigan**

7. Have you ever been known by another name not listed above? YES NO

If YES, what was it?

8. Please state your marital status. Provide your spouse's full name, including maiden name, if applicable. List your spouse's occupation, employer's name and business address(es).

**I am not married.**

9. Military Service: Have you had any military service? If so, provide particulars, including the dates, branch of service, rank or rate, and type of discharge received.

**N/A**

10. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

**Wayne State University, 2004-2005;  
Oakland University, 2005-2007, Bachelor of Arts Degree in Sociology;  
Western Michigan University Thomas M. Cooley Law School 2008-2012, Juris Doctor.**

11. Employment Record: List (by year) the following activities:

- A. All non-law-related business and professional activities, including employment by corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise. Include firms with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

**Lululemon Athletica, Sales Associate & Visual Merchandising Team,  
April 2008 - August 2010.**

- B. All law-related professional activities, including the names of all law firms, corporate law departments, courts, governmental agencies, and private agencies, with which you were affiliated, and including the names of other lawyers with whom you were associated in any informal association.

**Sixth Circuit Court, Judicial Staff Attorney to Hon. Mary Ellen Brennan,  
2014 – present;  
Sixth Circuit Court, Judicial Clerk to Hon. Wendy Potts, 2012 – 2014;  
Sixth Circuit Court, Intern to Hon. Wendy Potts, 2011;  
Williams, Williams, Rattner & Plunkett, P.C. Birmingham, MI, Law Clerk,  
2007-2008 and 2011.**

- C. If your past employment includes service as a law clerk to a judge, state the name of the judge, the court, and the dates of your service.

**Please see above.**

12. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

**N/A.**

13. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

**N/A.**

14. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the public.

**Certificate of Merit/Book Award, Western Michigan University Thomas M. Cooley Law School: Family Law 2011, Tax Fraud, 2011.**

15. Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations (other than bar associations or professional societies) to which you now or ever have been a member. If you are no longer a member, state the approximate date your membership ceased.

16. List all bar associations and professional organizations of which you are or were a member and include the dates of membership. Also indicate whether you have served as an officer or committee chair of a bar association, professional society, or similar organization.

**State Bar of Michigan;**

**Oakland County Bar Association:**

**Professional Development Committee Chair (2016-2018), Vice-Chair (2014-2016);**

**New Lawyers Committee Vice-Chair (2016-2018), Director (2013-2016);**

**Inns of Court Associate Member 2013-2015;**

**Inns of Court Programing Committee 2013-2016;**

**Holiday Gala Advisory Committee;**

**Circuit Court Bench Bar Planning Committee 2015;  
Oakland County Bar Foundation Fellow;  
American Bar Association, Member;  
Federal Bar Association for the Eastern District of Michigan, Member;  
Incorporated Society of Irish American Lawyers, Member;  
Armenian American Bar Association, Member;  
Michigan Inter-Professional Association (MIPA), Member.**

17. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

**State Bar of Michigan, 2012 – present.**

18. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the public. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them. If any of this material is available online, please include an appropriate link; if the material is available in print format only, please scan the text and append to your responses in electronic format.

**I have no published writings under my own name. However, on behalf of the Oakland County Circuit Court and Judge Mary Ellen Brennan, I have assisted in drafting, editing, and issuing hundreds of opinions and orders on a wide variety of matters, all of which are publicly filed.**

19. With respect to the last five years:

a. Did you appear in court regularly, occasionally or not at all?

**I appear in the Oakland County Circuit Court every day on behalf of the court.**

b. What percentage of these appearances was in:

- 1) federal courts
- 2) state courts of record **100%**
- 3) other courts

c. What percentage of your litigation was: **N/A, please see answer “f” below.**

- 1) Civil
  - 2) criminal
- d. State the number of cases you tried to verdict or judgment (rather than settled) in courts of record, indicating whether you were sole counsel, chief counsel, or associate counsel.

**N/A, please see answer “f” below.**

- e. What percentage of these trials were: **N/A, please see answer “f” below.**
- 1) jury
  - 2) non-jury
- f. If you believe the responses to (a) through (e) above do not reflect your experience, please describe any experience, which you consider the equivalent of trial experience.

**I am a unique candidate for judicial office because of my extensive experience in both the substantive areas of the circuit court’s jurisdiction and institutional knowledge of the court from working in multiple roles on all three of the court’s dockets. All my trial experience has been on behalf of the court in working with the judges to craft and issue appropriate rulings. I have extensive experience working as a neutral conducting pre-trial settlement conferences and mediations on every type of case within our court’s jurisdiction with a high settlement rate. I have assisted the court in deciding cases, motions, and evidentiary hearings. I have assisted attorneys and the court in drafting particularized jury instructions for nuanced jury cases where standard instructions were inapplicable. I have drafted memoranda and performed legal research on thousands of motions, drafted hundreds of opinions, and drafted thousands of substantive, complex, and procedural court orders. In addition to my hands-on litigation experience, I have also had the unique opportunity to be mentored by many circuit-level judges throughout my career who have graciously worked with me, and allowed me to hone the skills necessary to be a judge. Unlike most candidates running for this office, I will know on day one what to expect as a judge and I will be equipped to effectively run my courtroom and manage my docket. All of my effort, training, and expertise have been on behalf of the court for which I am now seeking election as a judge.**

20. Describe two (2) of the most significant trials, litigated matters, or matters that would be

representative of your litigation experience, which you personally handled and give the citations, if the cases were reported. Give a capsule summary of the substance of each case, the nature of your participation in the litigation, the date of disposition, the final disposition of the case, and a succinct statement of what you believe to be the particular significance of the case.

**I assisted the court in drafting a comprehensive opinion and order on a termination of parental rights case which was recently affirmed by Michigan's Court of Appeals (see *In re Obille*, unpublished per curiam opinion of the Court of Appeals, issued July 12, 2018 (Docket No. 341821)). In that case, the parents of three young children established a guardianship with the maternal grandparents for all three children. The guardianship endured for such a substantial time without any indication the parents would seek to terminate the guardianship that the probate court eventually ordered the guardians to request termination of the parents' parental rights in the family court. The multi-phase termination of parental rights proceedings culminated in two extensive opinions, one on whether a statutory basis existed to terminate the parents' parental rights and the other opinion discussed whether termination of the parents' parental rights was in the children's respective best interests. I believe the court's ruling in this case, as well as the Court of Appeals' affirmation of the opinion I helped create, demonstrates my hands-on knowledge in working with the abuse/neglect docket which is both substantively and procedurally complex, and always appealable as of right following a trial court's disposition.**

**In another recent case, I assisted the court in drafting a summary disposition opinion and order in May 2017 where the court was tasked with answering whether one party of a former same-sex couple could sustain a claim under Michigan's equitable parent doctrine in light of the United States Supreme Court's landmark *Obergefell* case. See *Obergefell v Hodges*, 576 US \_\_\_ (2015). Ultimately, the facts compelled the court to dismiss Plaintiff's custody complaint finding the Plaintiff was unable to assert herself as an equitable parent to the children at issue and therefore she could not assert custodial rights to the children. The opinion and order I assisted in writing required extensive knowledge of family law and the interplay between existing Michigan case law, family law and custody legal principals, and post-*Obergefell* application to same-sex couples. The facts required extensive research and analysis. The court's ruling was not appealed.**

21. Have you ever taught a law course at a college or law school? If so, provide particulars, including courses taught and any significant committee work or other contributions while a faculty member.

**Yes. I taught Introduction to Law at the Western Michigan University Thomas M. Cooley Law School from 2012-2014 as an adjunct professor.**

22. Describe any pro bono or community service activities in which you have engaged.

**On behalf of the Oakland County Bar Association, I have participated in legal aid clinics in both Southfield and Ferndale. In addition, The Oakland County Bar Association's New Lawyers Committee typically designates a charity each year to support, and in that effort, I have chaired sub-committees aimed at organizing fundraising events that raised thousands of dollars for charities including Pets for Vets.**

23. Have you ever been admonished, reprimanded, suspended, disbarred or otherwise 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, provide details and describe the conduct that led to discipline or citation.

**No.**

24. Have you ever been convicted of any federal, state, county or municipal crime (excluding non-alcohol-related traffic offenses)? If yes, give details.

**No.**

25. Are you aware of any physical, mental, substance abuse, substance addiction, or emotional health impediments to your serving in the judicial position you seek? If yes, give details.

**No.**

26. Please provide the names of all organizations that have endorsed your candidacy. Also provide the names of all organizations for which you will, or have already, requested an endorsement including endorsements that are currently pending or have been denied.

**I am pleased to have been endorsed by: the Michigan Association for Justice, the Michigan Building and Construction Trades Council, the Michigan Maritime Trades Port Council, and Congresswoman Brenda Lawrence of Michigan's 14th Congressional District. I have also been endorsed by a substantial number of judges, including the entirety of the Oakland County Circuit Court Family Division and the Chief Judge of the Oakland County Probate Court.**

**I have requested endorsements from the United Automobile Workers (UAW), the Oakland County Democratic and Republican parties, Victory Fund, Pride PAC, the Metro Detroit AFL-CIO, AFSCME, the National Organization for Women, a variety of other local union organizations, and police and fire organizations. These organizations will be listing their endorsed candidates following the August 7 primary election. To my knowledge, no organization to which I have applied has declined to endorse me.**

27. Identify a current or former judge whom you admire and explain why.

**The judge I admire most is Judge Wendy Potts. Judge Potts has served in Oakland County's Probate and Circuit courts and enjoys an unparalleled reputation for her thoroughness, attention to detail, and compassion. Judge Potts inspired me through both her public service and as a personal mentor who has been instrumental in encouraging me to run for judge. Judge Potts was the first judge, of many, to show me what it means to be a jurist, how to conduct court proceedings effectively and efficiently, and how to run a judicial chambers. It would truly be an honor to carry on her legacy.**

28. What skills do you possess that qualify you for the judicial office you are seeking?

**I am a uniquely qualified judicial candidate. Over the course of my career, I have had the benefit of working for and have been mentored by the judges I have worked directly for and other judges currently serving and retired. I have the insight and unparalleled hands-on working knowledge in the Oakland Circuit Court's substantive areas of jurisdiction. I am the only candidate for this position who has served in the court on the general civil, business, and family dockets. I have actually participated in the judicial decision-making process and worked with judges who have taught me about making rulings, managing their dockets, and handling difficult cases.**

29. How do you deal with difficult people, including peers, lawyers, judges, clients and litigants?

**Judges have a duty to ensure their courtrooms run effectively and appropriately. In my career, I always make sure any matter I'm involved in, whether it be a private settlement conference, public motion hearing, or trial, is similarly conducted with respect, efficiency, and integrity. When individuals become difficult, which can especially become the case on the family docket, it is my duty currently as an officer of the court and would continue to be my duty as a judge to address that behavior. Stern verbal warnings typically, in my experience, are most effective. Occasionally, extreme cases call for the presence of a court deputy or a brief adjournment of proceedings to allow individuals a few minutes to collect themselves. Initiating contempt proceedings is an extreme last resort.**

30. If you observed a party in your courtroom being poorly represented by an unprepared or ineffective lawyer, how would you handle the situation?

**All parties are entitled to competent counsel, regardless of whether an attorney is court appointed or retained. In egregious cases of poor representation, I**

**would consider removing the attorney or adjourning the matter. However, judges should not substitute their own litigation judgment for that of an attorney actively engaged in representing their client.**

31. Describe the three most important factors that you would consider in fashioning a sentence in a criminal case.

**First, I would consider the nature and gravity of the crime. I would also consider the victim in cases where the victim is a person, as opposed to property. In the case of those victims who may not be able to defend themselves such as children, the elderly, or the disabled, I would consider that an aggravating factor, because I believe our justice system should serve to protect its most vulnerable populations. Finally, I would consider a defendant's prior criminal background, if any, and whether rehabilitative efforts are recommended. In this vein, I would also look to see if a defendant is eligible for life-skills services, mental-health or substance-abuse treatment, or whether they are eligible for a specialty court program such as Veterans Court, Juvenile Drug Court, or Adult Treatment Court.**

32. When called upon to "interpret" law, what considerations do you believe appropriate, and what, if anything, should not be considered?

**Judges should be careful to avoid interpreting the law beyond the plain meaning or words and phrases contained in statutes. In situations in which a court must resolve a question of interpretation or resolve an ambiguity, the first place I would look to is the legislative intent behind the statute in question and to relevant case law. A judge's personal feelings on any given subject matter, such as political affiliations or religious beliefs, should never be a consideration when a judge is called to interpret a statute or in making any rulings.**

## II. LEAGUE OF WOMEN VOTERS VOTER GUIDE

The League of Women Voters Oakland Area distributes a Voter Guide to assist and inform citizens in casting their ballots. In the Voter Guide the League will include the answers to the three items below, provided each of your answers is limited to no more than 125 words. Some of the information will have been included already in the answers to the preceding questions. Only the first 125 words will be printed in the League of Women Voters–Oakland Area’s Voter Guide.

1. Summarize your biography, including your education (degrees conferred, colleges and law school), career and employment experience, elected offices held, community service activity, organizational affiliations, and other pertinent information.

**I received my B.A. from Oakland University, and law degree from Western Michigan University Thomas M. Cooley Law School, where I later taught as an adjunct professor. During college and law school, I clerked at the Birmingham law firm of Williams, Williams, Rattner, and Plunkett in addition to working in retail sales. I then began my career at Oakland Circuit Court, clerking in general civil and business courts. I am currently a staff attorney in the court’s family division. I have served in leadership roles on Oakland County Bar Association committees including Chair of the Professional Development Committee. I am a member of the American, Irish and Armenian Bar Associations, the Eastern District of Michigan Federal Bar Association, and the Michigan Inter-Professional Association.**

2. Describe the general nature of your law practice or other legal work you have done, the typical clients you have represented, areas of specialty or concentration, and the geographic region of your practice.

**I am a judicial staff attorney to Judge Mary Ellen Brennan in the Oakland Circuit Court’s family division. I assist in the decision-making process in all family division matters including: divorce, child and spousal support, paternity establishment and revocation, custody, parenting time, adoptions, juvenile delinquency, termination of parental rights and personal protection orders. I have a high pre-trial settlement success rate and am in court every day. Previously, I clerked for Judge Wendy Potts on both her general civil docket and business court docket. There, I assisted in deciding civil matters where \$25,000 or more was at issue, on statutorily-defined business cases, and on felonies. I have assisted the court in deciding thousands of motions of all kinds.**

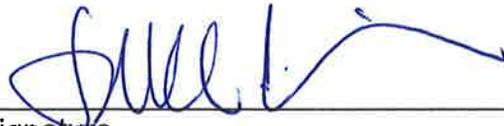
3. Why should voters elect (or re-elect) you to judicial office; what qualities (e.g. temperament, diligence, etc.) and experiences do you have that commend you to the judicial office you seek?

**I am the only candidate who has helped decide cases in Oakland Circuit Court, and I now serve as staff attorney in the family division of the court- the very same division where the newly elected judge will sit. Throughout my career I have worked on difficult cases on all our Circuit Court's dockets. I have worked with attorneys and unrepresented persons to effectively resolve disputes without the need for trials or hearings. I have earned a reputation for having the legal acumen, temperament, attention to detail, and docket-management skills required of a first-rate judge. Because of my training and qualifications for this position, I have the endorsement of the entire Oakland County Circuit Court Family Division bench.**

Certificate of Accuracy

I, Jake Cunningham, hereby certify that all of the information contained in my answers to this Judicial Candidate Questionnaire are true to the best of my knowledge, information and belief. I am a candidate for the Sixth Judicial Circuit Court

Date: 8.1.2018



Signature

Jake Cunningham

Print