PENNSYLVANIA BAR ASSOCIATION JUDICIAL EVALUATION COMMISSION 2001 CANDIDATE RATINGS

Supreme Court of Pennsylvania Retention Candidate

Justice Stephen A. Zappala Rating: Recommended

Now the second-most senior member of the Supreme Court, Justice Zappala had a long and distinguished tenure on the Court since first being elected in 1981. He is recognized as having a sharp legal mind and as the author of opinions, which are well written, well reasoned, and well grounded in the applicable facts and law. Justice Zappala has demonstrated sound judicial temperament during his years on the Court, and is seen as open minded, even handed, and fair. During oral argument, he asks relevant and thoughtful questions which demonstrate his firm grasp of the pertinent facts and law. Justice Zappala is widely regarded as having served as an important stabilizing influence on the Court during a very difficult period in the Court's history when a former member of the Court was impeached. He enjoys deserved respect among lawyers and members of the judiciary as an accomplished and experienced jurist. For all of these reasons, the Commission recommends that Justice Zappala be retained.

Superior Court of Pennsylvania Retention Candidate

Judge Stephen J. McEwen, Jr. Rating: Recommended

Judge McEwen was elected to a 10-year term as a Judge of the Superior Court in 1981 and was retained for a second 10-year term in 1991. The Judges of the Superior Court elected Judge McEwen as President Judge of the Pennsylvania Superior Court for a five-year term concluding in 2001. Judge McEwen has been an active lecturer at universities and law schools and a frequent author of legal articles. A review of the broad sample of opinions that he has authored indicates that they are well thought out, well researched and clearly written. Even parties who have been unsuccessful when arguing in front of Judge McEwen have acknowledged his opinions to be both thoughtful and well founded. Everyone interviewed had tremendous respect for his judicial ability and the fact that he deals with counsel with courtesy and respect. He is viewed as hardworking, exceptionally intelligent and very disciplined. His service as President Judge of the Superior Court received uniformly high praise. He possesses the combination of skills and traits that would permit him to continue to serve with distinction on the Superior Court.

Commonwealth Court of Pennsylvania Retention Candidate

Judge Rochelle S. Friedman Rating: Recommended Judge Friedman has served as a Commonwealth Court Judge for the past ten years. During that time she has earned a reputation for being well prepared, courteous and fair and appears to understand the role of an appellate court judge. A review of her opinions indicates that, for the most part, they are properly researched and reasoned. Based on numerous interviews with members of the Bar who have appeared before her and a review of her body of work, the Commission recommends that Judge Friedman be retained.

SUPREME COURT OF PENNSYLVANIA HIGHLY RECOMMENDED

JUDGE JOHN CLELAND Supreme Court Rating: Highly Recommended

The Candidate has served with distinction for more than 16 years as President Judge of the McKean County Court of Common Pleas, a one-judge county. He previously practiced in a broad-based, general practice firm. He is recognized as a highly competent, honest, independent, hard working, fair-minded judge who has performed admirably under the weight of a very heavy caseload and in the face of an inadequate County budget. He is very courteous and sensitive to conflicting viewpoints. He has developed and implemented numerous creative programs in McKean County designed to improve the quality of the judicial system. He also has been an active participant in the Pennsylvania Conference of State Trial Judges. The Candidate is refreshingly self-effacing, kind, patient and reflective. The Commission believes the candidate would bring a unique perspective and a wealth of experience to either the Supreme Court or the Superior Court and highly recommends his candidacy.

JUDGE J. MICHAEL EAKIN

Supreme Court

Rating: Highly Recommended

The Candidate has earned a reputation for unquestioned integrity, outstanding character, compassion and intellect. He is an experienced, sincere, incisive, fair and impartial jurist who displays a unique sensitivity to, and respect for, all litigants and advocates who appear before him. He has a humble, courteous manner, a refreshing sense of humor, and a strong sense of community and professional involvement. His opinions demonstrate sound reasoning and clear analysis and he has a strong commitment to advancing the public's understanding of the law. Judge Eakin is ideally suited and prepared for the increased responsibilities of a Justice of the Supreme Court of Pennsylvania. He possesses all of the traits necessary to make significant contributions to the Supreme Court of Pennsylvania and the administration of justice in the Commonwealth.

JUDGE KATE FORD ELLIOTT

Supreme Court

Rating: Highly Recommended

The Candidate was elected to a 10-year term as a Judge of the Superior Court in 1989 and was retained for a second 10-year term in 1999. Prior to becoming a judge, the Candidate served as a law clerk at the Superior Court and as its Chief Staff Attorney. Her career in the judicial system

has afforded her significant insight into the appellate process. The Candidate is courteous, wellprepared, articulate and intelligent. Her legal ability and scholarship are evidenced by her wellreasoned and sound opinions. She has maintained a visible presence in both the legal and outside communities. Her many endeavors with civic and cultural organizations have convinced her that the quality of justice is improved by the courts' maintaining contact with the public to avoid the "ivory tower" syndrome. The Candidate is personable and self-effacing and has an ideal judicial temperament. She possesses the highest combination of skills and traits that would permit her to serve with distinction on the Commonwealth's highest Court.

Commission member Riley did not participate in the evaluation or rating of this Candidate.

SUPERIOR COURT OF PENNSYLVANIA

HIGHLY RECOMMENDED

JUDGE MARK I. BERNSTEIN Superior Court Rating: Highly Recommended

The Candidate has experience in private practice as an assistant public defender, as a sole practitioner, as a partner in a mid-sized law firm and as an elected Judge of the Court of Common Pleas since 1987. He writes extensively for numerous legal publications and demonstrates an extremely clear writing style that is cogent, well researched and well reasoned.

Very concerned about the quality of justice, the Candidate demonstrates a sincere desire to provide guidance to litigants and lawyers through his thoughtful judicial opinions. Administratively, he took a lead role in developing the "Day Forward" program in his Court which has dramatically improved case disposition. He enjoys the highest reputation for character, fairness and integrity and possesses all of the qualifications required to perform the responsibilities of a Judge of the Superior Court with distinction.

JUDGE JOHN CLELAND

Superior Court

Rating: Highly Recommended

The Candidate has served with distinction for more than 16 years as President Judge of the McKean County Court of Common Pleas, a one-judge county. He previously practiced in a broad-based, general practice firm. He is recognized as a highly competent, honest, independent, hard working, fair-minded judge who has performed admirably under the weight of a very heavy caseload and in the face of an inadequate County budget. He is very courteous and sensitive to conflicting viewpoints. He has developed and implemented numerous creative programs in McKean County designed to improve the quality of the judicial system. He also has been an active participant in the Pennsylvania Conference of State Trial Judges. The Candidate is refreshingly self-effacing, kind, patient and reflective. The Commission believes the candidate would bring a unique perspective and a wealth of experience to either the Supreme Court or the Superior Court and highly recommends his candidacy.

ROBERT A. GRACI, ESQUIRE Superior Court Rating: Highly Recommended

Currently serving as Assistant Executive Attorney General, the Candidate has extensive experience as a prosecutor and currently is the Commonwealth's chief appellate lawyer for criminal appeals. Throughout his practice, he has demonstrated excellent ability to interpret and apply legal principles and is regarded as a first rate trial lawyer. His legal writings are well written, researched and presented. His ethical standards are the highest and his integrity and sense of fairness are unquestioned. He possesses all the qualifications required to perform the responsibilities of a judge of the Superior Court of Pennsylvania with highest distinction.

JUDGE RICHARD B. KLEIN

Superior Court

Rating: Highly Recommended

The Candidate is highly recommended based upon his outstanding legal intellect, his dedication to the improvement of the justice system and the development of the judiciary and his active work in improving the skills of lawyers. The Candidate combines superior legal skills with a passion for the law and a solid judicial temperament which he has demonstrated through his long and distinguished tenure as a judge on the Court of Common Pleas. In addition to his responsibilities as a trial judge, the candidate has long been actively involved in efforts to improve the quality of justice. He is involved in restructuring the court system in the 21st Century as a member of the Futures Commission. The candidate possesses the character, integrity, fairness, administrative ability, and varied background, including exemplary community service and a long-term commitment to teaching, which represent the best qualities in an appellate judge.

JUDGE CAROL K. MCGINLEY

Superior Court

Rating: Highly Recommended

The Candidate has served as a Common Pleas Judge in Lehigh County for 15 years. Her service on the court, in addition to her prior private, general practice and her service as an appellate public defender has provided her with a broad base of experience and extensive knowledge of the law. Her demonstrated ability to apply legal principles would serve her well on the Superior Court. Her legal opinions are well written with clarity and depth. In addition, the Candidate is recognized for the respect and even-handedness which she extends not only to lawyers, but also to litigants and court personnel. Her sense of fairness was repeatedly noted by her colleagues. She is energetic, pragmatic, very bright and thoughtful. Her sense of humor and self-effacing approach are refreshing and would serve her well in building consensus as a Judge of the Superior Court.

RECOMMENDED

JUDGE DAVID S. CERCONE Superior Court Rating: Recommended

The Candidate has served as an assistant district attorney for three years, a district justice for

three years and then sixteen years as a Judge of the Court of Common Pleas of Allegheny County. In this capacity, he was appointed to preside and administer the Criminal Court Division for six years. During his tenure, Judge Cercone has earned a reputation of being conscientious, diligent, unbiased and fair in his deliberations. He has gained respect from both the students and faculty as a college educator. His calm demeanor and excellent judicial temperament, coupled with his judicial and administrative experience, all represent qualities that make the Candidate competent to fulfill the demanding responsibilities of a Superior Court Judge.

JUDGE CYRUS DOLBIN

Superior Court

Rating: Recommended

The Candidate is a third generation judge who has earned respect as a thoughtful, even-tempered and considerate jurist. Prior to becoming a Common Pleas judge in 1991, he served as an assistant district attorney for 7 years and maintained a varied, general law practice for an additional 10 years. The Candidate has presided over a broad range of cases and has been an active participant in many community organizations. Cautious and deliberate in his decision-making, Judge Cyrus Dolbin is competent to fulfill the responsibilities of a Superior Court Judge.

JUDGE D. WEBSTER KEOGH

Superior Court

Rating: Recommended

The Candidate has served as a Common Pleas Judge in Philadelphia for 10 years. He previously worked in private practice representing clients in both civil and criminal matters and also worked for seven years in the Office of the District Attorney of the City of Philadelphia where he rose to the position of Executive Deputy District Attorney. He is known as a fair, attentive, punctual and very patient trial judge whose opinions are concise and clearly written. The Commission finds that the Candidate exhibits all of the qualifications necessary to properly fulfill and satisfy the functions of a judge of the Superior Court of Pennsylvania.

NOT RECOMMENDED

MARY JANE BOWES, ESQUIRE Superior Court Dating: Not Becommonded

Rating: Not Recommended

The Candidate has knowledge of the workings of the appellate courts, having clerked for judges on both the Superior and Supreme Courts over a six-year period early in her legal career. From 1986 until 1998, she practiced primarily civil litigation and business law at several firms before becoming corporate counsel to a large environmental remediation firm. She is recognized by her peers as a bright and competent lawyer. She has a strong record of community involvement. Despite her 21 years at the bar, her trial and appellate advocacy experiences are extremely limited. The Commission concludes that the Candidate, while possessing some admirable qualities, at this point in time, lacks the depth and breadth of experience required to satisfactorily perform the demanding responsibilities of a Judge of the Superior Court.

DAVID N. WECHT, ESQUIRE Superior Court

Rating: Not Recommended

The Candidate has a sound and impressive academic background and a keen intellect. He possesses a varied legal background, having served as a law clerk to a federal circuit court of appeals judge, a practitioner in civil and criminal matters and appellate work, an adjunct law professor and lecturer and now as the elected Register of Wills of Allegheny County. His 13 years of private law firm association have given him experience in various areas of litigation. However, his experience in appellate work has been limited, and his position as Register of Wills, while quasi-judicial in nature, further limits his ability to spend more time in the trial and appellate arenas. Persons interviewed by the Commission expressed very mixed views about the Candidate. While some commended him for his intellect, energy and ability, others questioned his temperament and judgment. While his work generally appears good, the Commission concludes that, at this time, he lacks the requisite experience, temperament, and breadth and depth of knowledge necessary to fully meet the responsibilities of a Judge of the Superior Court.

COMMONWEALTH COURT OF PENNSYLVANIA HIGHLY RECOMMENDED

C. GRAINGER BOWMAN, ESQUIRE

Commonwealth Court

Rating: Highly Recommended

The Candidate brings an uninterrupted history of involvement with the Commonwealth Court since the inception of that Court. His substantial, extensive and on-going experience in complex and noteworthy matters, his legal skills and his professionalism have earned for him an unqualified reputation for excellence among the bench and the bar. He is equally committed to community and bar activities in numerous leadership positions. He would bring to the Commonwealth Court a rare combination of scholarship, integrity, character and ability. Accordingly, the Commission believes that the Candidate would serve with distinction on the Commonwealth Court.

MICHELLE LALLY, ESQUIRE Commonwealth Court

Rating: Highly Recommended

The Candidate presents a combination of legal ability and temperament that make her an excellent candidate for Commonwealth Court. Her experience as a sole practitioner, as a litigator, as a Special Master, a federal arbitrator and a member of the Allegheny County Board of Viewers gives her the experience and background that will serve her well as a member of the Commonwealth Court. The Candidate has a keen sense of justice, possesses a sharp intellect and a superior work ethic. She can be counted on to be well prepared. In addition, she has demonstrated a capacity for patience, courtesy and respect in dealing with opposing counsel and others in the courtroom. Ms. Lally has volunteered extensively in her community and has devoted substantial time and effort to improving the quality of justice.

MARY HANNAH LEAVITT, ESQUIRE

Commonwealth Court

Rating: Highly Recommended

The Candidate is extremely bright and articulate and has a strong academic background. She

brings to the candidacy 23 years of experience in administrative practice and procedure both in the public and private sectors. Her experience as counsel to the Pennsylvania Insurance Department, in particular, has provided precisely the type of background that one should bring to the work of this Court. Her writing is clear and concise and demonstrates excellent critical analysis skills and legal ability. By all reports she is regarded as intelligent, organized, pragmatic, prepared, and persuasive. She possesses the intellect, professionalism, scholarship and temperament to serve with distinction as a judge of the Commonwealth Court.

(Commission member Turner recused himself from participation in the evaluation or rating of this Candidate.)

JUDGE ROBERT E. SIMPSON, JR. Commonwealth Court Rating: Highly Recommended

The Candidate has served with distinction on the Court of Common Pleas for eleven years. He previously practiced in a private firm where his practice included municipal law, zoning matters and workers' compensation, all matters that are within the jurisdiction of the Commonwealth Court. The Candidate is intelligent, courteous, fair and possessing excellent writing ability, knowledge of the law and judicial temperament. He has been highly innovative and instituted mini-trials in order to reduce case backload and effect the settlement of civil cases in his County. He has been active in both civic and bar association affairs. In recent years, he has taught and continues to teach as an Adjunct Professor of Law at the Dickinson School of Law of the Penn State University. The Candidate is at once thoughtful and decisive. Having served as a law clerk in the early years of the Commonwealth Court, the Commission believes that the Candidate would bring commitment, enthusiasm, excellent perspective and depth of experience to the Commonwealth Court.

RALPH J. TETI, ESQUIRE Commonwealth Court Rating: Highly Recommended

The Candidate has an astonishingly broad range of knowledge and experience in the substantive areas of law that fall within the jurisdiction of the Commonwealth Court. For the past quarter century, he has served in public service as well as private practice and earned the respect of members of the bench and the bar. His range of experience includes zoning, municipal law, workers' compensation, unemployment compensation, public employment, labor law, public school employment law and election law. He is intellectually gifted, articulate and possessed of great analytical skills all of which would serve him well on the Commonwealth Court. The Candidate writes cogently with style and insight. The Candidate is self-effacing and cognizant that the law involves people as well as legal principle. He exhibits sound professional judgment, good judicial temperament and the ability to build consensus in a collegial manner.

Commission member Willig did not participate in the evaluation or rating of this Candidate.

RECOMMENDED

RENEE LEVINE COHN, ESQUIRE Commonwealth Court Rating: Recommended

The Candidate has had a sterling academic background during which she has demonstrated her keen intellect. She is a very bright and articulate person who has obtained valuable experience teaching at two law schools. Her 12 years of private sector law firm experience as an associate and a partner has exposed her to many varied litigation matters. More specifically, her subsequent positions in the public sector and as senior in-house legal counsel of a regulated telecommunications company have provided particularly apt experience in the types of matters that are within the appellate and original jurisdiction of the Commonwealth Court. By all reports, she is regarded as hardworking, well organized and extremely honest. The candidate has the proper temperament, demonstrated commitment and high intellect to serve as a judge of the Commonwealth Court.

CHARLES J. CUNNINGHAM, ESQUIRE

Commonwealth Court

Rating: Recommended

The Candidate has extensive experience as a skilled trial lawyer in both criminal and civil matters. He has served his profession and his community well during his 28-year career as an attorney - first with the Philadelphia District Attorney's Office - and later in private practice. The Candidate is a person of high integrity, held in high regard by members of the bench and members of the bar and demonstrates patience, thoughtfulness and consideration of others. The Commission believes that the Candidate exhibits all of the qualifications necessary to properly fulfill and satisfy the functions of a judge of the Commonwealth Court of Pennsylvania.

THOMAS DEVLIN, ESQUIRE

Commonwealth Court

Rating: Recommended

The Candidate offers 20 years of legal study and practice in diverse areas, including a solo practice, government work, civil litigation and as a law clerk to two respected Judges of the United States Bankruptcy Court. The Candidate currently serves as Senior Deputy Attorney General in the Charitable Trusts and Organization Section, a position of considerable responsibility. He has a demonstrated desire and capacity to learn and is a certified mediator. He demonstrates a fundamental interest in justice and fairness and has the adequate legal knowledge, analytical and administrative skills and temperament necessary to serve on the Commonwealth Court.

JAMES J. DODARO, ESQUIRE Commonwealth Court Rating: Recommended

The Candidate has a solid academic and an extensive legal background, particularly in representing political subdivisions. He combines those backgrounds and experience with administrative skills that have helped garner him a reputation for being confident, motivated, decisive, intelligent, articulate and a leader. In that regard, he has held, or continues to hold, a number of high profile legal positions, including Allegheny County Solicitor, where he directed a staff of forty-five (45) attorneys, as first director of the Allegheny County Department of

Development, where he headed a staff of ninety (90), and as Solicitor to the newly formed Allegheny Council. The Candidate also has an outstanding record of public service and community involvement. He is held in high regard by his peers. While he has supervised trial teams of lawyers, Mr. Dodaro has not had recent in-depth trial or appellate experience. The Commission has concluded that Mr. Dodaro possesses the legal ability, integrity and temperament which would enable him to perform the responsibilities of a Judge of the Commonwealth Court.

CYNTHIA M. MALESKI, ESQUIRE Commonwealth Court Rating: Recommended

The Candidate's background reflects an unusual blend of experience which provides her with the credentials necessary to serve on the Commonwealth Court. She has served as general counsel to a large hospital and as regulatory counsel for a major health insurance company. She also served for three years as Pennsylvania's Insurance Commissioner, where she was an adjudicator, rehabilitator and liquidator, and also investigated insurance practices and oversaw licensure matters. She has a broad base of legal knowledge in many of the substantive areas that are within the jurisdiction (both original and appellate) of the Commonwealth Court. In addition, she has a noteworthy and longstanding commitment to public and community service. Her varied background, her reputation for professionalism, and her even-handed temperament, all enable the Commission to recommend her for a position on the Commonwealth Court.

NOT RECOMMENDED

JAMES G. STOCK, ESQUIRE Commonwealth Court (Potential Candidate) Rating: Not Recommended

The potential Candidate began his legal career by serving capably as a public defender for approximately 4 years and then as a law clerk on the Superior Court for one year. Since 1995, he has served as a law clerk to a Judge of the Commonwealth Court. He is very bright, articulate and well-trained. However, the Candidate's experience has consisted almost entirely of criminal defense work at the appellate level and as a law clerk. His trial experience is very limited. The Commission also has concerns about the Candidate's ability to work under the significant pressures associated with service as a Judge of the Commonwealth Court. Moreover, eleven years after his law school gradation, the Candidate has no demonstrated record of community or public service. Accordingly, the Commission concludes that, at this time, the Candidate does not have sufficient breadth of legal and community experience to satisfactorily perform the duties of a Judge of the Commonwealth Court.

RATINGS' DEFINITIONS

Highly Recommended: The candidate possesses the highest combination of legal ability, integrity and temperament, and would be capable of outstanding performance as a judge or justice of the court for which he/she is a candidate.

Recommended: Based on legal ability, integrity and temperament, the candidate would be able to perform satisfactorily as a judge or justice of the court for which he/she is a candidate.

Not Recommended: Based on legal ability, integrity or temperament, or any combination thereof, at the present time, the candidate is inadequate to perform satisfactorily as a judge or justice of the court for which he/she is a candidate.