

# Creating a Diverse Bench in Pennsylvania



THE PENNSYLVANIA  
INTERBRANCH  
COMMISSION FOR  
GENDER, RACIAL  
AND ETHNIC  
FAIRNESS

## THE COMMISSION FOR FAIRNESS

The Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness was established in 2005 by the three branches of Pennsylvania government. In 2011, the Commission shortened its title to the Commission for Fairness.

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## MISSION

The mission of the Commission for Fairness is to promote the equal application of the law for all citizens of the Commonwealth of Pennsylvania. Toward that end, the Commission for Fairness evaluates and implements recommendations proposed by the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System; raises both public and professional awareness of the impact of race, ethnic origin, gender, sexual orientation or disability on the fair delivery of justice in the Commonwealth of Pennsylvania; suggests ways to reduce or eliminate such bias or invidious discrimination within all branches of government and within the legal profession; and increases public confidence in the fairness of all three branches of government in the Commonwealth of Pennsylvania.

## PURPOSE OF GUIDEBOOK

The purpose of this Guidebook is to present in one location a comprehensive guide for those interested in becoming a judge in Pennsylvania and those in a position to promote a more diverse judiciary. The Guidebook begins by providing an overview of the courts in Pennsylvania, including the structure of the courts. It also includes a “snapshot” and analysis of the racial, ethnic and gender composition of the current judiciary in Pennsylvania. In addition, this Guidebook discusses the logistics of Pennsylvania elections and processes involved in running for election to a judicial position. The Guidebook also contains insight gathered from a number of judges, and from a judicial campaign manager, addressing questions often asked by attorneys considering a judicial career. Additionally, the Guidebook contains a description of the availability of the rating systems of bar associations for judicial candidates. Finally, to attract the “best and brightest” candidates for the judiciary, the Guidebook includes “model” practices for improving judicial diversity.

**Cover Photo:** From left, Hon. Ronald D. Castille, Chief Justice, Supreme Court of Pennsylvania; Hon. Pedro Cortés; Lucille Marsh; Hon. Kim Berkeley Clark; Daniel E. Fitzsimmons; Burrell A. Brown; Hon. John E. Wetzel; Lynn A. Marks; Lisette M. McCormick; Hon. Nelson A. Diaz; Gladys Miller-Russell; Burton D. Morris; Roberta D. Liebenberg; Khadija T. Diggs; Helen E. Casale; Bernardo Carbajal; Hon. Debra McCloskey Todd, Justice, Supreme Court of Pennsylvania; Bernadette Eyler Smith; and Hon. Marjorie Rendell, United States Court of Appeals, Third Circuit. "A Decade of Fairness: Celebrating Ten Years of Advancing Equal Justice Under the Law," Duquesne University, June 2013. Photo by Rebecca Photography.

## ACKNOWLEDGEMENTS

The Commission for Fairness is grateful for the support of the Supreme Court of Pennsylvania, Governor Tom Corbett and the Pennsylvania Legislature. Their ongoing commitment is vital to our mission of fostering a court system that is as inclusive and as equitable as possible.

The Commission for Fairness acknowledges the members of its Equal Opportunity and Diversity Committee for their guidance and assistance with this project. Committee members include Chair Kathleen D. Wilkinson, Esq.; Honorable Kim Berkeley Clark; Elizabeth Preate Havey, Esq.; and Honorable Doris Smith-Ribner.

The Commission for Fairness also thanks the editors of the Guidebook, Lisette M. McCormick, Executive Director, and Sarah E. Breslin, Staff Attorney, for all of their efforts in overseeing the successful completion of the Guidebook; Judy Hale Reed and Erin M. Curran, the Commission’s legal interns, whose assistance in collecting the information found within this Guidebook was invaluable; and Jessica Wysocki Valesky, graphic designer from the ACBA, for the layout design of the Guidebook.

Special thanks are extended to former Commission member and former Chair of the Equal Opportunity and Diversity Committee, Sam Yun, and the State of Washington Minority and Justice Commission for inspiring this project. Additionally, we are indebted to Sam Hens-Greco, Esq.; Judge Kim Berkeley Clark; Judge Jacqueline O. Shogan; and Judge Christine A. Ward for sharing their insights on this topic with the Commission.

The Commission for Fairness also wishes to recognize the Pennsylvania Center for Women and Politics at Chatham University, whose conference, “Ready to Run, Campaign Training for Women,” provided invaluable information for this Guidebook. In particular, the program’s panel, co-sponsored by the Commission, “The Special Challenge of Running for Judicial Office,” was especially instructive.

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- Allegheny County Bar Association (ACBA)
- ACBA Women in the Law Division
- ACBA Diversity Collaborative Committee
- Administrative Office of Pennsylvania Courts
- Committee of Seventy
- Pennsylvania Bar Association Commission on Women in the Profession
- Pennsylvania Center for Women and Politics
- Pennsylvania Department of General Services
- Pennsylvanians for Modern Courts

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## I INTRODUCTION

The Commission for Fairness is pleased to offer this Guidebook to attorneys contemplating a judicial career and to those in a position to support and encourage diversity on the bench in Pennsylvania.

Fairness, impartiality and access are the hallmarks of a truly equitable system of justice. Such a system both inspires and depends upon public trust and confidence in the justice system. A diverse bench increases the credibility of the justice system. This is because the courts must not only be fair; they must also appear to be just and impartial. A diverse bench can provide a sense to court users that the system is administered by individuals who resemble them and who understand their experiences.

One significant method of improving the perception of impartiality in our justice system is to elect judges who represent the racial, ethnic and gender composition of the people they serve. However, this requires the willingness of attorneys of color and women attorneys to seek election to the judiciary, and an understanding of the complicated process of running for the bench.

Whether you are interested in a judicial career or you are in a position to promote a more diverse judiciary, we trust that this Guidebook will serve as a valuable resource for you.



From left, Judge Kim Berkeley Clark; Roberta D. Liebenberg; Justice Debra McCloskey Todd; Lynn A. Marks; Lisette M. McCormick; Judge Marjorie Rendell; Retired Justice Cynthia Baldwin; and Khadija T. Diggs.

## II COMMONWEALTH OF PENNSYLVANIA JUSTICE SYSTEM<sup>1</sup>

### Brief History, Composition, Powers and Duties of the Pennsylvania Judiciary

Pennsylvania's justice system began as a disparate collection of courts, some inherited from the reign of the Duke of York and some established by William Penn. The courts were mostly local, part-time, and under the control of the Governor. All of them were administered by non-lawyers. And although the Provincial Appellate Court was established in 1684, no court could be called the Court of Final Appeal. Final appeals had to be filed in England.

Several attempts were made in the early years of the eighteenth century to establish a Court of Final Appeal in Pennsylvania and to further improve and unify the colony's judicial system, but because the Crown had final veto power over all colonial legislation, these attempts proved futile. Finally, in 1727, the Crown sanctioned a bill that had been passed five years earlier. The Judiciary Act of 1722 was the colony's first judicial bill with far-reaching impact. It established the Pennsylvania Supreme Court, providing for a Chief Justice and two Justices, who would sit twice yearly in Philadelphia and ride the circuit at other times; and it created the Court of Common Pleas in Philadelphia, Bucks, and Chester Counties.

The court system in Pennsylvania did not change again until the Pennsylvania Constitution was passed in 1776. By establishing the Courts of Sessions, Courts of Common Pleas, and Orphans' Courts in each county, the Constitution allowed Pennsylvania to develop a statewide framework for the development of its judicial system.

A new Constitution in 1790 encouraged further development in the Commonwealth's judicial system by grouping counties into Judicial Districts and placing President Judges at the heads of the Districts' Common Pleas Courts. This was meant to ease the Supreme Court's rapidly increasing workload. Constitutional changes in 1838 and 1874 and a constitutional amendment in 1850 effected changes in the jurisdiction, tenure, and election or appointment of members of the judiciary. In 1895, the General Assembly created the Superior Court to further reduce the work of the Supreme Court, giving each appellate court separate jurisdictions.

The Constitution of 1968 initiated the most sweeping changes in Pennsylvania's judiciary in nearly a century, creating the Commonwealth Court to reduce the workload of the Superior and Supreme Courts by hearing cases brought against and by the Commonwealth; substantially altering the minor court system; and reorganizing the judiciary into the Unified Judicial System, consisting of the

Supreme, Superior, and Commonwealth Courts, Common Pleas Courts, Philadelphia Municipal Court, Philadelphia Traffic Court, and Magisterial District Courts, with provisions for any future courts the law might establish.

By Constitutional definition, both judicially and administratively, the Supreme Court is Pennsylvania's highest court. In matters of law, it is the Commonwealth's court of last resort. In matters of administration, the Supreme Court is responsible for maintaining a single, integrated judicial system and exercises supervisory authority over all other state courts.

In 1980, the Legislature reduced the Supreme Court's mandated jurisdiction by expanding that of the Superior Court. Consequently, the Pennsylvania Supreme Court, like the United States Supreme Court, can now exercise its discretion in accepting or rejecting most appeals, allowing it to devote greater attention to cases of far-reaching impact, as well as to its constitutional obligation to administer the entire judicial system.

### **Judges: Qualifications, Election, Tenure, Vacancies**

Before justices and judges can be appointed or elected to their positions, they must meet certain basic requirements such as citizenship and residency. In addition, all but Magisterial District Judges and Philadelphia Traffic Court Judges must be members of the Bar of the Pennsylvania Supreme Court.

Jurists are also subject to strict standards of conduct, and they may be removed, suspended, or otherwise disciplined for misconduct in office. These standards are specified in the Pennsylvania Constitution; the "Code of Judicial Conduct" in the Pennsylvania Rules of Court, which applies to appellate and trial court judges; the "Rules of Conduct, Office Standards and Civil Procedures for Magisterial District Judges"; and such other court rules and orders as have been promulgated by the Pennsylvania Supreme Court.

Judicial elections occur in odd-numbered years. With the exception of minor court judges, all justices and judges within the Unified Judicial System are elected to 10-year terms. Magisterial District Judges and Judges of the Philadelphia Municipal and Traffic Courts are elected to terms of six years. Vacancies occurring before an election may be filled by gubernatorial appointment, subject to Senate confirmation, until such time as an election is held.

Judges and justices may serve an unlimited number of terms and are re-elected at the pleasure of the electorate. The "merit retention" provision of Pennsylvania's Constitution allows all but Magisterial District Judges to run for re-election on a "yes-no" vote, without ballot reference to political affiliation. This provision was designed to remove judges from the pressures of the political arena once they begin their first terms of office. Magisterial District Judges run in regular elections.

Mandatory retirement age for judges is 70 years, but retired judges may, with the approval of the Supreme Court, continue to serve the Commonwealth as senior judges. This service helps ease court backlogs.

### **Chief Justice and President Judges**

President Judges are elected or appointed in each District's Common Pleas Court, in the Commonwealth and Superior Courts, and in the Philadelphia Municipal and Traffic Courts. In courts with seven or fewer judges, the judge with the longest continuous service holds this position. The same is true for the Chief Justice of Pennsylvania. The one exception to this rule is the President Judge of the Philadelphia Traffic Court, who is appointed by the Governor. In courts of eight or more judges, the President Judge is elected to a single five-year term by his or her peers. The President Judge may not serve consecutive terms, but may serve non-consecutive ones.

### **Jurisdiction**

A court's jurisdiction refers to those cases which the court has authority to hear and/or decide. Original jurisdiction cases are those heard in the first instance; appellate jurisdiction cases are those heard on appeal from a lower court.

The Judicial Code (42 Pa. Consolidated Statutes) provides for the organization and jurisdiction of all courts within the Unified Judicial System.

Additionally, under the Constitution of 1968, the Supreme Court is empowered to assign and reassign classes of actions or appeals among the several courts "as the needs of justice shall require."

## Description of the Pennsylvania Courts<sup>2</sup>

### SUPREME COURT

Dating to 1684, the Supreme Court is the highest court in the Commonwealth and the oldest appellate court in the nation. The Supreme Court's administrative powers and jurisdictional responsibilities are vested with the seven-member court by the Pennsylvania State Constitution and a collection of statutes known as the Judicial Code. Administratively, the courts within the Unified Judicial System are largely responsible for organizing their own staff and dockets; however, the Supreme Court has several committees and boards responsible for writing and enforcing rules for judges, attorneys, and litigants to ensure an efficient and fair judicial review. Annually, the seven Justices receive over 3,000 requests for appellate review. Most often, but not exclusively, the Court reviews: (1) requests for Discretionary Appeals from the Commonwealth Court and Superior Court; (2) direct appeals from a lower court's decision, including when a sentence of death is issued; (3) requests to intervene in a lower court's proceedings; and (4) requests to deliver a body from illegal detention.

### SUPERIOR COURT

The Superior Court was established in 1895. It is one of Pennsylvania's two statewide intermediate appellate courts. The Superior Court is often the final arbiter of legal disputes. The Supreme Court may grant a petition to review a decision of the Superior Court, but most petitions are denied and the ruling of the Superior Court stands. Cases are usually heard by panels of three judges sitting in Philadelphia, Harrisburg or Pittsburgh, but may also be heard *en banc* by nine judges. The Superior Court often travels to locations throughout Pennsylvania to hear cases. The Superior Court is responsible for: (1) appeals from criminal and most civil cases from the Courts of Common Pleas; and (2) appeals on matters involving children and families.

### COMMONWEALTH COURT

The Commonwealth Court was established in 1968 and is unique to Pennsylvania. It is one of Pennsylvania's two statewide intermediate appellate courts. The Commonwealth Court is primarily responsible for legal matters involving state and local governments and regulatory agencies. It also acts as a trial court when civil lawsuits are filed by or against the Commonwealth. Cases are generally heard by panels of three judges in Philadelphia, Harrisburg and Pittsburgh, although, on occasion, they may choose to hold court in other locations. Cases may also be heard by single judge or by *en banc* panels of seven judges. The Commonwealth Court is responsible for: (1) original civil actions brought by and against the Commonwealth; and (2) appeals from decisions made by state agencies and the Courts of Common Pleas.

### COURTS OF COMMON PLEAS

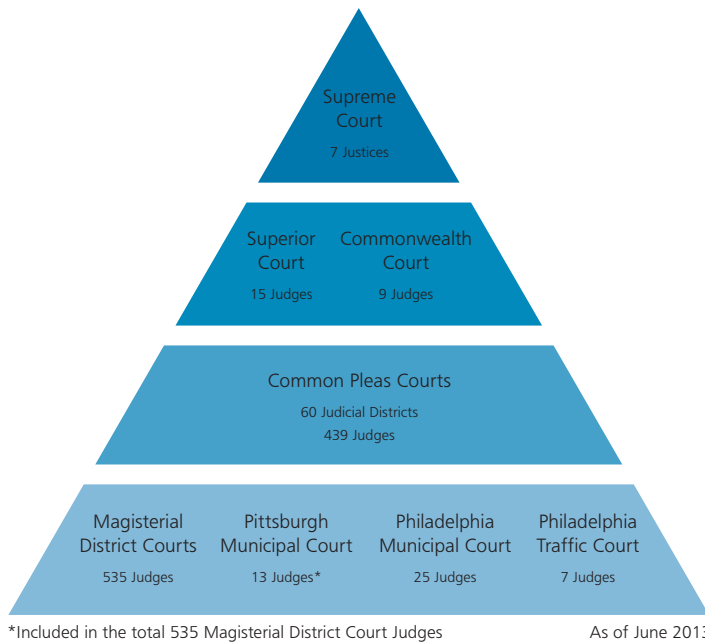
The Courts of Common Pleas are the general trial courts of Pennsylvania. They are organized into 60 Judicial Districts. Most districts follow the geographic boundaries of counties, but seven of the districts are comprised of two counties. Each district has from one to 93 judges and has a President Judge and a Court Administrator. The Court of Common Pleas is responsible for: (1) appeals from minor courts; (2) appeals not exclusively assigned to another court; and (3) matters involving children and families.

### MINOR COURTS

Minor courts, or special courts, are the first level of Pennsylvania's judiciary. These courts are presided over by Magisterial District Judges (MDJs), Municipal Court Judges and Traffic Court Judges. MDJs and Traffic Court Judges do not have to be lawyers, but they are required to pass a qualifying exam. Philadelphia Municipal Court Judges are required to be lawyers. In Philadelphia, the Minor Courts are made up of a Municipal Court and Traffic Court. Each court has its own elected judges. In Allegheny County, the Pittsburgh Municipal Court is staffed by Allegheny County MDJs who are included in the total of 535 MDJs. The Minor Courts are responsible for: (1) non-jury criminal and civil cases; (2) traffic cases; (3) preliminary arraignments and preliminary hearings; and (4) setting and accepting bail, except in murder or voluntary manslaughter cases.

### III SNAPSHOT OF GENDER, RACIAL AND ETHNIC COMPOSITION OF THE PENNSYLVANIA STATE JUDICIARY<sup>4</sup>

#### The Structure of the Pennsylvania Courts<sup>3</sup>

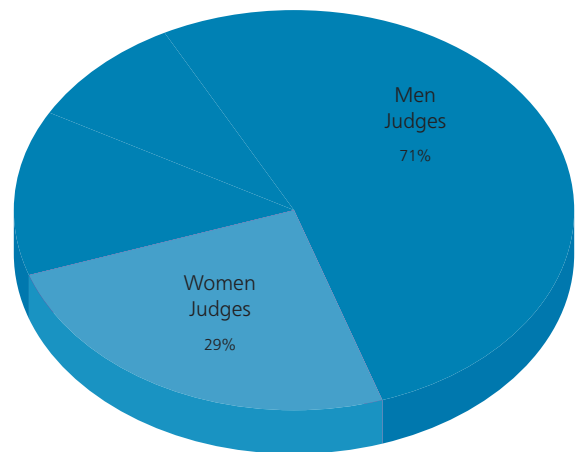


The Pennsylvania court system is structured like a pyramid. At its base are the Magisterial District Judges and the Philadelphia Municipal and Traffic Courts where cases involving small claims, minor crimes and traffic offenses are heard. One step up on the pyramid are the Common Pleas Courts in 60 Judicial Districts around the state, where trials are held in civil and criminal cases and disputes involving family and estate matters are litigated. Another step up are the Intermediate Appellate Courts; the Superior Court, a general court of appeals with 15 Judges, and the Commonwealth Court, a special court with nine Judges which hears government-related matters. At the top of the pyramid is the highest court, the Supreme Court with seven Justices. The Supreme Court has the power to review any case from the lower courts. It also has administrative authority over the entire Pennsylvania court system.

#### Women

Currently, women are underrepresented on the Commonwealth's highest court, comprising only 14% (or 1 of 7) of the justices of the Pennsylvania Supreme Court. However, in the other two Pennsylvania appellate courts, the Superior Court and the Commonwealth Court, women comprise 77% (or 10 of 13) and 56% (or 5 of 9), respectively, of the judges.<sup>5</sup>

In 2012, among the Courts of Common Pleas, women comprised only 29% of the judges, statewide.<sup>6</sup> The majority of the women judges were from Philadelphia County which had the highest number of Court of Common Pleas women judges (43 women to 47 men, or 48% in Philadelphia County), statewide. Notably, twenty-eight counties had no women judges. Eleven counties had only one woman judge.<sup>7</sup>



2012 Courts of Common Pleas.  
Notably, twenty-eight counties had no women judges in 2012.

#### Minorities

The underrepresentation of minorities is even greater than that of women on the Commonwealth's appellate courts. There are no justices of color on the Supreme Court and no judges of color on the Commonwealth Court; there is only one judge of color on the Superior Court.<sup>8</sup>

Among the Courts of Common Pleas, minorities comprise only 9% (or 38 of 429) of the judges, statewide. However, in Philadelphia County (the First Judicial District), minorities comprise 38% (or 30 of 88) of the judges.<sup>9</sup>

Notably, minorities comprise 14.8% of the state population<sup>10</sup> but only 3% (or 1 of 29) of the judges or justices in the higher courts of the Pennsylvania judiciary and only 9% of the judges in the Courts of Common Pleas are minorities.<sup>11</sup>



## IV HOW PENNSYLVANIA JUDICIAL ELECTIONS WORK<sup>12</sup>

### Generally

Currently in Pennsylvania, elections to fill vacancies on the courts are held in odd-numbered years. Appellate Court and Common Pleas Court candidates run in partisan elections (i.e., under a party label) for terms of ten years; minor court candidates also run in partisan elections, but for six-year terms. Typically, the major political parties endorse candidates to run. For trial judges only, a candidate may receive the endorsement of both parties. Following completion of a term, a judge can stand for successive ten-year terms in retention elections (non-partisan, uncontested yes/no votes) until mandatory retirement at the age of seventy.

Like other candidates who run for office in contested elections, judicial candidates must raise money to finance their campaigns. Typically, contributors to such campaigns are the very parties, litigants and lawyers who ultimately appear before the courts on which the candidates are seeking to serve. Additionally, third party special interest groups have become increasingly active in judicial elections, funding advertising campaigns and making contributions to candidates. Rules of conduct do not require judges to recuse themselves in cases involving campaign contributors.

Historically, judicial elections in Pennsylvania have not generated nearly as much media coverage, citizen interest or participation as elections for representative office, such as governor, senator, or representative. Voters, in fact, have complained that they have not had much information available to them in making decisions between candidates. This perceived lack of information in large part resulted from codes of conduct prohibiting judicial candidates from announcing their views on disputed issues likely to come before them on the courts.

### For how long are judges elected?

Most judges are elected for ten-year terms. This is true for elections to fill judicial vacancies, as well as for subsequent retention elections. However, Municipal Court and Traffic Judges in Philadelphia serve six-year terms.

### What is a retention election?

Retention elections are non-partisan, uncontested yes-no votes. This differs from an election to fill a judicial vacancy where candidates run in partisan elections (i.e., under a party label). Following completion of an initial term, a judge can stand for successive ten-year terms in retention elections until he or she reaches age 70, the mandatory retirement age.

### What happens if there is a vacancy created mid-term?

In the event a vacancy is created by the retirement, resignation, death or election of a judge to a higher court, an interim vacancy is created. The vacancy is filled by nomination by the Governor and confirmation by a two-thirds vote of the state Senate.



From left, Judge Jacqueline O. Shogan; Judge Kim Berkeley Clark; Judge Christine A. Ward; Sarah E. Breslin; Judge Cathy Bissoon; and Lisette M. McCormick. "Ready to Run," Chatham University, January 2013.

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“ Judicial candidates should be able to say that their backgrounds demonstrate they would serve the citizens of Pennsylvania with diligence, compassion, integrity and respect for the rights of all. ”

–Judge Jacqueline O. Shogan

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## V HOW TO RUN FOR JUDICIAL OFFICE<sup>13</sup>

### Getting on the Ballot: Majority Party Primary Elections

#### POLITICAL PARTIES AND POLITICAL BODIES

Under the Election Code, a political group which receives not less than two percent (2%) of the votes cast in the prior general or municipal election in at least ten counties in the state is deemed a "political party" within the state and is permitted to select its candidates at the primary election; any other political group is deemed a "political body" and may select its candidates at the next general (rather than primary) election.<sup>14</sup> Any party or political body, one of whose candidates at either the general or municipal election preceding the primary polled at least five percent (5%) of the largest entire vote cast for any elected candidate in any county, is also recognized as a political party within that county and can nominate candidates for offices in that county.<sup>15</sup> Any political body which is not a political party as defined above can nominate candidates for general and municipal elections as political parties do, but the political body cannot nominate its candidates or elect party officers at primaries.<sup>16</sup> No person who is not registered and enrolled as a member of a political party is entitled to vote at any primary of such party or to be elected or serve as any sort of party officer.<sup>17</sup>

#### GETTING ON THE BALLOT

##### a) Notice of Public Offices

All candidates for elective judicial offices within Pennsylvania are nominated.<sup>18</sup> Not earlier than twelve weeks, nor later than eleven weeks before any general or municipal primary, the County Board of each county must publish in newspapers a notice setting forth the names of all public offices for which nominations are to be made. The notice must contain the date of the primary and must be published once each week for two successive weeks.<sup>19</sup>

##### b) Printing of Party Candidate Names on Primary Ballots

The names of the candidates for party nominations must be printed upon the official primary ballots or ballot labels of a designated party, upon the filing of separate nomination petitions on their behalf, in the form prescribed by the Secretary of the Commonwealth, signed by the duly registered and enrolled members of such party who are qualified electors of the state, or of the political district within which the nomination is to be made or the election is to be held. No candidate's name may be placed on the ballots of a political party to be used at any primary, unless a petition was filed on the candidate's behalf. Normally no person's name can be printed upon the ballots of any party unless the person is a duly registered member of that party,<sup>20</sup> but

judicial candidates for local offices may cross-file, that is, they may run simultaneously as both Democrats and Republicans.<sup>21</sup>

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“ In order for our justice system to work as it should, the citizens of Pennsylvania must have confidence that the judges they elect are well qualified and of the highest integrity. ”

–Judge Jacqueline O. Shogan

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##### c) Nomination Petitions

An elector who signs a nomination petition may sign only one such petition for each office to be filled and must be a registered and enrolled member of the party designated in such petition. Where there are two or more persons to be elected for the same office, each signer may sign petitions for as many candidates as he or she can vote for in the upcoming election. In addition to declaring that the signer is a qualified elector, the signer must indicate his or her printed name and residence, giving city, borough or township, with street and number, if any, and the date the elector signed the petition. No nomination petition can be circulated prior to the thirteenth Tuesday before the primary, and no signature is valid unless it bears a date between the thirteenth Tuesday and the tenth Tuesday prior to the primary.<sup>22</sup> The nomination petitions may be on more than one sheet, and different sheets must be used for signers residing in different counties. If more than one sheet is used, they must be bound together when offered for filing if they are intended to constitute one petition, and each sheet must be numbered consecutively beginning with number one at the foot of each page.

##### d) Affidavits

Each sheet must have appended to itself the affidavit of the circulator setting forth:

- that he or she is a qualified elector duly registered and enrolled as a member of the designated party of the state, or of the political district referred to in the petition, unless the petition relates to the nomination of a candidate for a Court of Common Pleas, for the Philadelphia Municipal Court or for the Traffic Court of Philadelphia, in which case the circulator need not be a duly registered and enrolled member of the designated party;

- his or her residence, giving city, borough, or township, with street and number, if any;
- a statement that the signers of the petition signed with full knowledge of the contents of the petition;
- that the signers residences are correctly stated on the petition;
- that the signers all reside in the county named in the affidavit;
- that each signed on the date opposite his or her name;
- that to the best of the affiant's knowledge, the signers are qualified electors and duly registered and enrolled members of the designated party of the state or of the political district.<sup>23</sup>

Each candidate must file with his or her nomination petition an affidavit stating:

- his or her residence, with street and number, if any, and post-office address;
- his or her election district, giving city, borough, town or township;
- the name of the office for which he or she consents to be a candidate;
- that he or she is eligible for such office;
- that he or she will not knowingly violate any law regulating and limiting nomination and election expenses and prohibiting corrupt practices;
- that he or she is not a candidate for nomination for the same office of any party other than the one designated in the petition unless he or she is a candidate for judge of a Court of Common Pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia;
- that he or she is aware of the laws requiring pre-election and post-election reporting of campaign contributions and expenditures;
- that he or she is not a candidate for an office which he or she already holds, the term for which does not expire in the same year as the office subject to the affidavit.<sup>24</sup>

#### *e) Signatures*

The nominating petition must contain the following number of valid signatures:

- Justice of the Supreme Court—One thousand (1000) including at least one hundred (100) from each of at least five counties;

- Judge of the Superior Court—One thousand (1000) including at least one hundred (100) from each of at least five counties;
- Judge of the Commonwealth Court—One thousand (1000) including at least one hundred (100) from each of at least five counties;
- Common Pleas Court Judge—One thousand (1000);
- Municipal Court Judge—One thousand (1000);
- Traffic Court Judge—One thousand (1000).<sup>25</sup>

#### *f) Filing*

Nomination petitions for Supreme Court Justice, Superior Court Judge and Commonwealth Court Judge must be filed with the Secretary of the Commonwealth. Nomination petitions for Common Pleas Court Judge, Municipal Court Judge and Traffic Court Judge must be filed with the County Board of Elections.<sup>26</sup> Each person filing a nomination petition must pay at the time of filing for each petition with a certified check or money order or cash when filing with the County Board. Certified checks or money orders are to be made payable to the Commonwealth of Pennsylvania or to the county, if the nomination is for a statewide office or local office respectively. The candidates for state judicial offices must pay a two hundred dollar (\$200) filing fee. The candidates for Philadelphia judicial offices must pay one hundred dollars (\$100) each.<sup>27</sup> All nomination petitions must be filed on or before the tenth Tuesday prior to the primary.<sup>28</sup> The petitions must be received by the last day for filing before 5:00 P.M. in the office of the Secretary of the Commonwealth or before the ordinary closing hour at the County Board of Elections.

#### *g) Duties for Filing Campaign Finance Reports*

Each person filing any nomination petition will be given a statement composed by the Secretary of the Commonwealth setting forth his or her duties under law to file pre-election and post-election campaign finance reports, and the penalties for non-filing. Each person filing will also be given a form to file expenses if the amount received or expended or liabilities incurred will exceed two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed two hundred fifty dollars (\$250), with written instructions prepared by the Secretary. Within three weeks after such candidate has filed, the appropriate supervisor will mail the same forms and instructions to the candidates.<sup>29</sup>

#### *h) Casting Lots for Ballot Position*

Immediately after the last day fixed for filing of such nomination petitions with them, the Secretary of the Commonwealth or the County Board will fix a day for the casting of lots for the position of names upon the primary ballots or ballot labels. The Secretary of the Commonwealth must give at least two days' notice by mail to all the candidates, and the County Board also must give at least two days' notice to all the candidates by a posting in a conspicuous place in its office and by publication once in at least two newspapers of general circulation published in the county. The candidates can appear in person, send an agent duly authorized by letter of attorney, or the Secretary or the County Board can appoint someone to represent the absentee candidate. After the lots are cast, the Secretary or the County Board will establish the order in which the names are to appear on the primary ballots.<sup>30</sup>

#### *i) Post Primary Rules*

The candidates of the various political parties for nomination who receive a plurality of votes of their party electors in the state, or in the political district, at the primary election will be the candidates of their respective parties. It is the duty of the County Board to print their names upon the official ballots and ballot labels at the succeeding election.<sup>31</sup> In the case of a tie, the candidates receiving the tie vote must cast lots before the County Board or the Secretary of the Commonwealth at twelve o'clock noon on the third Friday following the primary, and the one to whom the lot will fall will be entitled to the nomination. In any case, where the fact of a tie vote is not authoritatively determined until after the third Wednesday following the primary, the time for casting lots will be at twelve o'clock noon on the second day after the fact of such tie vote is authoritatively determined. If any candidate(s) receiving a tie vote fail to appear, the County Board or Secretary will cast lots for the person(s). The candidate(s) can appear in person or by proxy appointed in writing.<sup>32</sup>

### **Getting on the Ballot: Independent and Minority Party Nominations**

#### **NOMINATION PAPERS**

In addition to the party nominations made at primaries, independent candidates may also run for office by filing nomination papers signed by the qualified electors of the state or of the electoral district for which the nomination is made.<sup>33</sup> Where the nomination is for any office to be filled by the electors of the state at large, the number of qualified electors signing such nomination papers must be equal to

at least two percent of the largest entire vote cast for any elected candidate in the state at large at the last preceding election at which statewide candidates were elected. In the case of all other nominations, the number of qualified electors of the electoral district signing such nomination papers must be at least equal to two percent of the largest entire vote cast for any officer, except a judge of a court of record, elected at the last preceding election in that particular electoral district for which the nomination papers are to be filed, but not be less than the number of signers required for nomination petitions for party candidates for the same office.<sup>34</sup>



Hon. Ida Chen, Philadelphia County Court of Common Pleas

#### **SIGNATURES**

Each person signing a nomination paper must declare that he or she is a qualified elector of the state or district, and must include with his or her signature, the elector's printed name and residence, giving city, borough or township, with street and number, if any, and the date of signing. No elector may sign more than one nomination paper for each office to be filled, unless there are two or more persons to be elected to the same office, in which case the elector may sign nomination papers for as many candidates for such office as the elector can vote for in the upcoming election. More than one candidate may be nominated by one nomination paper and candidates for more than one office may be nominated by one nomination paper provided that each political body nominating does not nominate more candidates than there are offices to be voted for at the ensuing election.<sup>35</sup>

Nomination papers may be on one or more sheets, but different sheets must be used for signers residing in different counties. If more than one sheet is used, they must be bound together when offered for filing if they are intended to constitute one nomination paper, and each sheet must be numbered consecutively beginning with number one at the foot of each page.

## AFFIDAVITS

Each sheet must have appended to it the affidavit of some person, not necessarily a signer, and not necessarily the same person on each sheet, setting forth:

- that the affiant is a qualified elector of the state or electoral district referred to in the nomination paper;
- the affiant's residence, giving city, borough or township with street and number, if any;
- that the signers signed with full knowledge of the contents of the nomination paper;
- that the electors residences are correctly stated;
- that all of the signers reside in the county named in the affidavit;
- that each elector signed on the date set opposite his or her name;
- that to the best of the affiant's knowledge and belief, the signers are qualified electors of the state or electoral district.<sup>36</sup>

There also must be appended to each nomination paper offered for filing an affidavit of each candidate nominated stating:

- the election district in which he or she resides;
- the name of the office for which he or she consents to be a candidate;
- that the candidate is eligible for such office;
- that the candidate will not knowingly violate any provision of the Election Code or of any law regulating and limiting election expenses and prohibiting corrupt practices;
- that the candidate's name has not been presented as a candidate by nomination petitions for any public office to be voted for at the ensuing primary election, nor has the candidate been nominated by any other nomination papers filed for any such office;
- that in the case where he or she is an independent candidate for election at a general or municipal election, he or she was not a registered and enrolled member of a party thirty days before the primary held prior to the general or municipal elections in that same year;
- that in the case where he or she is a candidate for election at a special election, the candidate is not a registered and enrolled party member;
- that he or she is not a candidate for an office which he or she already holds, the term for which does not expire in the same year as the office subject to the affidavit.<sup>37</sup>

Any person who is a registered and enrolled party member during any period of time beginning thirty days before the primary and extending through the general or municipal election of that same year is ineligible to be the candidate of a political body i.e. an independent candidate, in the general election.<sup>38</sup>

## REQUIRED INFORMATION IN NOMINATION PAPERS

All nomination papers must specify:

- the name of the political body which the nominated candidates represent, expressed in not more than three words;
- the name of each nominated candidate, his or her profession, business or occupation, if any; and his or her place of residence with street and number;
- the office for which the candidate has been nominated;
- the names and addresses of the committee, not to be less than three nor more than five persons, authorized to fill vacancies, if any should occur.

No words can be used in any nomination paper to designate the name of the political body represented by the candidates named in the nomination papers which are identical with or deceptively similar to the words used for a like purpose by any existing political party or body. Any petition to set aside a nomination paper on account of the name, or involving the right of the signers to use such name, is decided in the same manner or other positions to set aside nomination papers.

## DUTIES FOR FILING CAMPAIGN FINANCE REPORTS

Each person filing nomination papers for public office must be given a statement composed by the Secretary of the Commonwealth setting forth the candidate's duties under law to file pre-election and post-election campaign finance reports, and the penalties for non-filing. Each person filing will also be given a form to file expenses if the amount received or expended or liabilities incurred exceeds two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed the sum of two hundred fifty dollars (\$250), with written instructions prepared by the Secretary. Within three weeks after a candidate has filed, the appropriate supervisor will mail the same forms and instructions to the candidate by first class mail.<sup>39</sup>



## FILING

Nomination papers for judges of courts of record must be filed with the Secretary of the Commonwealth. All other candidates (i.e., traffic judge) file their nomination papers with the County Boards.<sup>40</sup> No nomination paper may be circulated prior to the tenth Wednesday prior to the primary, and no signature will be counted unless it bears a date affixed no earlier than the tenth Wednesday prior to the primary nor later than the second Friday subsequent to the primary.<sup>41</sup> The purpose here is to require candidates to choose between the primary route and the nomination route to the general election ballot and to prevent losing primary candidates from filing nomination papers as independent candidates. All nomination papers must be filed on or before August 1, or in the event that it falls on a Saturday or Sunday, the first Monday in August (candidates should check specific deadlines with local County Boards).<sup>42</sup> The office in which a nomination paper is filed will issue to the person filing the nomination paper a receipt containing the date and time of filing, the name of the candidate and the office for which he or she is a candidate.<sup>43</sup> The same filing fee must be paid for each candidate nominated by a nomination paper as for the filing of a nomination petition. Each nomination paper nominating a candidate or a group of candidates for office must be accompanied by a certified check or money order drawn in the proper amount to cover the filing fees for each candidate nominated, but in no case less than the sum of five dollars (\$5), and payable to the Commonwealth of Pennsylvania or the county.<sup>44</sup>

Note that on the Thursday preceding each primary, the County Board, upon request made at its office, is to deliver to the candidate three sample ballots of the party for the entire district in which the candidate will run. The candidate may, at his or her own expense, have printed on different colored paper as many copies as the candidate requires for conducting the campaign. In the case of a November election, the County Board delivers to the county chairman or other authorized representative of each political party and political body in the county, without charge, two sample ballots for each election district within the county in which the candidates of the party or political body will run, and the political party or body may, at its own expense, have printed on a different colored paper as many copies as it requires for conducting its campaign.<sup>45</sup>

## Campaigning

### THE POLITICAL COMMITTEE

Every political committee must have a treasurer and a chairman. No contribution can be received, nor can any expenditure be made, when there is a vacancy in either one of these offices. All moneys received and disbursed by the political committee must be done through the treasurer of the committee.<sup>46</sup> Every candidate who authorizes a committee (or committees) to receive and disburse funds on his or her behalf must name a sole treasurer, irrespective of the number of committees authorized. A sole treasurer may delegate authority, in writing, to any number of assistant treasurers to receive and distribute moneys collected for the candidate. Authorized individuals may solicit funds for deposit in the candidate's campaign account.<sup>47</sup> Each candidate and committee must keep records of the names and addresses of each person from whom a contribution of over ten dollars (\$10) has been received and a record of all other information required to be reported by law. All such records must be retained by the candidate or treasurer for three years after the information is reported.<sup>48</sup>

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“ Campaigns have ups and downs. Never get discouraged. Just keep putting one foot in front of the other. ”

—Judge Christine A. Ward

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Any person receiving any contribution on behalf of political committee or candidate must turn over the contribution to the treasurer of that committee or candidate within ten days of its receipt.<sup>49</sup> No treasurer of any political committee may receive money on behalf of a candidate until the committee has been so authorized in writing by the candidate on a form designed by the Secretary of the Commonwealth. A copy of the written authorization must be filed with the appropriate supervisor (in the case of the Supreme Court, Superior Court and Commonwealth Court, the appropriate supervisor is the Secretary of the Commonwealth, and for the Court of Common Pleas, the Municipal Court and the Traffic Court, the appropriate supervisor is the County Board of Elections). However, the treasurer of any state, county, city or other regularly constituted party committee of any political party or body may receive money on behalf of its candidates without special authorization.<sup>50</sup>

## Finances

### STATEMENT OF FINANCIAL INTERESTS

The Supreme Court has held that the financial disclosure provisions of the State Ethics Act, insofar as they are applied to judges (and judicial candidates), infringe on the Supreme Court's power to supervise the courts as provided in Article 10(c) of the Pennsylvania Constitution, and are thus unconstitutional.<sup>51</sup> It is important to note that candidates for judicial office are still subject to the State Election Code provisions pertaining to campaign finance.

### REGISTRATION OF POLITICAL COMMITTEES

#### a) *Registration Statement*

At the state level, any political committee which receives contributions in an aggregate amount of two hundred and fifty dollars (\$250) or more must file a registration statement, designed by the Secretary of the Commonwealth, with the appropriate supervisor, within twenty days after the date on which it receives the amount.<sup>52</sup>

Each registration statement must contain the following information:

- the name, addresses and phone numbers of the political committee;
- the name, address and phone number of the committee's treasurer and chairman;
- the names, addresses and relationships of other affiliated organizations;
- the candidate's name and address;
- the banks, safety deposit boxes or other repositories and their addresses used by the committee;
- the proposed period of operation of the committee.<sup>53</sup>

The committee must inform the appropriate supervisor of any changes in the information contained in the statement within thirty days of that change.<sup>54</sup> No political committee which receives an aggregate amount of contributions of two hundred and fifty dollars (\$250) or more may make a contribution to any candidate or political committee unless it has registered with the appropriate supervisor.<sup>55</sup> Any lobbyist who has given a contribution or pledge, regardless of the amount, is subject to the same registration and reporting provisions as are the political committees.<sup>56</sup>

## REPORTING REQUIREMENTS

### a) *Pre-election Reports*

Pre-election reports by candidates for statewide offices and all political committees which have expended money for the purpose of influencing the election of such a candidate must be filed no later than the sixth Tuesday before and the second Friday before an election, provided that the initial pre-election report is complete as of fifty days before the election and the subsequent pre-election report is complete as of fifteen days prior to the election. Pre-election reports by all other candidates and political committees must be filed no later than the second Friday before an election, provided that such a report is complete as of fifteen days prior to the election.<sup>57</sup>

### b) *Post-election Reports*

Candidates and political committees must also file a post-election report not later than thirty days after an election which must be completed as of twenty days after the election.<sup>58</sup> Each report must also contain a summary, on a separate page, of the information required.<sup>59</sup> All reports and statements should detail the campaign activity of a candidate since the last prior report or statement.<sup>60</sup> An expenditure from a candidate's political committee to another political committee must be reported as a contribution by the political committee receiving it, but need not be reported by the contributor until the time required by law. However, if the amount of the contribution exceeds two hundred and fifty dollars (\$250) to a single political committee or one thousand dollars (\$1,000) in aggregate contributions to more than one political committee, then the receipts and expenditures must be reported by the contributing committee at the same time as required by law for the committee receiving the same.<sup>61</sup> All Political Action Committees (PACs) must report expenditures in the same manner as a candidate's political committee.<sup>62</sup>

### c) *Annual Reports*

All political committees and candidates must file an annual report on January 31 of each year which must be completed as of December 31 of the prior year. Such reports are filed annually until there is no balance or debt in the report. The reports must be cumulative. However, if there has been no change in the account, then the candidate or political committee may file a statement to that effect with the appropriate supervisor. Each form designated by the Secretary of the Commonwealth for filing a report or statement will contain a block which may be marked to designate a termination report or statement.

If such report or statement is so designated, or if an authorized candidate does not need to file a report or statement, no annual report need be filed unless contributions were received or expenditures made subsequent to the time period for filing such a termination report. No candidate or political committee may terminate with a statement where the unpaid balance indicated in the previous report was greater than two hundred and fifty dollars (\$250). Annual reports must cover the campaigning activity from the last prior report or statement.<sup>63</sup>

Any candidate or political committee which receives a contribution or pledge of five hundred dollars (\$500) or more and any person making an independent expenditure of five hundred dollars (\$500) or more after the final pre-election report is completed must report such contribution, pledge or expenditure to the appropriate supervisor by within twenty-four hours of receipt of the contribution.<sup>64</sup>

#### *d) Filing of Reports*

Under state law, each treasurer and candidate must file with the appropriate supervisor reports of receipts and expenditures on forms designed by the Secretary of the Commonwealth if the amount received or expended or liabilities incurred exceed two hundred and fifty dollars (\$250). If this amount is not exceeded, the candidate or treasurer must file a sworn statement to that effect with the appropriate supervisor.<sup>65</sup>

#### *e) Required Information in Reports*

Each report must include the following:

- the full name, mailing address, occupation and name of employer, if any, or the principal place of business, if self-employed, of each person who has made one or more contributions in excess of two hundred and fifty dollars (\$250), with the amount and date of the contributions (the accuracy of this information is the responsibility of the contributor);
- the full name and mailing address of each person who has made one or more contributions in an aggregate amount or value in excess of fifty dollars (\$50), with the amount and date of the contributions (the accuracy of this information is the responsibility of the contributor);
- the total sum of individual contributions not reported under the first two items;

- each and every expenditure, the date made, the full name and address of the person to whom the expenditure was made and the purpose for which the expenditure was made;

- any unpaid debts and liabilities, with the nature and amount of each, the date incurred and the full name and address of the person owed;

- the account must include any unexpended balance of contributions or other receipts appearing from the last account filed.<sup>66</sup>

#### *f) Vouchers for Sums Expended*

Vouchers or copies of vouchers for all sums expended amounting to more than twenty-five dollars (\$25) must be retained and available for public inspection and copying. Any person may inspect or copy such vouchers or copies by filing a written request with the appropriate supervisory office which will then notify the candidate or political committee. The candidate or political committee has the option of either forwarding such vouchers to the supervisor or sending them directly to the party which made the request. The costs of copying and delivery is borne by the party making the request.<sup>67</sup>

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“ Canon Seven of the Code of Judicial Conduct prohibits candidates from directly soliciting funds. Judicial candidates must form a committee to raise money for the campaign. ”

–Sam Hens-Greco, Esq.

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#### REPORTING REQUIREMENTS FOR CANDIDATES WITHOUT POLITICAL COMMITTEES

In lieu of filing the reports or statements, a candidate for local office who does not form a political committee must file an additional affidavit with his or her nomination petition or papers attesting to the following:

- the candidate does not intend to receive contributions or make expenditures in excess of two hundred and fifty dollars (\$250) during any reporting period;

- the candidate will keep records of contributions and expenditures as required by law;

- the candidate will file reports for any reporting period during which he or she receives contributions or makes expenditures in excess of two hundred and fifty dollars (\$250).<sup>68</sup>

Any such candidate who exceeds two hundred and fifty dollars (\$250) during a reporting period must file a report which must be cumulative from the beginning of the reporting period.<sup>69</sup>

#### *a) Affidavit in Support of Report*

Under Pennsylvania law, every report must be subscribed and sworn to by the individual submitting the report. Any report filed by a political committee, authorized by a candidate and created solely to influence an election on the candidate's behalf, must be accompanied by an affidavit from the candidate which provides that, to the best of his or her knowledge, the political committee has not violated any election laws.<sup>70</sup>

#### *b) Locations of Filing of Reports*

Any candidate, individual or committee required to file a report concerning a candidate must file that statement or report in the office of the supervisor with whom the candidate filed a nomination paper or petitions. All candidates and political committees who must file reports with the Secretary of the Commonwealth must also file copies of their reports within the county in which the candidate resides. If any report of any political committee concerns both candidates who file for nomination with the Secretary of the Commonwealth and a County Board of Elections, then such a report must be filed with the Secretary.<sup>71</sup>

#### *c) Disbursal of Residual Funds*

In the event that a candidate or political committee terminates its financial activities, the disbursement of any residual funds may be used for any appropriate expenditure provided for by the Election Code or may be returned, pro rata, to the contributors. A final report must be made by the next January 31.<sup>72</sup>

#### *d) Late Filing Fees*

In Pennsylvania, a late filing fee for each report or statement which is not filed within the prescribed period is imposed. The fee is ten dollars (\$10) for each day or part of a day excluding Saturdays, Sundays and holidays. An additional fee of ten dollars (\$10) is due for each of the first six days that a report is overdue. The maximum penalty fee for a single report is two hundred and fifty dollars (\$250). A supervisor will receive an overdue report or statement even

if any late filing fee due has not been paid, but the report or statement is not considered filed until all fees have been paid. No further late filing fees will be incurred notwithstanding the fact that the report or statement is not considered filed. The late filing fee is a personal liability of the candidate or treasurer of a political committee and cannot be paid from contributions, nor may such a fee be considered an expenditure. A report or statement of expenditures and contributions is deemed to have been filed within the prescribed time if the letter transmitting it is sent by first class mail and postmarked on the day prior to the final day on which the report is to be received.<sup>73</sup> No person can be deemed elected to office, enter upon his or her duties, or receive any salary until all reports have been filed.<sup>74</sup>

#### *e) Audits*

Forty days after every election, the Secretary of the Commonwealth selects for independent audit, three percent of all public offices for which candidates were required to file nominating papers and petitions with the Secretary. The results of the primary audit are made public, although they are not released until after the November election.<sup>75</sup> Within ninety days after the last day for filing any report or affidavit, any five electors of Pennsylvania or of a political division of the state may petition the Commonwealth Court or the Court of Common Pleas of a county, depending upon where the candidate's original report has been filed, for an audit of expense accounts. If the report was false in any substantial manner, then the cost of the audit is paid by the person who filed the report. Otherwise, the court may assign payment for the audit as it thinks just under the circumstances.<sup>76</sup>

#### *f) Excess Contributions*

Amounts received by candidates that are in excess of expenditures can be used to defray any ordinary and necessary expenses incurred in connection with their duties in office, may be contributed to any organization approved by law, or may be used for any other lawful purpose, including transfer without limitation to any national, state or local committee of any political party.<sup>77</sup>

Under Pennsylvania law it is unlawful for any candidate or political committee to disburse money received from an anonymous source. All such money must be returned to the State Treasurer within twenty days of its receipt.<sup>78</sup>

#### **HOME STRETCH ADVERTISING RESTRICTION**

No candidate, nor his or her political committee or party, may place an advertisement referring to an opposing



candidate for the same office which is to be broadcast or published five days immediately prior to an election or published in a weekly newspaper or periodical during the eight days immediately prior to an election, with a television or radio station, newspaper or periodical, unless he or she has first given a copy of the material to appear in the advertisement and reasonable notice to the opposing candidate and the county board of elections where the advertisement is to be placed in sufficient time for a reply advertisement to be published or broadcast at the same approximate time as the original advertisement and prior to the election in question. The reasonable notice must be given in writing by registered mail, return receipt requested, addressee signature only, with a true copy of the material enclosed.<sup>79</sup>

### Standards of Judicial Conduct

A candidate, including an incumbent judge for a judicial office, should maintain the dignity appropriate to judicial office, and should encourage members of his or her family to adhere to the same standards of political conduct as apply to the candidate. The candidate should prohibit public officials or employees subject to his or her direction or control from doing for the candidate what the candidate is prohibited from doing personally. The candidate should not make pledges or perform any acts of conduct which conflict with the candidate's promise to perform the duties of the office in a faithful and impartial fashion; nor should the candidate make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before that court.<sup>80</sup>

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“ Regardless of whether or not you are successful, you want to be able to emerge from the process with your head held high. Never compromise your integrity personally or professionally. ”

–Judge Jacqueline O. Shogan

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During an election, a candidate may attend political gatherings, speak to such gatherings on his or her own behalf, or speak on behalf of any judicial candidate for the same office, identify him or herself as a member of a political party, and contribute to a political party or

organization. A candidate should not personally solicit or accept campaign funds, or solicit publicly stated support, but the candidate may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign and to obtain public statements of support for the candidacy. Such committees are not prohibited from soliciting campaign funds and public support from lawyers. A candidate's committees may solicit funds for the campaign no earlier than thirty days prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis. A candidate should not use or permit the use of campaign contributions for the private benefit of the candidate or members of the candidate's family.

### Election Contests

Election contests in Pennsylvania are determined by the rules governing different nomination classes; there are five nomination classes altogether. For example, class II contests include judges of the courts who are elected by the electors of the state at large – the Supreme Court, the Superior Court and the Commonwealth Court.<sup>81</sup> Cases of the second class are tried and determined by the Commonwealth Court.<sup>82</sup> Class III includes the judges of the other courts – the Court of Common Pleas, the Municipal Court and the Traffic Court.<sup>83</sup>

### PETITION TO CONTEST

Contested nominations and election of judges of courts of any judicial district of Pennsylvania are tried and determined before the Court of Common Pleas of the county where the person was elected.<sup>84</sup> The procedure to contest in the third class requires a written petition signed by at least fifty registered electors of the district where the person whose nomination or election is contested. The petition is to be presented to the Governor of Pennsylvania, who without delay must direct the three President Judges residing nearest to the courthouse of the county composing the district to convene the Court of Common Pleas promptly.<sup>85</sup> Where there is a question as to qualifications, tenure or right to serve, or the manner of service of any member of the judiciary, the exclusive jurisdiction of appeals from final order of the Court of Common Pleas lies with the Pennsylvania Supreme Court.<sup>86</sup>

## VI INSIGHT FROM SEVERAL SITTING JUDGES<sup>93</sup>

### REQUIRED INFORMATION IN PETITION TO CONTEST

The commencement of proceedings in the second and third classes must be made by petition, which must be filed within twenty days after the day of the primary or election. The petition must set forth the cause of the complaint concisely.<sup>87</sup> The petitioners must be registered electors who voted at the primary or election contested. In the third class, each petition must be verified by the affidavits of at least ten petitioners. In the second class the petition must be verified by at least five of the petitioners. The affidavits must be taken and subscribed before a person authorized by law to administer oaths and must provide that the facts stated are true, that according to the best of the petitioners' knowledge the primary or election was illegal and the return incorrect, and that the petition to contest is made in good faith.<sup>88</sup>

### BOND REQUIREMENT

The petitioners of all classes must file a bond five days after the presentation of their petition to the appropriate court signed by at least five of the petitioners in the sum designated by the court, with two or more individual sureties of a corporate surety to be approved by the court, conditioned for the payment of all costs which might accrue in the contest.<sup>89</sup> Notice of the filing of the petition, with a copy, must be served upon the person whose nomination or right of office is contested, together with a rule to answer at the time fixed for hearing.<sup>90</sup> If the court determines that the contest has been brought without probable cause, the petitioners become liable for all costs.<sup>91</sup> If there was probable cause, the costs will be borne by the Commonwealth or the appropriate subdivisions.<sup>92</sup>

This section is a compilation of knowledge, experience and wisdom offered by several judges from the Pennsylvania state judiciary, at both the trial and appellate level, to assist attorneys considering a career on the bench. The information was garnered through a written survey of judges who participated in the "Special Challenge of Running for Judicial Office" panel of the "Ready to Run, Campaign Training for Women" program. The "Ready to Run" program was sponsored by the Pennsylvania Center for Women and Politics at Chatham University, along with the Commission for Fairness, and took place on January 12, 2013 at Chatham University.

Because methods and strategies for pursuing a judicial appointment or election vary from person to person, as well as from one geographic area to another, there is no single, correct approach. For these reasons, this section is intended to be a reference, rather than a formal guide, for those interested in pursuing a judicial position.

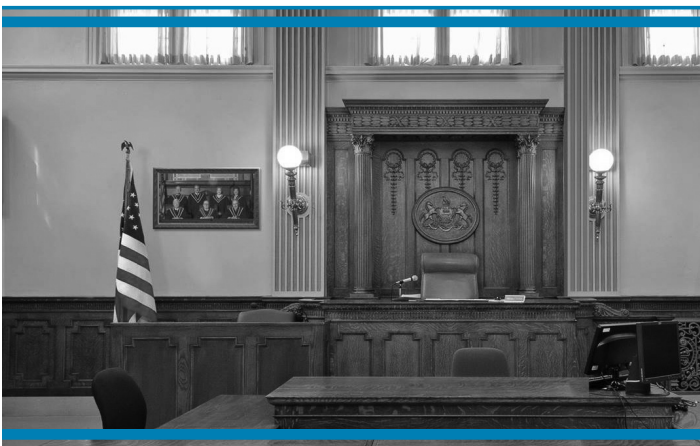
### 1. What Factors Should You Consider in Deciding Whether to Seek a Judicial Position?

#### • ARE YOU QUALIFIED?

You must consider whether you are qualified by virtue of intellectual ability, experience, temperament, work ethic, and reputation for fairness and integrity. It is an honor to serve as a judge. In order for our justice system to work as it should, the citizens of Pennsylvania must have confidence that the judges they elect are well-qualified and of the highest integrity. Being a judge is different from the practice of law. Consider whether you have the ability to make difficult and timely decisions. You must have a good temperament. Sometimes the decisions that judges make are difficult and unpopular. Sometimes judges hear and see things that are horrific. You must be prepared for the emotional toll that the job can produce.

#### • DO YOU HAVE THE TIME TO DEVOTE TO A CAMPAIGN?

Aside from qualifications, there are practical considerations in running for office, for it is a grueling and expensive process, especially at the statewide level. You must decide whether you have the time, professionally and personally, to devote to a county or statewide campaign. Consider whether you can spend this time away from your family, especially if you have small children. The campaign trail and the job itself can require a person to pay a large emotional toll, so you must determine whether you can fully commit yourself to the process.



### •DO YOU HAVE THE FINANCIAL RESOURCES OR THE ABILITY TO FUNDRAISE THE AMOUNT NEEDED TO RUN A SUCCESSFUL CAMPAIGN?

Financial resources are also important, especially if you do not have the support of a political party, have bad ballot position in a heavily contested election, or reside in a small county (since county of residence appears on the ballot in a statewide election). Consider the implications of giving up a salary to run. Consider whether you will have personal money to spend.

### •IS THE TIME RIGHT FOR YOUR JUDICIAL CAMPAIGN?

Timing is everything. You should consider whether this is the right time for the run, including the number of positions available. If there is only one vacancy and there is clearly a favored candidate, this might not be the right time to run. However, it might be the right time for getting your name out there for two years down the road.

### •IS THE CLIMATE RIGHT FOR YOUR JUDICIAL CAMPAIGN?

Certain years may be better or worse than others when it comes to the political climate of the voting area. You should evaluate what political connections and reputation you have in the legal community. If you are a statewide judicial candidate, you may also want to consider whether it is a good Democratic or Republican year based on whether there are competitive mayoral races in the big cities.

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“ You’re never going to win if you don’t run. ”

–Judge Jacqueline O. Shogan

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## 2. Does it Matter What Law School You Attended?

- You should have attended an accredited, well-respected law school. Law schools, as well as colleges, can provide a very effective support network.
- It helps to have attended a local law school if running for a Court of Common Pleas seat. This can lead to connections that may increase fundraising options, name recognition, etc.

## 3. Is it Necessary or Helpful for You to Have a Certain Type or Amount of Legal Experience?

- Generally, the more experience you have, the better you will function as a judge.

- Having served as a judicial clerk can be helpful to your campaign and to your effectiveness as a judge.

- Having litigation experience is also helpful, especially for Court of Common Pleas judicial candidates, but it is not essential. *Pro bono* litigation work can be a great way to gain experience in the courtroom.

- Having good writing skills is essential, as judges will always be evaluated on their ability to write well-reasoned and thorough opinions.

- Most attorneys think that all judges need at least ten years of experience as a practicing lawyer before considering becoming a judge. However, Superior Court judges typically have much more experience, either as an attorney or as a trial court judge.

- The Superior Court has benefitted from the diverse background of its members. The Superior Court has judges who were attorneys in private practice, trial court judges, attorneys in public service, and educators. The Superior Court also has judges for whom the law is a second career. Well-reasoned opinions arise from varying perspectives.

## 4. How Can You Address or Compensate for Weaknesses in Your Professional Profile?

- Highlight your strengths. You should honestly assess your strengths and determine how these strengths impact on the role of a judge.

- Be honest about your weaknesses. No one will be experienced in all areas of the law. You should not embellish or exaggerate your credentials or experience.

- Develop the skills you are lacking. For example, if you have never tried a case in court, consider gaining some trial experience before attempting to run. *Pro bono* work is a good way to accomplish this. Community service is also a good way of demonstrating a commitment to public service and compensating for weaknesses in the professional profile.

- Focus your campaign on the need for judges with diverse backgrounds if you have such a profile.

- Most importantly, you should be able to say that your background demonstrates that you will serve the citizens of Pennsylvania with diligence, compassion, integrity and respect for the rights of all.

## **5. What is the Best Way For You to Learn About Being a Judge?**

- Serve as a judicial law clerk or pursue some other experience in litigation.
- Observe judges. This can happen during the course of legal practice or by simply sitting in on court hearings.
- Meet informally with judges on the court in which you are interested. Most judges are happy to meet with attorneys who are thinking about running.
- Being a member of the judicial candidate screening committees of various bar associations and political organizations can also be extremely helpful, as it allows a candidate to know what these organizations look for in evaluating a judicial candidate.

## **6. In What Kind of Activities Should You Get Involved? Are There Any Particular Personal, Professional, or Political Groups in Which You Should Become Active?**

- Become an active member of your local and state bar associations. Bar associations can be an additional source of information about the process of running for a judicial position and an effective network. Many voters know little about judicial candidates and rely on advice from their attorney friends and family members who are members of bar associations.
- If you are not restricted by virtue of your current employment, become an active member of a political group, especially if you are looking to seek the endorsement of that political group.
- Become a board member of a community, charitable, or non-profit organization.
- Step up your attendance and involvement in your religious community.
- Work or volunteer on any campaign, but particularly a judicial campaign.

## **7. What Steps Are Necessary to Follow in Seeking a Judicial Position? What Preparation is Needed for an Election?**

- Follow the legal journal for notice of vacancies, which will be temporarily filled with appointees. Timely file an application for appointment.
- Evaluate whether you will be able to obtain the support you need to win. Talk to family and colleagues to help seriously

evaluate whether you can devote the time and financial resources to a campaign. You should be prepared to set your life aside for at least one year, as a campaign can be a grueling, time-consuming period that will require your full attention.

- Decide to take the step.
- Advise your family and friends that you will be asking for their help.
- Form a committee, including a campaign manager and a treasurer who are persons of influence. Make sure your professional campaign manager has experience in judicial campaigns. Ask everyone you know to serve on your campaign committee.
- It is essential to develop a general campaign plan and fundraising plan, including advertising, signs, direct mailings and endorsements. Consider buying all campaign materials from a union shop or a politically connected person.
- Learn the election code and all requirements and deadlines for your election year. In order to run, it is absolutely necessary to fulfill residence and filing requirements to get on the ballot. Review the residency requirements and obtain the necessary paperwork, including petitions, from either the local or state election bureau.
- Filing requirements involve circulating petitions for your candidacy and obtaining a certain number of signatures from registered voters in your political party by a certain date. Circulate petitions during the allowed time period, enlisting the help of volunteers as needed. Obtain at least twice the number of signatures needed, since opponents may challenge petitions.
- File notarized petitions and supporting paperwork with the applicable election bureau by the filing deadline.
- Ballot positions will be drawn several weeks after petitions are filed. Candidates will then have several more weeks to withdraw their names before the primary.
- Look through newspapers for local events and go to every event you can possibly go to. If you are at your home in the evening, you are not going to win.
- Meet with as many elected officials as you can. Tell them that you plan to run and seek their advice. Have any and all influential people you know send letters of recommendation to them.
- Although not necessary in terms of getting your name on the ballot, you should seek a judicial candidate rating from the local and/or state bar association.



- Seek endorsements. While also not necessary in terms of getting your name on the ballot, it is helpful to seek the endorsement of the political parties, including political parties to which you do not belong. The parties can help with providing manpower and financial support for your candidacy, in addition to the endorsement. Seek endorsements from all other groups that endorse candidates, including unions, independent political clubs and committees, selected elected officials, law enforcement, veterans groups, etc.

**8. Do You Need Letters of Recommendation, and if so, What Types of Letters?**

- Although not necessary, letters of recommendation can be provided to the bar association for the purpose of receiving a rating. The letters should be high quality references from a wide spectrum of the community at-large, not just the legal community.
- If you receive certain endorsements, such as from labor unions, letters of endorsement can also be helpful.

**9. What Should You Know About the Screening and Rating Process by the Bar Associations?**

- The bar associations look at your experience as well as your reputation in the legal community and the community at large.
- You will have an interview before the judiciary committee. Be personable. Answer all questions completely and truthfully, without exaggerating your experience. Highlight your strengths, including your contributions to the community at large.
- The bar associations will also consider writing samples.
- It is important to understand that this process is not completely objective. Candidates who are well-known by the bar or well-known by at least one member of the committee tend to receive better ratings. This is why involvement in the bar associations is crucial.

**10. What Factors are Critical to Winning a Judicial Election?**

- Qualifications.
- A good rating from the bar associations.
- Financial resources to get your name out into the community.
- Support and endorsement from community organizations, labor unions and political committees. Attendance at political events is important.

- Contact with as many voters as possible.
- Ballot position in a heavily contested election.
- “The will to win” - hard work, long hours and perseverance.

**11. How Much Money is Required to Run for a Judicial Position?**

- The total amount varies by area.
- Most Court of Common Pleas judicial campaigns can total upwards of \$100,000.
- A statewide campaign can require several hundred thousand dollars.
- Some Supreme Court campaigns have cost well over a million dollars.
- If you already have heavy name recognition in your community, these amounts may be less.

**12. What Advice Can You Give a Potential Candidate?**

- “Be brave. It’s like jumping off a cliff. Once you jump, there’s no going back.”
- “You’re never going to win if you don’t run.”
- “Make sure you really want the job for the right reasons.”
- “It’s an overwhelming process. Get as much help as you can.”
- “Get plenty of rest and get someone to drive you from place to place.”
- “Eat well and don’t consume alcohol while on the campaign trail.”
- “Have prepared remarks: 5 minutes, 3 minutes, 1 minute, 30 seconds, etc. Don’t just wing it!”
- “Focus on your strengths and refrain from badmouthing the other candidate.”
- “Never compromise your integrity personally or professionally.”
- “Sometimes the process can get ugly, so develop thick skin.”
- “Take advantage of every opportunity to meet potential voters: community events, church events, picnics, coffee klatches in the homes of neighbors and friends, etc.”
- “Take everyone’s advice but make your own decisions.”
- “Luck = Preparation + Opportunity.”
- “Hard work beats talent when talent fails to work hard.”

## VII INSIGHT FROM JUDICIAL CAMPAIGN MANAGER SAM HENS-GRECO, ESQ.

- “Seek advice from those who have been through the process.”
- “Don’t let the money issue keep you from running.”
- “Think outside the box about getting your name out there to the public.”
- “Just keep putting one foot in front of the other and remember ‘every kick in the pants results in a step forward.’”
- “Don’t get discouraged if you don’t win the first time you run. Many judges have run several times before being successful. You learn and build networks simply by going through the process. You also learn to develop a thick skin, which is necessary for any political endeavor.”

This is a brief summary of several key elements to consider during the first stages of planning a campaign for a judicial office. In certain ways, judicial races are different from other political campaigns. This summary touches on a few of the important early issues.

It is important to note that no two campaigns are the same. Each race will have its own unique facts that alter the analysis of the campaign. How many seats are open? Are you running against an appointed judge? Are there other races that will affect the voter turnout?

Finally, my preference is for grassroots campaigns and my comments reflect that bias. There are many different models for running and winning campaigns that will differ and vary from some of the following comments.

### Family Commitment

The most fundamental component of any campaign is your commitment. No one in your campaign should ever work harder than you.

The second most important part is your family’s commitment. It is essential that your family, whether that means your spouse, partner, children or parents, is fully supportive of your campaign.

There is nothing more powerful than having a supportive husband, wife, partner or child standing next to you. And there is nothing more draining or damaging as when those closest to you are reluctant to participate, see little value in your endeavor or are outright resentful of the idea or the process.

This concern is magnified if you have taken primary responsibility for your family or are a single parent.

It is important for everyone to be clear about expectations. The candidate needs to know the level of commitment to expect from friends and close family members. Will you be able to pick up the kids from school and be with them every Wednesday night? Likewise, family members and friends should have a clear understanding of how much time the candidate will be devoting to the campaign. Will the candidate be out every night or just once or twice a week?

The candidate and his or her family and friends must have the conversation and the understanding that campaigns are inherently self-centered and myopic adventures. During those six to eight months, everyone has to agree that “It is all about the candidate.” (I exaggerate a little bit but not much.)

The stronger the support system, the healthier and the stronger the campaign will be.



Hon. Kim Berkeley Clark, Allegheny County Court of Common Pleas

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“ If you really want it, keep running until you get it. ”

–Judge Kim Berkeley Clark

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## Do You Really Want This Job?

A good friend, a human resources manager by trade, described a political campaign, from her human resources perspective, as having two parts; “There is the job and then there is the getting of the job.”

Like any job, she suggested, you have to ask yourself “do you really want this job.” Does this work make you want to jump out of bed in the morning? Do you want to spend your days making decisions about other people’s lives? Are you willing to have it consume your energy, imagination and time?

If so, then think about your campaign as your resume and the interview process. You have to sell yourself, your experience and your skills. And you will have to do it over and over again, sometimes one on one and sometimes to 50 people.

Being the candidate is not easy. The campaign will, at times, be frustrating, maddening and tiresome. If you are convinced that this is the right job for you and you are committed to running through the finish line, then it will be a much easier process and you will be successful, even if you don’t receive the most votes.

## Why Are You Running?

This is the simplest but most difficult and most important question for a candidate to answer.

If you want people to believe in you, work for you, give you money and ultimately vote for you, then you must provide a concise, convincing and inspiring message and it starts with the answer to this question.

Some common responses from judicial candidates often include statements like:

- “Because I think I will be good at this job.”
- “I have been a trial lawyer and judges should have trial experience.”
- “I’m a hard worker and we need hard working judges.”

These are not necessarily bad reasons but none of these answers explain “WHY.”

So where do you start? Start with your resume. Look at your past work and think about what was meaningful and why you engaged in that work.

Next, take a note and try to answer the “why” question in twenty words or less. Start each sentence with, “I am running for judge because....”

You may also find it helpful to write “I believe” statements on issues that you believe are important; first, on general topics and then on court-related issues, for instance, “I believe everyone should have a right to free child care.”

Next, sit with some friends and tell them why you are running for judge. Ask them to tell you not only what they think but also to answer the “why” question for you.

Over the course of your campaign, your answer will become sharper and crisper. If you work on it and keep on critiquing, you will find your comfort zone and what resonates with you.

Of course, you will need to develop different versions; a 30-second, a three-minute and a ten-minute version. Start honing those separate talks as part of your preparation. There is a perception that voters really don’t care about judicial messages.

A Pittsburgh Post-Gazette Editorial recently argued that judicial elections tend to be lotteries. “Because many voters don’t know the candidates, they often make choices on the basis of colorful yard signs or appeals to ethnic identification. That is a tried and true recipe for sitting mediocrities on the bench.”

This is not untrue. However, it is wrong to believe that voters don’t care. I believe voters want to make informed and intelligent decisions and when they are given a compelling message, they will respond.

That is why a grassroots campaign must have a strong, clear and meaningful message and vision.

## Money

A successful campaign will need to be a well-financed campaign. Many commentaries insist that money is the most important factor in winning an election. Being adequately funded is essential but there are too many variables to simply believe that having the most money will result in a certain victory.

So what is a well-financed campaign?

**First**, look at the numbers from campaigns. The Election Division of the Pennsylvania Department of State is the statewide repository for the financial reports for all judicial campaigns. You can find campaign finance information online at: [http://www.dos.state.pa.us/portal/server.pt/community/campaign\\_finance/12731](http://www.dos.state.pa.us/portal/server.pt/community/campaign_finance/12731).

The campaign finance reports are easy to access and it will give a financial window into other campaigns. The reports list all donors over fifty dollars and itemize all expenses.

**Second**, know the rules regarding judicial fundraising and reporting.

Canon Seven of the Code of Judicial Conduct prohibits candidates from directly soliciting funds. Judicial candidates must form a committee to raise money for the campaign.

Judicial candidates are also barred from raising funds until 30 days prior to the first day for obtaining signatures on nomination petitions. This date is normally around the second or third week in January. (The first day for obtaining nominating signatures is 90 days before the election.)

This rule clearly can hamper the first time candidate or candidates with limited personal finances. Oddly enough, Pennsylvania's lack of contribution limits can offset this restriction. There is no limit on the amount of money any one individual can give to a candidate. So a family member, colleague or inspired voter can give you \$100,000 if they so desire.

There are restrictions on corporate contributions. Your campaign manager, treasurer and campaign staff will need to know the differences among contributions from corporations, limited partnerships and partnerships.

It is important to note that in light of the recent U.S. Supreme Court rulings regarding campaign finance laws, these fundraising restrictions, especially the limitation on the timing, would survive a constitutional challenge.

**SPECIAL NOTE:** Beware of the urban legend that says that a judicial candidate cannot announce his or her candidacy until the first day allowed for raising campaign funds. There was a rule to this effect but it was voided in 1999.

**Third**, establish a realistic budget. Be honest on estimating how much you can personally contribute and how much your family members will contribute.

Next, estimate how much you will be able to raise from other sources. Capital campaign fundraising models can be very helpful. For example, identify how many donors will give you \$10,000, how many will give you \$5,000, how many will give you \$100.

In judicial campaigns, most of your funds will come from those people who are in close relation with you – family, friends, neighbors, and colleagues. You may be able to raise funds from unions, political action committees, or elected officials, but most often that will be because you have obtained their support or have an existing relationship.

Next, review your budget again and make adjustments based on the comparison.

**Finally**, know how to spend the money.

There are several underappreciated facts about campaign finances. Pundits always want to know how much money a candidate has raised. No one ever cares how the money is spent. If you have limited funds, then you may not be able to afford an elaborate campaign logo, or if you don't have enough money to blanket the airways, producing and running a TV ad may be a waste of money.

The key to spending money is knowing your voter and maximizing your efficiency in getting your message to the voter.

### **Get a Good Photographer**

The first impression is the most lasting.

Start your race by hiring the best photographer and setting up an extensive photo shoot. Make sure that your hair looks well-groomed and that your clothes fit you well. Take pictures with your family, around your desk and meeting with people – serious ones and relaxed ones. Get a large portfolio early in the campaign.

Most likely, you will start your campaign with a short introductory piece, something that you can give to voters when you meet them. You will need to incorporate your message and campaign colors and you will need a theme that captures your message and campaign colors, but most importantly, you will want the best picture of you.

### **Know Your Voter**

You and your campaign manager will need to determine a strategy for winning.

Most local election departments will have previous election results online. You can also obtain a list of voters and their voting history. If it is not available from your local election department, the state's Election Division can give you a copy.

Study the vote totals from earlier years and similar races. Know which districts turn out votes in a judicial election.

Look at the voter rolls and understand how demographics will impact an election. For instance, it is rare for college students to vote in a judicial election. Invariably, someone will suggest spending time and money going after the college vote. That would not be a good decision.



## VIII BAR ASSOCIATION RATINGS OF JUDICIAL CANDIDATES<sup>94</sup>

A good question to repeatedly ask yourself and your campaign manager is whether your current effort or task is influencing a voter. You can stand outside a bus stop all day and talk with numerous people, but do you know whether that person is registered and if he or she will vote?

### Campaign Manager

Selecting a campaign manager can be tricky. Most people who have managed campaigns have a certain style and a set way of running their campaigns.

This is your campaign and you will need to keep control of it. Many people will give you advice. Listen closely but remember to keep your own counsel and, if you believe in your strategy, remain faithful to that plan.

A good campaign manager will understand the details of organizing and managing a campaign. Many of the issues discussed above, like hiring a photographer and organizing a photo shoot, should be routine tasks.

A really good campaign manager will know how to maximize your strengths and plan around your weaknesses.

When considering a campaign manager, talk not only with previous candidates but also, if possible, other opponents.

### Local Bar Association Evaluations of Candidates for Court of Common Pleas

Certain county bar associations across the Commonwealth of Pennsylvania (Allegheny and Philadelphia) have a mandatory process for evaluating candidates seeking appointment and/or election to the Court of Common Pleas in their respective counties. Other county bar associations in the Commonwealth may also evaluate candidates seeking appointment and/or election to the Court of Common Pleas in their respective counties, but the process may not be mandatory. Generally, such evaluations are beneficial to judicial candidates, particularly where the candidate receives a positive rating and the bar association publishes the ratings in the local newspapers in advance of the election. If interested, judicial candidates should begin the application process for their ratings at least six to eight months in advance of the upcoming primary. More information about the process can be obtained by contacting the Executive Director or President of the candidate's local bar association.

### Pennsylvania Bar Association Evaluations of Candidates for Appellate Courts

The Pennsylvania Bar Association has a mandatory process for evaluating candidates seeking appointment and/or election to the Appellate Courts of the Commonwealth (Supreme Court, Superior Court and Commonwealth Court). Just as with the local bar association process, the state bar association evaluations can be beneficial to judicial candidates, and if interested, judicial candidates should begin the application process for their ratings at least six to eight months in advance of the upcoming primary. More information about the process can be obtained by contacting the Executive Director of the Pennsylvania Bar Association.

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“Take everyone’s advice, but make your own decisions.”

–Judge Christine A. Ward

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## IX RECOMMENDATIONS FOR IMPROVING JUDICIAL DIVERSITY

The Recommendations for Improving Judicial Diversity below are directed toward those who support diversity and are in a position to promote judicial diversity in Pennsylvania, including the Pennsylvania Supreme Court and court administration offices, judges, the Governor, the Legislature, local party leaders, bar associations, law schools, the media and the public.<sup>95</sup>

### Recruitment and Mentoring

Boost formal recruitment and mentorship programs for aspiring judges. Given the high salaries and other prestigious positions available to capable lawyers, potential candidates should be identified early in their careers before they move on to other opportunities. Therefore, these recruitment and mentorship efforts should be formalized and begun early. Establishing mentoring and recruitment programs in law schools may prove to be an effective tool for increasing diversity on the bench.

### Identify and Train Diverse Judicial Candidate Recruiters

Diverse judicial candidate recruiters, for various reasons, are more likely to facilitate a more diverse applicant pool. Diverse judicial candidate recruiters need clear standards and appropriate training.

### Increase Strategic Recruitment

The first step in ensuring a diverse applicant pool is making sure that an open judicial seat is widely advertised and that all candidates are welcomed. Recruiting early and recruiting often can work to close the gender and race gaps in political ambitions.

### Keep the Election Process Transparent

Let candidates know what to expect when they run for judicial office. Outlining the election process for all candidates will ensure that each candidate is treated in a similar way. Through recruitment panels or other mechanisms, prospective candidates must be provided with information about how to approach the selection process most effectively. The process needs to be demystified, perhaps through the development of materials or an action plan based upon the advice given by current judges who successfully navigated the campaign process. Through recruitment panels, current and former judges and other bar leaders meet with lawyers to describe the work of judging, provide a realistic

understanding of the local election process, and reach out to prospective candidates and applicants.

### Engage in Individual Outreach to Prospective Judges

In addition to recruitment panels, individual outreach to prospective judges is important. Many judges sought out mentors on their own because they knew from an early age that they wanted to be judges and they were determined to achieve this goal. But the process would likely be easier – and more minority candidates might consider a judicial career – if leaders in the judiciary or the bar more frequently reached out to minority lawyers with informal and individual offers of mentoring.

### Assist Aspiring Judges from Underrepresented Communities in Campaign Training and Fundraising

Successful judicial candidates prepare themselves well for the political aspects of the process. As part of that preparation, prospective candidates need information and advice about the political realities of the process so that they can navigate it more efficiently and effectively.

### Assist Aspiring Judges in Gaining the Support of Political Leaders

The support of political leaders is crucial in achieving a diverse judiciary. Governors can take direct action to appoint diverse candidates and work behind the scenes to build support for a diverse judiciary elsewhere. Chief Justices, groups of legislators, or party officials could also be influential in improving the climate for diversity in their states. In addition, bar associations and members of the public could increase pressure on elected officials and make the issue of diversity a priority.

### Assist Aspiring Judges with Fundraising

Fundraising and low salaries are both obstacles to a diverse judiciary. Candidates of color in elective states are hampered by relative difficulty in raising sufficient funds to run an effective campaign. This may result from a lack of access to networks of donors. In addition, a candidate may have to raise a significant sum to run for a judicial post with a comparatively low salary.

## **Raise Judicial Salaries**

Other more highly-paid opportunities in the legal field may drain qualified candidates away from the pool of prospective judicial candidates. State leaders should keep an eye on judicial salaries to assure that they are high enough to attract the best lawyers and lure diverse candidates out of law firms and onto the bench.

## **Grapple Fully with Implicit Bias**

Cognitive scientists have focused attention on the widespread tendency to unwittingly harbor implicit bias against disadvantaged groups. Fortunately, these biases are mutable. Thus, by acknowledging that this tendency exists, those who are in a position to promote judicial diversity can take steps to counteract their biases.

## **Educate the Public About the Benefits of Additional Diversity on the Bench, and Publicize the Accomplishments of Diverse Judges**

In general, very little publicity surrounds most judges' elections. Although there is some media coverage of partisan judicial elections, the average citizen knows little about the state bench or the judges who serve there. Since many members of the public largely are not aware of those who serve on their state courts, calling attention to disparities may also help voters to prioritize diversity. Publicizing or profiling the accomplishments of current judges of color and female judges to the wider community will highlight the positive benefits of diversity. Added public knowledge about these individuals may call attention to the lack of diversity on the bench, help to increase support for both the judicial branch and diversity, and also counteract articles questioning the qualifications of female and minority judges. In addition, these efforts may aid existing judges who must eventually stand for retention elections or defend their seats in contested elections to do so more effectively.

## **Appoint a Diversity Compliance Officer or Ombudsman**

States should hold someone accountable for a state's success or failure to achieve meaningful diversity on the bench. A diversity ombudsman would be in charge of monitoring diversity levels and improving outreach efforts.

## **Maintain High Standards and Quality**

Creating a diverse bench can be done without sacrificing quality. All local law schools have female and minority graduates and these can be sources of many judicial candidates. Recruitment should also expand to candidates who graduated from top national schools, as these schools often have far more diverse alumni than local law schools.

## **Improve Record Keeping**

Keeping a record of the racial and gender makeup of the candidates for judicial office and how candidates advanced through the election process will make it much easier for Pennsylvania to track its own progress on issues of diversity.

## **Study the Experiences of Aspiring Judges Who Were Not Successful in Reaching the Bench**

A study of judicial candidates who did not reapply or run again following an unsuccessful bid may provide some additional insights into the extent to which the political realities of the process may hinder diversity.

## **Study Judicial Evaluation Mechanisms to Determine if Bias Exists**

Some judges believe that the rating systems utilized to evaluate judges may more accurately reflect personal popularity and successful networking rather than true effectiveness on the bench. In addition, these systems may create opportunities for the expression of bias against female judges and judges of color. Judges who are rated unfairly may lose their seats in the next round of elections or in a retention election. Further study is needed on the development of evaluation mechanisms that provide a check against bias, while still serving the worthwhile goal of judicial accountability.

## **Study Judicial Selection Systems in Geographic Regions Where There are Few Judges of Color**

Elected judges from regions with few judges of color feel that discrimination might have been present during their selection experience. Research is needed to identify patterns within specific locales that merit additional attention, thereby allowing resources to be focused where they are most needed.

## X ADDITIONAL RESOURCES

### Generally

Detailed information on the regulations and requirements for running for judicial office is available online from the Pennsylvania Department of State at: <http://www.dos.state.pa.us/portal/server.pt/community/information/12709>.

In addition, the booklet entitled *How to Run for Judicial Office: A Campaign Manual for Pennsylvania Candidates* is published and available free of charge from the Philadelphia-based Committee of Seventy group and online at: [http://www.seventy.org/downloads/how\\_to\\_run/how\\_to\\_run\\_judge\\_2008.pdf](http://www.seventy.org/downloads/how_to_run/how_to_run_judge_2008.pdf).

### Judicial Administration

Administrative Office of Pennsylvania Courts (AOPC)  
<http://www.pacourts.us/judicial-administration/>

### Ethics

The Judicial Ethics Committee of the Pennsylvania Conference of State Trial Judges provides answers to “Frequently Asked Questions Regarding Elections”  
<http://ethics.pacourts.us/electionfaq.htm>

### Appellate Courts

The Supreme Court of Pennsylvania  
<http://www.pacourts.us/courts/supreme-court/>

The Superior Court of Pennsylvania  
<http://www.pacourts.us/courts/superior-court/>

Commonwealth Court of Pennsylvania  
<http://www.pacourts.us/courts/commonwealth-court/>

### Courts of Common Pleas

<http://www.pacourts.us/courts/courts-of-common-pleas/>

### Minor Courts

<http://www.pacourts.us/courts/minor-courts/>

## XI SOURCES

Content and data for this Guidebook were taken from the following sources:

- The State of Washington Minority and Justice Commission, *Diversifying the Bench Guidebook, How to Become a Judicial Officer* (March 2011), available at <http://www.courts.wa.gov/committee/pdf/Diversifying%20the%20Bench%20Guidebook.pdf>.
- Pennsylvania, Department of General Services, *The Pennsylvania Manual, Volume 120* (2011), available at <http://www.portal.state.pa.us/portal/server.pt?open=512&objID=1294&&SortOrder=45&level=3&parentid=1291&css=L3&mode=2> (hereinafter “The Pennsylvania Manual, Volume 120”).
- The Unified Judicial System of Pennsylvania Website, available at <http://ujportal.pacourts.us/Default.aspx> (hereinafter “AOPC Website”).
- The 2013 Pennsylvania Bar Association’s Commission on Women in the Profession’s 19th Annual Report Card, available at <http://www.pabar.org/pdf/PBAWIPReportCard19Apr2013.pdf> (hereinafter “The 2013 Report Card”). The 2013 Report Card reports on the 2012 Pennsylvania Judiciary composition.
- Pennsylvanians for Modern Courts Website, available at <http://www.pmconline.org/> (hereinafter “PMC Website”).
- Pennsylvania State Data Center, *Pennsylvania Facts 2011*, available at [http://pasdc.hbg.psu.edu/sdc/pasdc\\_files/pastats/PaFacts\\_2011.pdf](http://pasdc.hbg.psu.edu/sdc/pasdc_files/pastats/PaFacts_2011.pdf) (hereinafter “Pennsylvania Facts”).
- The Brennan Center for Justice, *Improving Judicial Diversity*; The Lawyers’ Committee for Civil Rights under Law and the Justice State Campaign, by the Center for Justice, Law and Society, available at <http://www.brennancenter.org/publication/improving-judicial-diversity>.
- George Mason University, *Improving Diversity on the State Courts: A Report from the Bench*, available at [http://www.justiceatstake.org/media/cms/DiversityReport2009\\_4F739E0E55910.pdf](http://www.justiceatstake.org/media/cms/DiversityReport2009_4F739E0E55910.pdf).
- Committee of Seventy, *How to Run for Judicial Office: A Campaign Manual for Pennsylvania Candidates* (2008), available at [http://www.seventy.org/downloads/how\\_to\\_run/how\\_to\\_run\\_judge\\_2008.pdf](http://www.seventy.org/downloads/how_to_run/how_to_run_judge_2008.pdf).



## XII ENDNOTES

- 1 The Pennsylvania Manual, Volume 120.
- 2 AOPC Website, at <http://www.pacourts.us/learn?q=supreme>.
- 3 The Pennsylvania Manual, Volume 120; AOPC Website, at <http://www.pacourts.us/learn?q=supreme>.
- 4 This data does not include "Senior Judges."
- 5 This data was gathered from the AOPC website on September 25, 2013. See AOPC Website at <http://www.pacourts.us/courts/> ("Courts") and <http://www.pacourts.us/courts/supreme-court/supreme-court-justices> ("Supreme Court Justices") and <http://www.pacourts.us/courts/superior-court/superior-court-judges> ("Superior Court Judges") and <http://www.pacourts.us/courts/commonwealth-court-judges> ("Commonwealth Court Judges").
- 6 Cameron and Elk, Columbia and Montour, Franklin and Fulton, Juniata and Perry, Snyder and Union, Forest and Warren, and Sullivan and Wyoming, share judges. These statistics do not double count the judges for these counties. See 2013 Report Card, at 6.
- 7 This data was gathered from the 2013 Pennsylvania Bar Association's Commission on Women in the Profession's 19th Annual Report Card which reports on data from 2012. See 2013 Report Card, at 6.
- 8 Pennsylvanians for Modern Courts provides statistics on minorities in the Pennsylvania state judiciary. This data was gathered from the PMC Website on September 25, 2013. See PMC Website at <http://www.pmconline.org/pajudges/supremecourt> ("PA Supreme Court") and <http://www.pmconline.org/node/15> ("Intermediate Appellate Courts"). Data was also gathered from the AOPC website on September 25, 2013. See AOPC Website at <http://www.pacourts.us/courts/> ("Courts") and <http://www.pacourts.us/courts/supreme-court/supreme-court-justices> ("Supreme Court Justices") and <http://www.pacourts.us/courts/superior-court/superior-court-judges> ("Superior Court Judges") and <http://www.pacourts.us/courts/commonwealth-court-judges> ("Commonwealth Court Judges").
- 9 This is non-documented data based on information provided by a retired minority Court of Common Pleas judge from Philadelphia in August of 2013.
- 10 See Pennsylvania Facts.
- 11 See PMC Website at <http://www.pmconline.org/pajudges/localcourts> and <http://www.pmconline.org/node/15>.
- 12 PMC Website, at <http://www.pmconline.org/node/31>.
- 13 Committee of Seventy, *How to Run for Judicial Office: A Campaign Manual for Pennsylvania Candidates* (2008).
- 14 25 P.S. § 2831(a)
- 15 25 P.S. § 2831(b)
- 16 25 P.S. § 2831(c)
- 17 25 P.S. § 2832
- 18 25 P.S. § 2862
- 19 25 P.S. § 2866
- 20 25 P.S. § 2867
- 21 25 P.S. § 2870(f)
- 22 25 P.S. § 2868
- 23 25 P.S. § 2869
- 24 25 P.S. § 2870
- 25 25 P.S. § 2872.1 (Note: Local judicial candidates in counties not of the first or second class only need 250 valid signatures to get on the ballot.)
- 26 25 P.S. § 2873(a)
- 27 25 P.S. § 2873(b.1)
- 28 25 P.S. § 2873(d)
- 29 25 P.S. § 2873(f)
- 30 25 P.S. § 2875
- 31 25 P.S. § 2882
- 32 25 P.S. § 2883

- 33 25 P.S. § 2911(a)
- 34 25 P.S. § 2911(b)
- 35 25 P.S. § 2911(c)
- 36 25 P.S. § 2911(d). The district residency requirement discerned in section 2911(d) was determined to be unenforceable by the Supreme Court of Pennsylvania in 2012. See *In re Nomination Petitions and Papers of Carl Stevenson as a Candidate for State Representative in the 134th Legislative District*, No. 54 MAP 2012 (Mar. 26, 2012).
- 37 25 P.S. § 2911(e)
- 38 25 P.S. § 2911(e)
- 39 25 P.S. § 2912
- 40 25 P.S. § 2913(a)
- 41 25 P.S. § 2913(b)
- 42 25 P.S. § 2913(c). Contrary to the language of this subsection which requires filing notice of nomination papers on or before the second Friday subsequent to the primary, this more generous deadline is the result of two consent decrees entered into in the cases of *The Libertarian Party of Pennsylvania v. Davis* (M.D. Pa., 1984) and *Hall v. Davis* (E.D. Pa., 1984), whereby the Secretary of the Commonwealth agreed to accept nomination papers on August 1st for that election and future elections.
- 43 25 P.S. § 2913(d)
- 44 25 P.S. § 2914
- 45 25 P.S. § 2968(b), (c)
- 46 25 P.S. § 3242(a)
- 47 25 P.S. § 3242(b)
- 48 25 P.S. § 3242(c)
- 49 25 P.S. § 3242(d)
- 50 25 P.S. § 3243
- 51 *Kremer v. State Ethics Commission*, 469 A.2d 593 (1983).
- 52 25 P.S. § 3244(a)
- 53 25 P.S. § 3244(b)
- 54 25 P.S. § 3244(c)
- 55 25 P.S. § 3244(d)
- 56 25 P.S. § 3245
- 57 25 P.S. § 3246(d)
- 58 25 P.S. § 3246(e)
- 59 25 P.S. § 3246(f)
- 60 25 P.S. § 3246(h)
- 61 25 P.S. § 3246(i)
- 62 25 P.S. § 3246(j)
- 63 25 P.S. § 3247(a)
- 64 25 P.S. § 3248
- 65 25 P.S. § 3246(a)
- 66 25 P.S. § 3246(b)
- 67 25 P.S. § 3246(c)
- 68 25 P.S. § 3246.1(a)
- 69 25 P.S. § 3246.1(b)
- 70 25 P.S. § 3249(a)
- 71 25 P.S. § 3251
- 72 25 P.S. § 3250
- 73 25 P.S. § 3252(a)
- 74 25 P.S. § 3252(b)

75 25 P.S. § 3255

76 25 P.S. § 3256(a)

77 25 P.S. § 3241(d), 3250, 3254.1

78 25 P.S. § 3254

79 25 P.S. § 3258(b)

80 In response to *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), the language in Canon 7B(1)(c) of the Pennsylvania Code of Judicial Conduct was changed. 32 Pa. Bull. 5951 (2000). The old language said that a judicial candidate could not “announce his views on disputed legal or political issues,” which was identical to Minnesota Canon 5(A)(3)(d)(i), the provision struck down in *White*. The new language says that judicial candidates cannot “make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before that court.” Candidates for judicial office are strongly encouraged to read both the U.S. Supreme Court decision in *White* and the Pennsylvania Code of Judicial Conduct, as amended.

81 25 P.S. § 3291

82 42 Pa.C.S. § 764

83 25 P.S. § 3291

84 25 P.S. § 3376

85 25 P.S. § 3377

86 42 Pa.C.S. § 722

87 25 P.S. § 3456

88 25 P.S. § 3457

89 25 P.S. § 3459

90 25 P.S. § 3460

91 25 P.S. § 3469

92 25 P.S. § 3470

93 Insight provided by Hon. Kim Berkeley Clark, Court of Common Pleas of Allegheny County; Hon. Jacqueline O. Shogan, Superior Court of Pennsylvania; and Hon. Christine A. Ward, Court of Common Pleas of Allegheny County.

94 This information was provided by Alysia Keating, Esq., Director of Diversity and Gender Equality, Allegheny County Bar Association.

95 The Recommendations for Improving Judicial Diversity is a compilation of recommendations, best practices and suggestions from a number of sources. First, the recommendations rely on The Brennan Center for Justice’s report entitled, *Improving Judicial Diversity*; the Lawyers’ Committee for Civil Rights under Law and the Justice State Campaign, by the Center for Justice, Law and Society. See *Improving Judicial Diversity*, available at <http://www.brennancenter.org/publication/improving-judicial-diversity>. This report offers a set of ten best practices to attract the brightest female and minority candidates to the judiciary. These best practices are based on a study of states with judicial appointment commission systems and are directed to nominating Commissions. The “best practices” of the Brennan Center for Justice are, in some cases, adapted here, as appropriate, to the electoral system for judicial selection in Pennsylvania.

Second, the recommendations rely on George Mason University’s report, *Improving Diversity on the State Courts: A Report from the Bench*. In 2009, the Lawyers’ Committee for Civil Rights Under Law and the Justice State Campaign, by the Center for Justice, Law and Society at George Mason University published this report. This project was initiated to conduct an empirical evaluation of mechanisms designed to advance diversity in the state courts. The researchers conducted studies of recent instances in which individuals of color were successfully appointed or elected to the state trial bench. As a result of this research, they developed an action plan geared toward promoting a bench that is diverse in background and experience. The full report is available at [http://www.justiceatstake.org/media/cms/DiversityReport2009\\_4F739E0E55910.pdf](http://www.justiceatstake.org/media/cms/DiversityReport2009_4F739E0E55910.pdf).

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We have attempted to be as comprehensive and as current as possible with the information contained in this Guidebook. However, because rules and laws governing the judiciary are subject to change, we recommend that readers use the Guidebook as a starting point in their pursuit of a career in the judiciary. Users are encouraged to check sources identified for more current information.

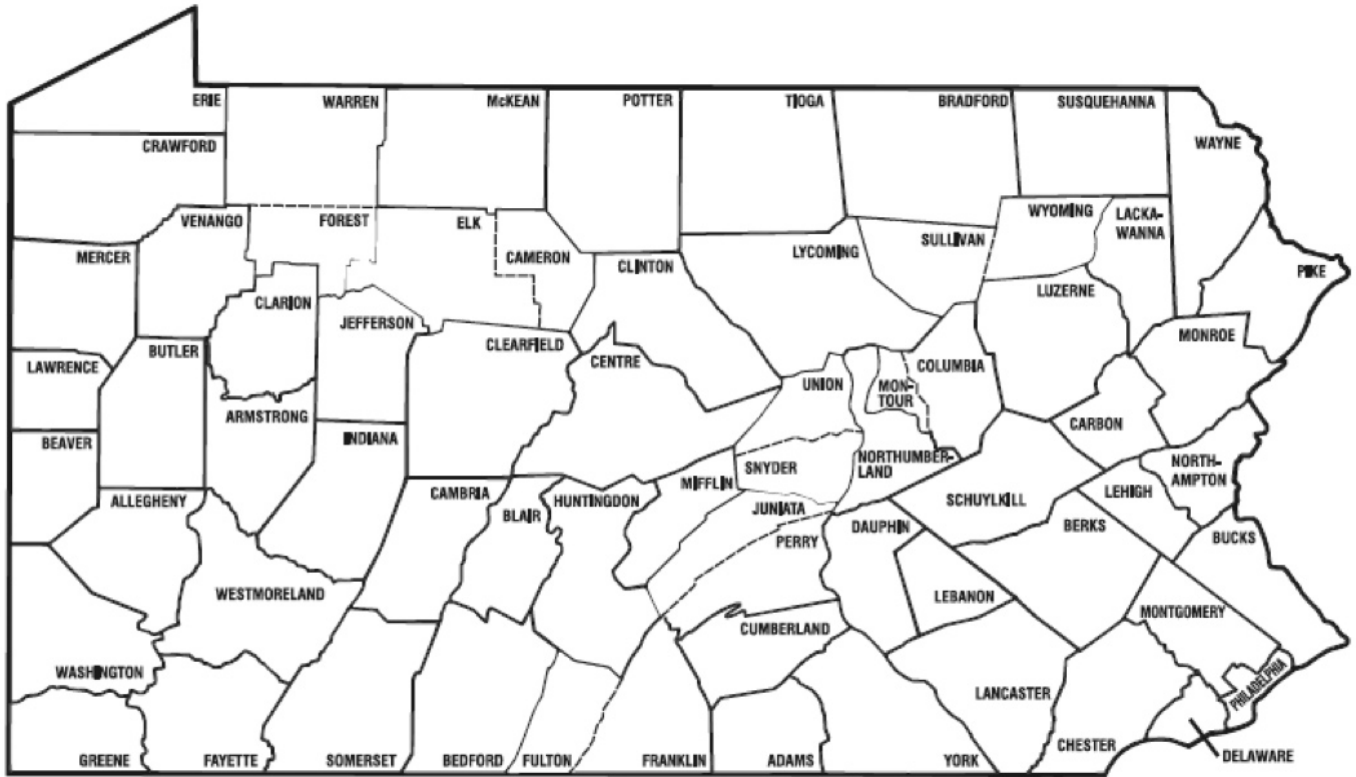
### XIII APPENDIX A: JUDICIAL DISTRICTS AND THEIR JUDICIAL COMPLEMENTS

DISTRICT	COUNTY OR COUNTIES	NUMBER OF JUDGES
First District	City and County of Philadelphia	93
Second District	Lancaster County	15
Third District	Northampton County	9
Fourth District	Tioga County	1
Fifth District	Allegheny County	43
Sixth District	Erie County	9
Seventh District	Bucks County	13
Eighth District	Northumberland County	3
Ninth District	Cumberland County	5
Tenth District	Westmoreland County	11
Eleventh District	Luzerne County	10
Twelfth District	Dauphin County	10
Thirteenth District	Greene County	2
Fourteenth District	Fayette County	5
Fifteenth District	Chester County	13
Sixteenth District	Somerset County	3
Seventeenth District	Snyder and Union Counties	2
Eighteenth District	Clarion County	1
Nineteenth District	York County	15
Twentieth District	Huntingdon County	1
Twenty-First District	Schuylkill County	6
Twenty-Second District	Wayne County	1
Twenty-Third District	Berks County	13
Twenty-Fourth District	Blair County	5
Twenty-Fifth District	Clinton County	2
Twenty-Sixth District	Columbia and Montour Counties	2
Twenty-Seventh District	Washington County	6
Twenty-Eighth District	Venango County	2
Twenty-Ninth District	Lycoming County	5
Thirtieth District	Crawford County	3
Thirty-First District	Lehigh County	10
Thirty-Second District	Delaware County	20
Thirty-Third District	Armstrong County	2
Thirty-Fourth District	Susquehanna County	1
Thirty-Fifth District	Mercer County	4



DISTRICT	COUNTY OR COUNTIES	NUMBER OF JUDGES
Thirty-Sixth District	Beaver County	7
Thirty-Seventh District	Warren and Forest Counties	2
Thirty-Eighth District	Montgomery County	23
Thirty-Ninth District	Franklin and Fulton Counties	5
Fortieth District	Indiana County	3
Forty-First District	Perry and Juniata Counties	2
Forty-Second District	Bradford County	2
Forty-Third District	Monroe County	6
Forty-Fourth District	Wyoming and Sullivan Counties	1
Forty-Fifth District	Lackawanna County	9
Forty-Sixth District	Clearfield County	2
Forty-Seventh District	Cambria County	5
Forty-Eighth District	McKean County	2
Forty-Ninth District	Centre County	4
Fiftieth District	Butler County	6
Fifty-First District	Adams County	4
Fifty-Second District	Lebanon County	4
Fifty-Third District	Lawrence County	4
Fifty-Fourth District	Jefferson County	1
Fifty-Fifth District	Potter County	1
Fifty-Sixth District	Carbon County	3
Fifty-Seventh District	Bedford County	2
Fifty-Eighth District	Mifflin County	2
Fifty-Ninth District	Elk and Cameron Counties	1
Sixtieth District	Pike County	2

**XIV APPENDIX B: COURTS OF COMMON PLEAS JUDICIAL DISTRICTS AND COUNTIES**  
*As Apportioned by Act of 1951 as Amended*



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