

## Inquirer Judicial Candidate Questionnaire

Name: **Kevin Brobson**

Judicial post for which you are running: Commonwealth Court of Pennsylvania

Political Party: Republican

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### Questions

**1. Why are you qualified and well-suited to serve as a judge on the court for which you are running?**

**2.**

In short, I would bring to the Commonwealth Court a broad base of experience in state administrative law and administrative practice and procedure before various state agencies. As a shareholder in the Harrisburg office of the law firm Buchanan Ingersoll & Rooney PC, I would bring my years of experience practicing before the Commonwealth Court, where I have represented clients in matters exploring all facets of the Commonwealth Court's unique jurisdiction—appeals from state agencies, appeals from the courts of common pleas, original (trial) jurisdiction actions against the state, and representing clients in statutory insurance receivership proceedings. But my interest in and commitment to the Commonwealth Court does not end after the work day. I am proud



to be a member of the James S. Bowman Chapter of the American Inns of Court in Harrisburg, a chapter that focuses specifically on administrative practice and procedure and practice before the Commonwealth Court and appropriately named after the first President Judge of the Commonwealth Court. I am also a member of the Commonwealth Court Historical Society.

At Buchanan Ingersoll & Rooney PC, I am a member of the firm's Litigation Section and am the Chair of the firm's Insurance and Reinsurance Practice Group. My Commonwealth Court experience has been an integral part of my successful law practice, a substantial portion of which has been focused on matters frequently considered by the Court, such as insurance and health care regulation, professional licensure, and government contracting. I have represented numerous clients in cases before the Court, challenging state agency actions that were contrary to law and that adversely affected my clients' property rights, contract rights, and livelihoods. I have also represented clients in regulatory and adjudicatory matters before the Pennsylvania Insurance Department, the Pennsylvania Gaming Control Board, the Pennsylvania Department of Revenue, the Pennsylvania Department of State, the State Ethics Commission, and the State Board of Private Licensed Schools.

I am rated among the Best Lawyers in America 2009 and have been honored as a past recipient of the "Lawyers on the Fast Track" and "Forty Under 40" awards. My experience and qualifications to serve on the Court have been recognized by the Pennsylvania Bar Association, which recommended my candidacy. To date (4/13/09), I have also been endorsed by the Pennsylvania State Troopers Association, the Philadelphia Firefighters' Union/IAFF Local 22, and the Republican Party of Pennsylvania.

I am also proud of my commitment to community and public service. I have received awards and recognition from both the Dauphin County Bar Association and the Pennsylvania Bar Association for my role in designing and implementing an innovative legal services program that teams commercial lawyers and law firms with nonprofit entities to provide pro bono business legal services in areas such as governance, taxation, employment, contracts, and real estate. I serve on the Public Service

Committee of the Dauphin County Bar Association. I also serve on the Middle Paxton Township Planning Commission and am the past chairman and member of the board of directors of Jump Street, a nonprofit community arts and outreach organization. While in law school, I served in the Public Interest Law Clinic and helped author what would become Pennsylvania's Jen and Dave's Law, which created a statewide automated system for providing Pennsylvania criminal charge information to individuals involved in child custody cases.

I received my undergraduate degree from Lycoming College, magna cum laude. I graduated from the Widener University School of Law (Harrisburg Campus) summa cum laude and graduated second in my class. Following law school, I clerked for the Honorable James McGirr Kelly, United States District Court for the Eastern District of Pennsylvania in Philadelphia.

In addition to my professional qualifications, my personal experiences have also prepared me well for Commonwealth Court. I am a lifelong Pennsylvanian—born, raised, educated, employed, and raising my three children with my wife of 10 years, Lauren. We love Pennsylvania and look forward to the opportunity to give back something to the state that has given us so much. As parents, Lauren and I have experienced the many usual highs and lows of raising a family, and with it many life lessons that can contribute to the character of a judge in a courtroom. Uniquely, perhaps, we faced a particular challenge when our oldest, Claire, was diagnosed with Leukemia. She is still in treatment, and I am pleased to report doing very, very well. Beyond the obvious trials of such a personal ordeal, my experience has left in me an indelible impression of the importance of having systems in place in our society that work, that respond fairly, properly, and promptly, and that understand that decisions affect real people. Though not in a courtroom, my family has experienced first-hand the value of service, sensitivity, and in the face of adversity, the content of character in the professionals in our healthcare system. While less concrete than an endorsement, bar rating, or political standing, this experience has strengthened my core beliefs not only in faith and family, but also in fairness, integrity, and the importance of giving back—all of which, united with my professional background and credentials, make me well-suited to serve as judge on Commonwealth Court.

**2. Did you receive a rating of “recommended” or higher from the state or local bar association? If not, why not?**

Yes. The Pennsylvania Bar Association has “recommended” me for election to Judge of the Commonwealth Court.

**3. If you are an incumbent judge, what's a recent instance in which you acted to preserve your judicial independence? If you are an aspiring judge, how do you plan to remain independent if elected to the bench?**

First and foremost, I believe that judges cannot forget that, once elected, they cease being politicians and become public servants. In Commonwealth Court, judicial independence is particularly important because, in most cases, one of the litigants is an arm of state or local government. Judicial independence in the Commonwealth Court, then, means the quality of being able to treat equally and fairly government litigants and private litigants. As an attorney who, for over a decade, has represented regulated individuals and industry and those who have sought to do business with the Commonwealth, I have gained an appreciation for judges who exercise such independence and who fully and fairly evaluate the parties' arguments through the common prism of justice and the law. That is the kind of judge I plan to be on the Commonwealth Court.

**4. A number of Pennsylvania judges have been sanctioned for campaign activities, ex parte dealings, and other alleged misconduct. How can the state's judiciary prevent discipline scandals of the type seen recently?**

Particularly over the last several years, the public appears to have lost a level of confidence in

government, including the judicial branch. Personally, I believe that the Commonwealth Court, which is only approximately 40 years old and thus a young court, is well-run and its judges are committed to advancing the jurisprudence relating to state and local administrative law.

Public confidence and perception, however, are relevant and deserve attention. To this end, as a judge of the Commonwealth Court, I would continue to urge transparency in the Court's operation. I applaud the Court's decision to televise argument sessions on PCN.

I would also urge the Commonwealth Court to reconsider its internal policy regarding the circulation of single judge opinions in original jurisdiction cases. Such cases are often handled solely by one judge, not by a panel. Under the Court's Internal Operating Procedures, drafts of all panel opinions are circulated to all of the commissioned judges, who vote on them, even if not on the panel. But single-judge opinions are circulated only if the single judge wants the opinion to be considered for publication. Yet single-judge opinions in original jurisdiction cases are some of the most important matters that come before the Commonwealth Court. For example, most election challenges are heard by a single judge. I favor changing the Internal Operating Procedure to require circulation of all single-judge opinions.

In addition, in 2007, less than one third of the Commonwealth Court's opinions were designated for publication. I believe this is far too low a percentage. Published opinions may be cited by parties and practitioners as precedent. But unpublished opinions may only be cited for limited purposes. Any opinion issued by the Commonwealth Court has to be approved for publication by a majority of the commissioned judges. I favor publishing all opinions. Legal research has changed. We do not need to worry about library space for all the books of published opinions. Most research is done on-line. For practitioners and the public, these currently unpublished opinions provide useful insight into the Court's decisions and reasoning and the development of the law, particular with respect to matters in the Court's original jurisdiction. Publication will also encourage judges to be more consistent and not results-oriented. It could avoid embarrassing situations where a judge is confronted with a published opinion and an unpublished opinion, both of which he or she authored, which are diametrically opposed.

As to specific, recent instances of judicial misconduct, they are conscience-shocking. They are stains on the fabric of our court system that are not easily or quickly removed. But I am pleased the Pennsylvania Supreme Court has taken strong and serious steps to addressing the grave injustices in Luzerne County. The judicial system must respond swiftly and decisively in all such cases. It is also vitally important that all complaints of judicial misconduct be investigated promptly and thoroughly, followed, if warranted, by appropriate remedial measures.

**5. If you believe that gender, racial, ethnic, class or other forms of bias can infect the justice system, how will you work to keep your courtroom as bias-free as possible?**

I am committed to a fair and impartial judicial system. Justice is and must remain blind. The Commonwealth Court is where issues of alleged governmental violations of law are heard. All persons and all governments must be equally accountable to the law. And every citizen of this Commonwealth is entitled to have a judicial branch in which he or she can have confidence. In my career and personal life, I have always strived to treat all people, regardless of gender, race, ethnicity, or class, with respect. Along with my wife of 10 years, I am trying to instill this quality in my three children. The people expect me to exercise this trait as a Judge of the Commonwealth Court. I have no intention of disappointing them.