

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ORDER 23-01

Re-establishment of the Probate Fiduciary Panel

WHEREAS, by Administrative Order 04-06, issued on April 28, 2004, the Probate Fiduciary Panel (the "Panel") was established as a permanent, standing panel of attorneys from which judicial officers of the Superior Court of the District of Columbia select attorneys for appointment in any capacity in guardianship, conservatorship, and all other Probate Division proceedings; and

WHEREAS, on February 12, 2015, finding that it is in the best interest of the administration of justice, Administrative Order 15-01 was issued to establish a regular and ongoing process for re-establishing the panel; and

WHEREAS, on May 25, 2022, Administrative Order 22-06 was issued to re-establish the Probate Fiduciary Panel pursuant to Administrative Order 15-01; and

WHEREAS, pursuant to Administrative Order 22-06, and extended by Administrative Order 22-26, all attorneys interested in serving as a member of the Panel, whether they are current members of the Panel or new applicants, were required to submit an application as well as supporting documentation on or before November 30, 2022; and

WHEREAS, on May 25, 2022, Administrative Order 22-06 was issued, establishing the Probate Panel Implementation Committee (the "Committee") and directed the Committee to review the applications of all interested attorneys and submit a report determining which applicants should be permitted to serve as members of the Panel; and

WHEREAS, the Committee submitted its Final Report on its procedures for evaluating applications and the recommended names of attorneys to be appointed to the Panel as Full and Provisional Members; and

WHEREAS, the Chief Judge is satisfied that the recommendations of the Committee with respect to the attorneys to be placed on the Panel have been made after careful study and consideration of each attorney eligible to be considered and should be accepted in their entirety without change; and

WHEREAS, it is in the best interest of the administration of justice for the Panel to be re-established at this time;

NOW, THEREFORE, it is hereby

ORDERED, that the attached list shall constitute the Probate Fiduciary Panel from this

day forward, and attorneys listed are appointed as Full or Provisional Members as set forth in the attached list; and it is further

ORDERED, that, absent suspension or removal, and except as otherwise stated hereafter, the attorneys listed are appointed to the Panel for a period of four (4) years, at which time they must submit an application for re-appointment, pending the determination of which they may remain Panel members; and it is further

ORDERED, that newly-appointed Provisional Attorneys are appointed for a term not to exceed one year, during which time they must apply to be a Full Member provided that the Committee, in consultation with the Probate Panel Advisory Committee, recommends the attorney for appointment as a Full Member; and it is further

ORDERED, that an attorney's membership on the Panel is conditioned upon his or her compliance with all Administrative Orders setting an annual cap for attorney compensation for appointed representation; and it is further

ORDERED, that newly-appointed attorneys are eligible to receive Court appointments upon notification of the Court's Probate Panel Advisory Committee to the Chair of the Probate Panel Implementation Committee that the attorney has received the necessary training; and it is further

ORDERED, that any eligible attorney who filed an application to be considered for reestablishment of the Panel and who was not appointed to the Panel must wait either (1) one year from the date of this Order, or (2) until the date of re-establishment of the Panel, whichever is shorter, to reapply to the Panel; and it is further

ORDERED, that, as of the date of this Order, and unless otherwise determined to be appropriate, when making appointments of counsel under Titles 18, 19, 20, and 21 of the Code of the District of Columbia, judicial officers of the Superior Court shall appoint only attorneys listed on the Panel for new cases entering the Superior Court, and for existing cases when the judicial officer presiding in the case has entered an order which otherwise requires the appointment of an independent member of the bar to serve as a fiduciary; and it is further

ORDERED, that, absent any further orders from the judicial officer presiding in a given case, attorneys appointed prior to this date to represent a client, or serving as a fiduciary for an incapacitated individual, estate, or trust, shall continue with such representation and shall be compensated for such representation; and it is further

ORDERED, that an individual judge may appoint an attorney who is not on the Panel when the judge deems such appointment to be necessary because of unique or extraordinary circumstances and shall set forth the reasons for appointment in a written order complying with the requirements set forth below; and it is further

ORDERED, that, in all instances when a non-Panel attorney is appointed, the judge making the appointment shall set forth the unique or exceptional circumstances requiring appointment of a non-Panel attorney in the case; and it is further

ORDERED, that, without such Order detailing the particular circumstances requiring the appointment of a non-Panel attorney in the case, a fee petition shall not be reviewed and payment shall not be made for work on the case, but rather the attorney shall be deemed to have done the work *pro bono publico*; and it is further

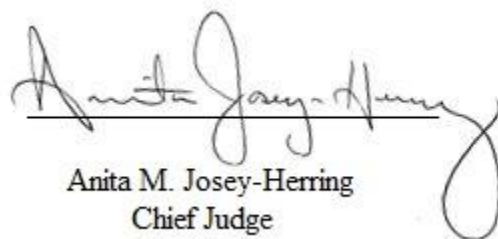
ORDERED, that an exception to the rule precluding the appointment of attorneys who are not on the Panel shall be made for attorneys appointed by the Court of Appeals in a pending appeal as determined at the Court of Appeals discretion; and it is further

ORDERED, that this Order shall take effect immediately.

SO ORDERED.

BY THE COURT.

March 27, 2023



Anita M. Josey-Herring
Chief Judge

Copies to:

Judges
Senior Judges
Magistrate Judges
Executive Officer
Clerk of the Court
Division Directors
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Daily Washington Law Reporter
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Register of Wills

**REPORT OF THE SUPERIOR COURT
PROBATE PANEL IMPLEMENTATION COMMITTEE
TO CHIEF JUDGE ANITA JOSEY-HERRING**

March 27, 2023

The Probate Fiduciary Panel (the "Panel") was originally created by Administrative Order 04-06, issued on April 28, 2004. The Panel was established as a permanent, standing panel of attorneys from which judicial officers of the Superior Court of the District of Columbia (the "Superior Court") could select attorneys for appointment in any capacity in guardianship, conservatorship, and all other proceedings from the Probate Division of the Superior Court (the "Probate Division").

On February 12, 2015, the Honorable Lee F. Satterfield, former Chief Judge for the Superior Court, issued Administrative Order 15-0 I, which established a process for reviewing members of the Panel. Administrative Order 15-01 required the reestablishment of the Panel in 2015. In addition, Administrative Order 15-01 required the Superior Court to re-establish the Panel every four (4) years thereafter.

On May 25, 2022, the Honorable Anita M. Josey-Herring, Chief Judge of the Superior Court, issued Administrative Order 22-06, which required the re-establishment of the Panel in 2023. Pursuant to the Administrative Order, applicants were required to submit an application, which was included as an attachment to the Administrative Order.

Additionally, Administrative Order 22-06 established the Probate Panel Implementation Committee (the "Committee"). The Committee was charged with reviewing all applications for membership on the Panel and presenting to the Chief Judge the qualified applicants for the Panel.

The Committee received 73 applications from attorneys seeking to become members of the Panel. This Report summarizes the Committee's process and recommendations.

The Application Process

Information about the application process and a copy of the application were included as part of Administrative Order 22-06. A copy of the application was also included on the Superior Court's website.

The application requested information concerning the applicant's educational background, work experience, relevant training, and trial experience. The application asked for the names of Superior Court judicial officers familiar with the applicant's work and a description of significant cases handled by the applicant. Applicants were asked to detail any criminal history and/or history with the Office of Bar Counsel and to provide a Certificate of Good Standing from the District of Columbia Bar. In addition, because the applicants would potentially serve as fiduciaries over the property of incapacitated or deceased individuals, the

application requested current credit scores and evidence of malpractice insurance as required by the Guardianship Amendment Act of 2014 and the 2013 National Probate Court Standards.

The Committee

Ultimately, seven Associate Judges and one Magistrate Judge participated in the Committee deliberations. Each member of the committee had extensive experience in the Probate Division, including interactions with the attorneys seeking appointment as members of the Panel:

1. The Honorable Erik P. Christian was the current Presiding Judge of the Probate and Tax Divisions of the Superior Court, having served in that position since 2021. In March 2023, Judge Christian returned to the Criminal Division. Judge Christian previously served as the Presiding Judge of the Probate and Tax Divisions from January 2015 through December 2016, and as Deputy Presiding Judge of the Divisions from 2013 through 2014. Judge Christian served as an Associate Judge in the Criminal Division from 2001 through 2007, the Domestic Violence Division from 2008 through 2010, the Civil Division from 2011 to 2012, and the Family Court from 2018 through 2019. Judge Christian has been an Associate Judge since 2001.
2. The Honorable Laura A Cordero is the current Presiding Judge of the Probate and Tax Divisions, since March, 2023, having previously served as Deputy Presiding Judge since 2021. Prior to her service in the Divisions, Judge Cordero served in the Civil Division from 2011 through 2014, then as its Deputy Presiding Judge from 2017 through 2018, and as its Presiding Judge from 2019 through 2020. Judge Cordero also has served in the Domestic Violence Division from 2015 through 2016 and as its Presiding Judge in 2017. Judge Cordero served in the Family Court from 2005 through 2010. Judge Cordero has been an Associate Judge since 2005.
3. The Honorable Alfred S. Irving, Jr., is the current Deputy Presiding Judge of the Civil Division of the Superior Court. Judge Irving previously served as the Presiding Judge of the Probate and Tax Divisions from 2019 to 2021, and as the Deputy Presiding Judge of those Divisions from 2017 through 2019. Judge Irving has served three times in the Civil Division, handling Civil I and II calendars; in the Family court, both on Domestic Relations I and II calendars; and in the Criminal Division. Judge Irving has been an Associate Judge since 2008, and before that, he served as a Magistrate Judge in the Civil Division from 2007 until becoming an Associate Judge.
4. The Honorable John F. McCabe has been assigned to the Probate and Tax Divisions since 2022. Judge McCabe served as a Magistrate Judge from October 2002 through December 2011, where he was assigned to the Family Court handling abuse and neglect cases and Traffic cases in the Criminal Division. As an Associate Judge since 2011, Judge McCabe also has been assigned to the Criminal Division from 2012 through 2015,

handling misdemeanor and Felony II case, the Family Court from 2016 through 2018, presiding over domestic relations and juvenile cases, and the Domestic Violence Division from 2019 through 2021.

5. The Honorable Carmen G. McLean has been assigned to the Probate and Tax Divisions since 2022. In March 2023, Judge McLean began serving as Deputy Presiding Judge of the Divisions. Judge McLean has been an Associate Judge since 2019, when she was assigned to serve in the Domestic Relations Branch of the Family Court until 2021. Judge McLean has Co-chaired the Superior Court committee on Pro Bono and Affordable Counsel since 2020.
6. The Honorable Maurice A. Ross had been assigned to the Probate and Tax Divisions from 2019 to 2021. Since 2022, Judge Ross has been assigned to the Civil Division, where he has previously served from 2006 to 2009, and from 2013 to 2016. Judge Ross also has served in the Criminal Division, the Domestic Violence Division and in the Family Court. Judge Ross has been an Associate Judge since 2001.
7. The Honorable Craig S. Iscoe has served the Criminal Division for 10 years and is presently presiding judge of the Drug Court and Mental Health Court in that Division. He has served in every Division of the Court, serving in the Civil Division for 4 years, the Domestic Violence Division for one year and in the Family Court for 3 years. Judge Iscoe was assigned to the Probate and Tax Divisions in 2020 and 2021. Judge Iscoe has been an Associate Judge since 2003.
8. The Honorable Charmetra Jackson Parker has been assigned to the Probate and Tax Divisions as a Magistrate Judge since her appointment to the bench in 2022. Prior to her appointment, Judge Jackson Parker served as a prosecutor, appellate attorney and supervisory chief in the Office of the Attorney General for the District of Columbia.

The Committee employed procedures for establishing and reconstituting other Superior Court panels. The Committee reviewed the following materials for each attorney applicant:

1. The responses provided by the applicants to the questions set out in the application form;
2. Attachments that accompanied the application;
3. Input from Superior Court judicial officers including those whom the applicant identified as references;
4. Input from references outside of the Superior Court whose names an applicant provided;
5. Knowledge of the applicants derived from the Committee members themselves; and
6. Input from the Probate Panel Advisory Committee (the "Advisory Committee").

Consideration of Applicants by the Committee

Administrative Order 22-06 requires that no attorney will be considered for the Panel unless he or she has the following qualifications:

1. An office within the Washington Metropolitan Area;
2. A commitment to complete six hours of Fiduciary Credits towards Fiduciary Panel Education Requirements each year as may be required by the Court;
3. A commitment to perform annually 10 hours of pro bono service in the Probate Division's Self-Help Center;
4. A commitment to comply with all applicable Administrative Orders setting an annual cap on attorney compensation for appointed representation; and
5. A commitment to comply with Superior Court Attorney Practice Standards.

Pursuant to Administrative Order 22-06, the Committee was permitted to seek out the recommendations of other judicial officers. Further, the Committee was directed to seek views of the members of the Advisory Committee. The Advisory Committee is an independent committee of experienced probate attorneys who are familiar with the role of the Panel and the operations of the Probate Division. The members of the Advisory Committee also serve on the Probate Education Committee. The Advisory Committee was provided with the names and applications of the applicants to the Panel. The Committee gave substantial weight to the Advisory Committee's recommendations, many of which the Committee followed. The Committee appreciates and thanks the Advisory Committee for its hard work.

Size of the Panel

At the outset of deliberations, the Committee considered the size of the Panel relative to the needs of the Probate Division. Prior to the issuance of Administrative Order 22-06, the Panel consisted of 91 eligible attorneys. The Committee proposes that the present number of 55 accepted attorneys from the 73 applicants is appropriate, although the number may increase as the needs of the Probate Division increase.

Recommendation of Full Panel Members

The Committee is recommending only attorneys who were highly-rated according to the input of judicial officers or who have demonstrated an exceptional degree of professionalism in their practice of law, in particular, in their representation of incapacitated individuals and their serving as either counsel or personal representative in the administration of decedent's estates.

All applicants were required to have, and to provide a copy of, the declarations page of a current malpractice insurance policy, if they were seeking to be appointed as conservator, special conservator, personal representative, guardian of the estate of a minor, or trustee. That is because Panel members serving as guardians are authorized to handle a ward's finances if the Ward's assets are limited. Those applicants who did not have sufficient credit scores or who indicated that they did not wish to serve as a financial fiduciary were still considered for membership on the Panel, but if selected they will not be permitted to serve as conservator, special conservator,

personal representative, guardian of the estate of a minor, or trustee, and their management of funds as guardian will be closely monitored.

Recommendation of Provisional Attorneys

Pursuant to the application materials, applicants were asked to indicate if they would be interested in being named as a Provisional Member of the Panel. As outlined in Administrative Order 22-06, the Committee was authorized to recommend attorneys with excellent credentials but less Superior Court experience if they have demonstrated an interest in representing persons in need of fiduciary assistance and willing to serve as Provisional Members of the Panel. The Committee advocates the addition of Provisional Members to the Panel, regardless of the number of attorneys on the Panel, as experience has demonstrated that including new members strengthens the panel by allowing attorneys with a significant commitment to representing underserved populations an opportunity to contribute to the work of the Court. With respect to Provisional Members, the Committee recommended only attorneys with excellent credentials, who had demonstrated interest in representing incapacitated persons in guardianship proceedings and who were willing to serve on the Provisional Panel. As the needs of the Panel arise, the Committee may request that the Provisional Members be named Full Members of the Panel.

The Committee's Recommendations

The Committee recommends forty-six (46) attorneys as Full Members as set forth in the Appendix. In addition, the Committee recommends nine (9) attorneys as Provisional Members.

1. Compliance with Panel Obligations

In their applications, the applicants specifically affirmed their commitment to accept appointments to assist incapacitated individuals. Current members of the Panel were asked to provide an approximate number of times the applicant was offered an appointment by the Superior Court and the approximate number of times the person declined the appointment. The Committee also asked for an explanation for the declination.

The applicants also specifically affirmed their commitment to comply with the annual cap on attorney compensation for payment from the Guardianship Fund. Pursuant to the Consolidated Appropriations Act, 2023, Attorneys serving as guardians, visitors, conservators, guardians ad litem, and counsel may only seek a rate of \$110.00 per hour. The hourly compensation rate for attorneys applies to cases and proceedings initiated on or after January 1, 2023. Services rendered prior to that date remain compensated at \$90.00 per hour. Attorneys seeking compensation from the Superior Court are only permitted to receive \$180,000.00 combined from the Guardianship Fund, CJA vouchers, CCAN vouchers, and other funds of the Superior Court.

The applicants also specifically affirmed their commitment to timely satisfy their Fiduciary Panel Education requirements. Pursuant to Administrative Order 22-06, members of the Panel are expected to satisfy six (6) hours of Fiduciary Credits towards the Fiduciary Panel Education Requirements each year. The applicants also informed the Committee as to their availability to serve as volunteers at the Probate Self-Help Center. Finally, the applicants also

informed the Committee as to their availability for emergency appointments on weekends and holidays.

The Committee anticipates that it will consider these requirements during future periods of re-establishment, giving greater weight to those who are in compliance with these requirements and have offered to assist the Probate Division with emergency appointments and volunteerism.

2. Training and Necessary Actions

All new members of the Panel, whether Full or Provisional, must complete the training program being offered by the Probate Education Committee before becoming eligible for appointments. The Committee will consult with the Office of the Register of Wills to confirm that new members of the Panel received this necessary training prior to becoming eligible to accepting appointments. In addition, it is the responsibility of members of the Panel to take all actions necessary to become familiar with the appointment and fee petition process.

3. Re-Application Time Period

To bring regularity to the process and ensure that attorneys re-applying have sufficient time to demonstrate additional circumstances warranting reconsideration of their applications, the Committee recommends that, in the future, any eligible applicant who is not appointed to the Panel must wait at least one year after the issuance of the Administrative Order announcing appointments to the Panel before re-applying.

4. Effective Date

The Committee recommends that the effective date of the changes to the Panel be the date of the issuance of the Administrative Order, or as soon thereafter as practicable.

Respectfully Submitted:

The Members of the Probate Panel Implementation
Committee

/s/

Presiding Judge Erik P. Christian
Deputy Presiding Judge Laura A. Cordero
Deputy Presiding Judge (Civil) Alfred S. Irving, Jr.
Associate Judge John F. McCabe
Associate Judge Carmen G. McLean
Associate Judge Maurice A. Ross
Associate Judge Craig S. Iscoe
Magistrate Judge Charmetra Jackson Parker

Date: March 27, 2023

PROBATE PANEL IMPLEMENTATION COMMITTEE RECOMMENDATIONS FOR
PROBATE FIDUCIARY PANEL

March 27, 2023

Full Panel Members:

1. Bethel, Thecla
2. Boehm-Russell, Stacey
3. Caldwell, Richard
4. Christian, Tamara McDowell
5. Clarke, John
6. Cohen, Brett E.
7. Concino, Jennifer C.
8. Daniel, Deborah Cason
9. Davidson, Joel R.
10. Dawson, Diann
11. Del Cuadro-Zimmerman, Judith
12. Ellern-Feldman, Lisa
13. Ellison-Blue, Sheryl Elizabeth
14. Evans, Paula D.
15. Evans, Rhonda
16. Feezor, III, Charles Noel
17. Forgotson-Goldberg, Elizabeth
18. Fradkin, Robin
19. Gerlach, John
20. Gordon, Jeffrey K.
21. Greene, Tina D..
22. Guest, Christopher
23. Hertz, Matthew
24. Horrell, Patrick
25. Hughes, George J.
26. Hunter, Jerry L.

27. Johnson, Ray A.
28. Jones-Moon, Bonita A.
29. Judd, Kevin D.
30. Kass, Brian L.
31. Khadilkar, Sonali L.
32. Kleiner, Shari G.
33. Lasso, Jilma M.
34. Lederman, Elana M.
35. Leo, Jonathan D.
36. Long, Rachell F.
37. Maddox-Levine, Gail
38. Orlow, Lisa H.
39. Oshtry, Daniell.
40. Parker, Darrel S.
41. Randolph, Charles
42. Roth, Pamela H.
43. Sloan, Andrea J.
44. Somerville, Aretha
45. Terrell, Julius P.
46. Toney, Causton A.

Provisional Panel Members:

1. Bethel, Victoria
2. Burgess, Thomas G.
3. Curry, Kendra R.
4. Morris, Emily
5. Nieves, Frank
6. Ognelodh, Harold G.
7. Pereira, Brittany A.
8. Peters, Leslie G.
9. Serrano, Miguel A.