

**REPORT TO CHIEF JUDGE ROBERT E. MORIN BY THE SUPERIOR COURT  
PROBATE PANEL IMPLEMENTATION COMMITTEE REGARDING  
REPLENISHMENT OF THE PROBATE FIDUCIARY PANEL**

**September 14, 2017**

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 could select attorneys for appointment in any capacity in guardianship, conservatorship, and all other proceedings before the Probate Section of the Probate & Tax Division. In 2015, the Honorable Lee F. Satterfield, Chief Judge for the Superior Court, issued Administrative Order 15-01, which established a process for re-establishment of the Panel, required the Superior Court to re-establish the Panel every four (4) years thereafter, and also provided for the periodic replenishment of the Panel.

Additionally, on February 12, 2015, Chief Judge Satterfield issued Administrative Order 15-02, through which the Superior Court 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 implementation process was completed in August 2015, and the Committee recommended 93 applicants to be Full Members of the Panel and 17 applicants to be Provisional Members, a total of 110 attorneys. By Administrative Order 15-18, issued September 14, 2015, Chief Judge Satterfield accepted the Committee’s recommendations and reconstituted the Panel.

On April 20, 2017, Chief Judge Robert E. Morin issued Administrative Order 17-08, which provided for the supplementation of the Panel prior to its next reconstitution in 2019, and Administrative Order 17-09, which re-established the Probate Panel Implementation Committee. As with the reconstitution process, applicants were required to submit an application, which was included as an attachment to Administrative Order 17-08.

The Committee received 21 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 17-08, which was published in District of Columbia Bar publications, posted on the D.C. Bar listserve, and also posted on the Superior Court’s website. In addition, the Bar’s Estates, Trusts and Probate Section and current members of the Panel were informed of the process so that they might solicit other lawyers who were interested in applying to the Panel.

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 and any other Bar of which they were a member. 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

The re-established Committee consisted of five Associate Judges. Each member of the Committee had extensive experience in the Probate Division, including interactions with some of the attorneys seeking appointment as members of the Panel:

1. The Honorable Gerald I. Fisher is the current Presiding Judge of the Probate and Tax Division of the Superior Court, and previously served as the Deputy Presiding Judge and as an Associate Judge in the Division. Prior to coming to the Division in January 2013, Judge Fisher served in the Civil and Criminal Divisions and the Domestic Violence Unit of the Court. Judge Fisher has been an Associate Judge for the Superior Court since 2001.
2. The Honorable Alfred S. Irving, Jr. is the current Deputy Presiding Judge of the Probate and Tax Division. Prior to coming to the Division in January 2017, Judge Irving served in the Civil and Criminal Divisions and in the Family Court. Judge Irving has been an Associate Judge for the Superior Court since 2008, and before that he served as a Magistrate Judge for the Court.
3. The Honorable Russell F. Canan has served as an Associate Judge in the Probate and Tax Division of the Superior Court since January 1, 2015, after serving on the Felony One calendar from January 1, 2013, until December 31, 2014. Judge Canan previously served as Presiding Judge and Deputy Presiding Judge of the Criminal Division of the Superior Court. Judge Canan has been serving as an Associate Judge for the Superior Court since his appointment in 1993.
4. The Honorable Darlene M. Soltys has served as an Associate Judge in the Probate and Tax Division since her appointment to the Superior Court in 2015.
5. The Honorable Erik P. Christian is currently assigned to the Family Division. He is the immediate past Presiding Judge of the Probate and Tax Division and previously served as Deputy Presiding Judge of the Division. Prior to that he served in the Civil and Criminal Divisions, and the Domestic Violence Unit. Judge Christian has been an Associate Judge for the Superior Court since his appointment in 2001.

The Committee utilized the same procedures employed for reconstituting the Panel in 2015. Members of the Committee met with each applicant and the Committee as a whole reviewed the following materials for each:

1. The responses provided by the applicants to the questions set out in the application form;
2. Any 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 the 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”), hereafter described.

### Consideration of Applicants by the Committee

Administrative Order 17-08 requires that no attorney be considered for the Panel unless he or she has the following qualifications:

- (a) An office within the Washington Metropolitan Area;
- (b) A commitment to complete six hours of Fiduciary Credits towards the Fiduciary Panel Education Requirements each year as may be required by the Court;
- (c) A commitment to comply with all applicable Administrative Orders setting an annual cap on attorney compensation for appointed representation; and
- (d) A commitment to comply with Superior Court Attorney Practice Standards.

Pursuant to Administrative Order 17-08, the Committee was permitted to seek out the recommendations of other judicial officers. Further, the Committee was directed to seek the 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 redacted applications (removing credit scores and criminal history background checks) 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

By Administrative Order 15-18, Chief Judge Satterfield accepted the Committee’s recommendation of 110 attorneys to be either Full or Provisional Members of the Panel, but set no specific number for the size of the Panel. Because of retirements and other withdrawals since September 2015, the number of active members of the Panel has dwindled, and it was the Committee’s goal to select enough qualified applicants to bring the number of active Panel members back to approximately 110.

### 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, even if they were not 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 a 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 17-08, 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 a demonstrated interest in representing incapacitated persons in guardianship proceedings and who were willing to serve on the Provisional Panel. Each Provisional Member will be reviewed at the end of one year and either be elevated to Full Membership or be removed from the Panel. All attorneys selected as either Full or Provisional Members must re-apply when the Panel is re-established in 2019.

### The Committee's Recommendations

The Committee recommends nine (10) attorneys as Full Members as set forth in the Appendix. In addition, the Committee recommends ten (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.

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 Probate Division Case Management Plan, as adopted by Administrative Order 14-13, lawyers serving as guardians, visitors, conservators, guardians ad litem, and counsel may only seek a rate of \$90/hour from the Guardianship Fund. Pursuant to Administrative Order 04-29, which has been made applicable to the Probate Division, attorneys seeking compensation from the Superior Court are only permitted to receive \$150,000 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 15-01, 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 Resource 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. The Committee also recommends that all new members of the Panel participate in the Guardianship Orientation Seminar. 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 processes.

## *3. Re-Application Time Period*

All applicants selected as Full members of the Panel, or who were selected as Provisional Members but become Full Members after one year, must re-apply to the Panel when the Panel is reconstituted in 2019.

## *4. Effective Date*

The Committee recommends that the effective date of the additions 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



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Judge Gerald I. Fisher, Chair  
Judge Alfred S. Irving, Jr.  
Judge Russell F. Canan  
Judge Darlene Soltys  
Judge Erik P. Christian

Date: September 14, 2017

PROBATE PANEL IMPLEMENTATION COMMITTEE RECOMMENDATIONS  
FOR SUPPLEMENTARY PROBATE FIDUCIARY PANEL

September 14, 2017

Full Panel Member:

del Cuadro Zimmerman, Judith A.

Ellern-Feldman, Lisa

Gould, Nancy Katherine

Jose, Jr., Joseph M.

Khadilkar, Sonali

Kiersh, Steven R.

McMillan, III, Donald C.

Mendes, David D.

Peters, Leslie G.

Roth, Pamela H.

Provisional Panel Member:

Bethel, Thecla

Gerlach, John W.

Ivey, Jacqueline M.

Kleiner, Shari G.

Leo, Jonathan D.

Puttagunta, Rupa

Rastegar, Jouya

Rones, Julie E.

Whelden, Emily E.