

**LIBERTY CITY LESBIAN, GAY, BISEXUAL AND TRANSGENDER DEMOCRATIC CLUB  
OUTFRONT! PAC**

***2007 JUDICIAL PRIMARY ELECTION QUESTIONNAIRE***

Name Judge Debra Todd Signature /s/ Debra Todd Date March 16, 2007

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Office you are seeking Supreme Court Justice

**1) Have you been recommended by the Philadelphia Bar Association?**

The Philadelphia Bar Association has not issued ratings for the statewide judicial races. I have been rated "Highly Recommended" by the Allegheny County Bar Association and the Pennsylvania Bar Association, which stated:

The Candidate has served on the Pennsylvania Superior Court since her election in 1999. On the court, she is known for her passion for the law, her academic approach to decision making and her thoughtful, thorough scholarly opinions. She brings a breadth of experience from an active civil litigation practice, which has been expanded because a majority of her time on the court is devoted to criminal matters. She has continued her involvement in a variety of community service endeavors, especially those dealing with young people. She has a strong commitment to the law and to the improvement of the court system, both of which have helped instill public awareness of and confidence in the judiciary. The Commission believes the Candidate has the intellectual ability, personal integrity, strong sense of fairness, and diverse practical and academic experience to serve with distinction on the highest court. She is highly recommended for this position.

**2) For how many years have you practiced law?**

I practiced law for 18 years before being elected to the Superior Court of Pennsylvania in 1999. I have served on the Superior Court for over 7 years.

**3) What has been the general nature of your practice and particular areas of concentration? Please describe any changes throughout the years?**

From 1982 through 1999, I maintained a law practice with an emphasis on complex civil litigation. I concentrated my practice in commercial litigation, breach of contract, product liability, personal injury, wrongful death, employment discharge and discrimination, as well as environmental litigation matters concerning significant claims for environmental clean-up costs.

**4) Describe a few of the most significant cases you have litigated. Please give a summary of the substance of the cases, the citations if available, and why you believe they were significant.**

I maintained an active litigation practice throughout my career as an attorney and enjoyed a wide

variety of cases. I successfully handled hundreds of cases which were resolved through dispositive pretrial motions or settlement. I took approximately thirty-five cases to verdict, several of which involved trials lasting several weeks. Many of my cases were complex commercial matters which, after extensive discovery, pretrial preparation, and negotiation, settled prior to trial.

My law practice was concentrated in the area of civil litigation. Over the years, I represented many corporate and business clients as well as a number of individual litigants. My practice was both defense and plaintiff oriented. In earlier years, I focused my practice primarily in the corporate and commercial litigation area, handling breach of contract, product liability, personal injury, employment discharge and discrimination cases, and environmental litigation matters concerning significant claims (tens of millions of dollars) for environmental clean-up costs. In later years, my practice became more expansive. In managing my own law firm from 1993 through 1999, I was able to undertake a wider variety of matters and, in particular, undertook many more cases on behalf of plaintiffs. Such cases included employment discrimination, shareholder derivative actions, breach of contract, wrongful termination of disability benefits, bad faith, and wrongful death actions.

I appeared in court regularly throughout my career. I tried cases in Federal Courts (Western District of Pennsylvania, Eastern District of New York) and in Common Pleas Courts (Allegheny, Butler, Washington, Cambria and Philadelphia Counties). I handled over fifteen appeals in the Pennsylvania Superior and Supreme Courts, as well as the Third Circuit and Second Circuit Courts of Appeals. I also handled cases before the Pennsylvania Human Relations Commission and Equal Employment Opportunities Commission. In addition, I represented a number of clients in commercial matters before the American Arbitration Association and before private mediators and arbitrators. In most of these cases I was sole or lead counsel. In others, I had assistance from co-counsel.

I have described in Appendix A, attached hereto, some of the more significant matters which I litigated during my practice. Because I tried cases in a wide variety of substantive areas, e.g., commercial, product liability, employment discrimination, environmental, breach of insurance contract, and wrongful death, I have chosen some examples of cases that I believe demonstrate the breadth of my experience and the depth of my practice.

Many cases are significant in one way or another, particularly to the parties. Opinions which Superior Court judges designate for publication are generally those which the panel members have determined meet the Court's criteria for publication, e.g., establishing, modifying or criticizing a new rule of law; resolving an apparent conflict of authority; or involving a legal issue of continuing public interest. (Internal Operating Procedures of the Superior Court of Pennsylvania, No. 443).

Of the 1600 decisions I have authored, and, in particular, of the 150 decisions I have filed as published opinions, I have selected the following because each represents an important opinion in a particular area of substantive law.

1. *In Re: R.B.F. and R.C.F.*, 762 A.2d 739 (Pa. Super. 2000) and *In Re: C.C.G. and Z.C.G.*, 762 A.2d 724 (Pa. Super. 2000).

In these consolidated cases, an *en banc* panel of the Superior Court was asked to address the important question of second parent adoption in families with same sex parents. The majority reached the conclusion that such adoptions were not permitted under Pennsylvania law. I dissented, as did Judge Justin Johnson and Judge John Kelly.

In a unanimous opinion, the Pennsylvania Supreme Court agreed with the dissenting opinions and reversed the Superior Court's *en banc* opinion at 803 A.2d 1195 (Pa. 2002).

2. *Commonwealth v. McIntosh*, 2006 WL 3186173

In this recent criminal case, I wrote the majority opinion ordering the resentencing of a University of Pennsylvania professor convicted of sexually assaulting a young graduate student. The trial judge, in effect, sentenced the defendant to house arrest by paroling him immediately after issuing his sentence. The Commonwealth appealed and the Superior Court reversed and remanded.

3. *Donegal v. Baumhammers*, 893 A.2d 797 (Pa. Super 2006)

In this *en banc* insurance coverage case, I wrote for the majority, holding that the alleged negligence of the parents of a mentally-disturbed adult son, who had murdered five people in a shooting spree, constituted an occurrence under the parents' insurance policy, and that the individual shootings committed by Richard Baumhammers during the rampage amounted to separate occurrences under the policy.

This case is now pending before the Pennsylvania Supreme Court.

4. *O'Hare v. UPMC*, 869 A.2d 976 (Pa. Super. 2005)

In this commercial case, I wrote for the unanimous panel that UPMC Health Plan, Inc. had a right to recover mistaken overpayments to pharmacies amounting to \$1.8 million.

5. *Commonwealth v. Bennett*, 842 A.2d 953 (Pa. Super. 2004)

In an *en banc* opinion of the Superior Court, I wrote for the majority on the timely and troubling question of the unfair and unjust result inuring to the severe detriment of convicted defendants caught in the tangled web of counsel's ineffectiveness.

This case is now pending before the Pennsylvania Supreme Court.

For a complete listing of my published opinions, please see Appendix B, attached hereto.

**5) Have you published any scholarly works? If so, please list them.**

As a requirement for my LL.M., Master's Degree in the Judicial Process which I received from the University of Virginia School of Law in 2004, I authored a Master's Thesis entitled "Sentencing of Adult Offenders in Cases Involving Sexual Abuse of Children: Too Little, Too Late? A View from the Pennsylvania Bench," 109 Penn State L. Rev. 487 (2004).

While a law student at the University of Pittsburgh School of Law, where I received my J.D. in 1982, I was a member of the Law Review and authored two publications: "The Dual Capacity Doctrine," 43 U. Pitt. L. Rev. 1013 (1982) and "Commonwealth v. Bonadio," 43 U.Pitt. L. Rev. 253 (1981).

**6) State briefly why you are seeking the Democratic nomination to be a judge in Philadelphia, and what qualities you believe you possess that would serve you especially well if you were elected to the Court.**

The seven years I have served as a judge of the Superior Court have been among the most fulfilling of my professional career. There has not been one day on which I have not loved my job. The intellectual challenge, the variety of legal matters, and the honor of having been entrusted with the role of rendering important decisions, make this position everything I have ever desired. Moreover, I have the privilege of working with some of the finest judges and legal staff in the state.

The two seats that have become available on the Pennsylvania Supreme Court were both unexpected - one through a shocking loss of a retention election, and the other through a surprising resignation. When these vacancies became apparent, I was taken aback by the number of people whom I greatly admire who approached me, expressed their confidence in me, and asked me to consider this opportunity.

After arduous discussions with my family, I have realized the wisdom in the oft quoted words of John F. Kennedy, taken from Luke 12:48: "For of those to whom much is given, much is required."

I do believe I have a contribution to make to the Pennsylvania Supreme Court. After twenty-five years in the law, both as an attorney and as an appellate judge, I have learned much, and I am prepared to learn more. I place my integrity above all else, and I am dedicated to the rule of law and to the principles embodied in our Constitution. There is no more important public service than that of a state Supreme Court Justice. My career has prepared me for this challenge, and my life experiences have enlightened me for the journey. It is not for the power or the glory that I seek this position - this is not a decision driven by ego. I embark on this path with humility, and I am willing to take on the rigors of a state-wide campaign to accomplish this goal.

My legal career has required me to be hard-working, tough-minded and receptive to new challenges. I believe I have continued to demonstrate those abilities on the bench. Moreover, I view myself as an open-minded, fair and honest person, experienced in representing both plaintiffs and defendants, and able to reconcile competing viewpoints and cut to the heart of the issue. As an attorney, I demonstrated an ability to administer a large case load and to manage a team of co-workers. As a judge, I likewise have demonstrated an aptitude for administration, a quality I believe is important in a Supreme Court Justice.

Throughout my life, I have been driven to excel. I met with success at a private women's college, two large university law schools, a major steel corporation and a large law firm. I have been successful in owning and managing my own business. I have consistently attempted to be of service to my community through *pro bono* work and volunteer activities, and have made a concerted effort to share my good fortune with others. I believe I have the requisite legal background, the solid experience of a successful trial lawyer, an accomplished tenure on the appellate bench, and the temperament and personal integrity to make a real contribution to the administration of justice as a member of the Pennsylvania Supreme Court.

Moreover, I believe that the bench should reflect the diversity of our community. The court can only benefit by the election of competent men and women whose backgrounds and endeavors reflect the breadth of experience of American society. My particular background has afforded me a wide variety of experiences from which I may draw. I grew up in a blue-collar neighborhood of a Western Pennsylvania steel town, Ellwood City. My father was a steelworker and thirty-year member of the

USWA. My mother was a homemaker and "full-time mom." I know what it is like to grow up without much money and to have to work hard to achieve. Mine was the first generation of my family to obtain a college education. I worked my way through college and law school and received academic scholarships and educational loans to assist with my education.

I would hope that I am a product of my upbringing, my family, my Church, my community, my education, and my experience as a trial lawyer and appellate judge. I believe that my background in its entirety has instilled me with integrity, and has enabled me to be honest, fair and capable of judging each and every case that comes before me on its own merits.

I believe an outstanding judge should possess the following qualities: Intellect, common sense, commitment, dedication, a strong sense of fairness, impartiality, self assurance, diligence, patience, even temperament, tenacity, integrity and courage.

If elected, I will strive to bring these qualities to the Pennsylvania Supreme Court.

**7) Do you believe that bias affects our justice system in any way? If so, how do you propose to eliminate it?**

Yes. In the recent criminal case of *Commonwealth v. McIntosh*, 2006 WL 3186173, I wrote the majority opinion ordering the resentencing of a University of Pennsylvania professor convicted of sexually assaulting a young graduate student. The trial judge, in effect, sentenced the defendant to house arrest by paroling him immediately after issuing his sentence. The Commonwealth appealed and the Superior Court, in an opinion which I authored, reversed and remanded, noting that:

[I]n consideration of the expressions of the sentencing court that, in our view, depreciated the seriousness of the crime, disregarded the psychological harm suffered by the victim, may have inappropriately given rise to a more lenient sentence, and indicated an inappropriate deference by the sentencing court to McIntosh, we instruct on remand that the case be reassigned to another judge for resentencing

**8) What are the most pressing needs of reform in our judicial system?**

Restoring public confidence in our Judiciary and improving efficiency.

**9) For what organizations have you done pro-bono work?**

See Appendix A, Pro Bono Service.

**10) List all organizations and associations of which you are or have been a member, including charitable, non-profit, civic, religious, educational, social and fraternal organizations. How would your work with these organizations influence the kind of judge you will be?**

I am currently a member of the following professional organizations:

American Bar Association  
Pennsylvania Bar Association  
Allegheny County Bar Association  
Allegheny County Bar Foundation  
Academy of Trial Lawyers of Allegheny County  
Women's Bar Association of Western Pennsylvania

American Judicature Society  
National Association of Women Judges  
International Association of Women Judges

I have also been a member of the following professional organizations:

ABA Tort & Litigation Sections  
ACBA Civil Litigation Section Council (1988-91)  
ACBA Federal Court Section Council (1995-97)  
ACBA President's Ball Committee (1994)  
ACBA Federal Court Section, Subcommittee for drafting of Model Employment Discrimination  
Jury Instructions (1996)  
PBA Civil Litigation Section  
ACBA Civil Litigation Section  
ACBA Players

I was a very active member of the ACBA Players for eighteen years. This group of lawyers and judges volunteered their time to present an annual musical production for the Allegheny County Bench-Bar Conference and for fundraisers to benefit local charities, such as the Allegheny County Pro-Bono Foundation, the Female Offender Program, the Parental Stress Center and the Mental Health and Mental Retardation Center. In addition to performing, I coordinated and directed special performances for charity and bar association functions and choreographed and costumed several of the productions. I also coordinated and directed a number of other performances such as the Allegheny County Bar Association's Musical Tribute to the Bicentennial of the Bill of Rights in December 1991, and a charitable benefit performance for Pittsburgh Hearing, Speech and Deaf Services in November 1998.

I have always been an active volunteer in my church and community. Over the years, I have served as a Sunday school teacher, youth group leader, member of the church choir and soprano soloist. I have been affiliated with the following churches: Calvin United Presbyterian Church, Ellwood City, PA; Second United Presbyterian Church, Wilkinsburg, PA; and The Presbyterian Church, Sewickley, PA. Since 1990, my husband and I have been members of the First Lutheran Church, Pittsburgh, PA.

For the past five years, I have served as the legal advisor/coach for the Seneca Valley Intermediate High School's Mock Trial Team, which participates in the Pennsylvania Bar Association's annual Mock Trial Program.

I currently serve as a board member of Pittsburgh Action Against Rape, one of the oldest Rape Crisis Centers in the nation. PAAR's mission is to "Respond to survivors of sexual violence with crisis intervention, counseling and advocacy; advocate for systems to respond to and prevent sexual violence and educate and prevent sexual violence."

Since 2004, I have served as a board member of the Finnegan Foundation, a foundation established to provide internships in Pennsylvania government to outstanding accredited college and university students.

I am a member of the Chatham College Alumnae Association and have consistently volunteered to be of service to my college. I sit on the college's Pre-law Advisory

Committee. As a member of Key Alumnae, I have been active in recruiting, and awarding scholarships to, promising high school students. I also speak, whenever asked, to groups of college students on pursuing careers in law. In 1991, I was featured in a KQV Radio project in which five Chatham Alumnae were highlighted as successful graduates of the college.

In 1991, I was selected by the Greater Pittsburgh Chamber of Commerce for participation in its Leadership Pittsburgh Program. The Chamber of Commerce initiated the Leadership Pittsburgh Program in 1984 to cultivate the leadership skills of current or emerging leaders from various sectors of the Pittsburgh community. I successfully completed that one-year program and, in 1992, was named to the Leadership Pittsburgh Alumni Board of Directors.

In the late 1990s, I was a board member for Full Circle Outreach, a community residential assistance program for women recovering from drug and alcohol addiction, located in the Highland Park area of Pittsburgh. This organization was founded to reach out to women in the community who lost their direction in life due to the detrimental influence of drugs and alcohol. The program was aimed at helping these women get back on their feet by providing temporary housing, by assisting them in obtaining their GED or other educational certificates, and by assisting them in obtaining gainful employment and permanent housing.

From 1990 through 1997, I was a member of the Civic Light Opera Associates (Adjunct to the Civic Light Opera Board of Directors). I served on the Executive Committee, as Chairman of the Promotions Committee, and as a member of the CLO Richard Rodgers Award Committee and the Kelly Awards Committee. This latter committee sponsors an annual awards program to honor excellence in the performing arts among Allegheny County high school students.

From 1990 to 1992 I was a member of the Trimont Residential Condominium Association Executive Board, for which I also served as Secretary.

From 1990 to 1992, I was a member of the Board of Directors and served as Co-Chair of the Program and Planning Committee for the Association of Women in the Metal Industries.

I enjoy working with young people and have devoted substantial time over the years to the Junior Miss/Young Woman of the Year Programs in Lawrence and Butler Counties, for which I have served as a Judge.

In the spring of 1992, I volunteered my time to work with disadvantaged youth in Clairton, Pennsylvania by organizing and directing a musical revue by the Clairton High School students.

Prior to commencing judicial service, I was politically active in the Democratic Party, and, over the years, participated in many political campaigns on behalf of Democratic candidates whom I supported. I also served on the Executive Board for the Pennsylvania Federation of Democratic Women.

I believe I am a product of all of my collective experiences.

**11) Do any of the above organizations, associations or clubs prohibit or limit its membership on the basis of race, color, religion, sexual orientation, gender, disability, national origin, sexual orientation or gender identity?**

No.

**12) Do you support the rights of LGBT people to the following:**

a. **Marriage?**

As this issue could potentially come before the Supreme Court, I am restricted from commenting by the Pennsylvania Rules of Judicial Conduct.

b. **Civil Unions?**

As this issue could potentially come before the Supreme Court, I am restricted from commenting by the Pennsylvania Rules of Judicial Conduct.

c. **Domestic Partnership?**

As this issue could potentially come before the Supreme Court, I am restricted from commenting by the Pennsylvania Rules of Judicial Conduct.

d. **Second-parent adoption?**

Please see the case of In Re: R.B.F. and R.C.F., 762 A.2d 739 (Pa. Super. 2000) and In Re: C.C.G. and Z.C.G., 762 A.2d 724 (Pa Super. 2000) wherein an *en banc* panel of the Superior Court was asked to address the important question of second parent adoption in families with same sex parents. The majority reached the conclusion that such adoptions were not permitted under Pennsylvania law. I dissented, as did Judge Justin Johnson and Judge John Kelly.

In a unanimous opinion, the Pennsylvania Supreme Court agreed with the dissenting opinions and reversed the Superior Court's *en banc* opinion at 803 A.2d 1195 (Pa. 2002).

**Protection from workplace discrimination?**

Yes.

e. **Protection from housing discrimination?**

Yes.

f. **Protection from acts of violence based on their sexual orientation or gender identity?**

Yes.

**13) What is your experience with the LGBT community both generally and/or professionally?**

My social and professional circles include many LGBTs.

**As an attorney, have you ever represented LGBT clients?**

Yes.

**14) Do you support a woman's right to choose?**

g. As this issue could potentially come before the Supreme Court, I am restricted from commenting by the Pennsylvania Rules of Judicial Conduct.

**15) Have you ever been the subject of any investigation for any alleged breach of ethics or professional conduct by any court, administrative agency, bar association, disciplinary committee, judicial conduct committee, or other professional group? If so, please explain and state the result of the investigation including any disciplinary action.**

No.

**16) Have you ever had a legal malpractice claim filed against you or have been sued based upon your legal services? If so, please explain and include the outcome.**

No.

Please return by Friday March 16<sup>th</sup> via e-mail to [matt@libertycity.org](mailto:matt@libertycity.org)

Or via mail to:

Liberty City Lesbian and Gay Democratic Club

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