



Pennsylvania Coalition for Civil Justice Reform Judicial Candidate Questionnaire – 2021

KEVIN BROBSON

Candidate Name (Print)

APRIL 16, 2021

Date

A handwritten signature in blue ink, appearing to read "K. Brobson", written over a horizontal line.

candidate Signature

PA SUPREME COURT JUSTICE

Position Sought

1. Please describe your background and experiences that qualify you for this office. Also identify all membership organizations including bar associations, legal associations, professional associations, professional societies, civic, community, charitable, religious, educational, social, political, and labor organizations to which you are or have been affiliated or have provided pro bono work. Please list any leadership positions held.

(Bio attached)

For the last eleven years, it has been an honor to serve on the Commonwealth Court. Every day when I come to work at the Pennsylvania Judicial Center in Harrisburg, two thoughts come to mind. First, I think about how fortunate I am to be entrusted to serve the people of this Commonwealth in this elected office. Second, I think of the tremendous responsibility that comes with it. I strive every day to render timely decisions that are fair, compassionate, and in accordance with the law. I work hard to write clear and easily understood opinions. I have remained faithful to my oath of office to support, obey, and defend the United States Constitution and the Pennsylvania Constitution.

As much as I cherish my service and my colleagues on the Commonwealth Court, justices set the example and the tone for the entire judicial system. Pennsylvanians deserve a judicial system that is thoughtful, unbiased, just, and ethical. I love the law, and I view the role of judge/justice in our judicial system as its fair and impartial guardian. I have not shied away from controversial cases. I have endeavored each day to treat lawyers and litigants with the respect that they deserve. My paramount goal is to instill in Pennsylvanians the confidence in our judicial system that they expect and that they deserve. I remain active in the broader legal

community, through teaching/lecturing and professional memberships, as I believe that such service is part of the responsibility of any judge.

I also have a demonstrated commitment to judicial ethics. The Pennsylvania Supreme Court honored me with an appointment to the Judicial Conduct Board of Pennsylvania. During my four-year term, my fellow board members elected me to serve on the board's executive committee as Secretary and then Chair, reflecting the confidence that they had in my ability to lead such an important part of our constitutional judicial discipline system.

With respect to administration, and in addition to my leadership of the Judicial Conduct Board noted above, I have served on various committees at the designation of the Commonwealth Court's president judge. Pennsylvania Supreme Court Chief Justice Thomas G. Saylor appointed me to chair an *ad hoc* committee examining the mechanisms by which judges secure judicial ethics advice in Pennsylvania. Most recently, my colleagues on the Commonwealth Court chose me to serve as the court's 10th President Judge. By doing so, this diverse group of respected judges from both political parties entrusted me to oversee the Commonwealth Court's operations and budget for a five-year term, with an initial focus on leading the court through the remainder of a global pandemic.

In short, the strengths I would bring to the Pennsylvania Supreme Court would be my commitment to a fair and impartial application of the law from the perspective of an experienced Commonwealth Court judge, my intellectual curiosity for the law, an even-keeled temperament, a solid work ethic, a demonstrated history of collegiality, and strong writing ability.

Affiliations:

Dauphin County Bar Association (1996-current)

Dauphin County Bar Association Public Services Committee (2008-2009)

Chair, Steering Committee for the Dauphin County Bar Association Nonprofit Initiative (2006-2009)

Pennsylvania Bar Association (1996-current)

Member, Appellate Advocacy Committee (2013-present)

Allegheny County Bar Association (2018-present)

American Bar Association (2010-current)

American Inns of Court, James S. Bowman Chapter (1998-current)

American Inns of Court, Honorable William W. Lipsitt Chapter (2011-2012)

St. Thomas More Society of Central Pennsylvania (2013-present)

Board of Governors (2015-2020)

Brehon Law Society (2010-2011)

Cathedral Parish of St. Patrick, Harrisburg, PA (1997-2002)

St. Catherine Laboure Church, Harrisburg, PA (2002-present)

Legatus (2020-present)

Commonwealth Court Historical Society (2009-present)

***In Lincoln's Footsteps*—scholarship contest commemorating the 150th anniversary of the
Gettysburg Address**

Chief Judge (November 2012-November 2013)

**The Four Diamonds Fund Advisory Board at the Penn State Children's Hospital
Member (2010-2016)**

Chair (January 2012-December 2013)

National Rifle Association (member since 2009)

Blue Ridge Sportsman's Club (2014-present)

County Club of Harrisburg (2013-present)

**(Note: We were previously members of this club around 2001-2003. We then joined
Colonial Country Club around 2003-2005.)**

The Hill Society (2015-present)

**For the Future Campaign Cabinet/Penn State Hershey Medical Center
(January 2012-December 2013)**

Jump Street (nonprofit regional arts organization)

Member of Board of Directors (2001-2008)

Chair (Jan. 2007-Dec. 2008)

Vice Chair (Jan. 2006-Dec. 2007)

Chair, Marketing Committee (2002-2005)

Chair, Nominating Committee (2003-2005)

Capital Area Soccer Association

Volunteer coach (2010-2014)

Linglestown Baseball Association

Volunteer coach (2011-2018)

**While in private practice, I also held memberships in the National Risk Retention Association
and the Pennsylvania Association of Government Relations. I do not recall specifically the
time periods of my affiliations with either of these organizations.**

2. In matters of constitutional interpretation, would you describe yourself as an originalist, textualist, pragmatist, or some other term that indicates how you approach constitutional interpretation?

I will approach every case that comes before me with an open mind and without bias. I am a strict constructionist. I believe that the role of judges is to apply precedent faithfully to the facts of the cases before them, to strictly apply the law as written, and to leave personal bias and political whim out of the courtroom. In a broad sense, this is what all Pennsylvanians desire of their judges.

3. Please identify the current U.S. Supreme Court Justice or Pennsylvania Supreme Court Justice that you believe most closely reflects your judicial philosophy and explain why.

Former Chief Justice Tom Saylor. Justice Saylor and I have very similar views on the role of the judiciary, adhering to the separation of powers, and exercising judicial restraint when it comes to matters committed to the other branches of government. On the United States Supreme Court, I greatly admired Justice Scalia for his approach to interpreting and applying the constitution and his clear and concise writing style.

4. To what extent do you believe that a judge should or should not defer to the actions of the legislature?

Judges should defer to the legislature on questions of policy and on matters committed to the legislative branch in the Pennsylvania Constitution. Judges, however, serve the vital role as a check and balance on unlawful or unconstitutional action by our executive or legislative branches.

5. Do you believe our judicial system adequately deters and penalizes frivolous litigation? If not, what reforms would you like to see?

I believe that frivolous litigation does great damage to our judicial system and must be deterred. In addition to the current laws and rules that prohibit lawsuit abuse, I would be open to considering further reforms.

6. a. Do you think excessive damage awards are a problem in our courtrooms?
b. Describe what you view as the hallmark elements of an 'excessive' verdict warranting "remittitur".

As a judge or justice, I may encounter cases where a damage award, particularly a punitive damage award, is challenged as excessive. Accordingly, adhering to the Pennsylvania Code of Judicial Conduct, I prefer not to answer this question.

7. Do you support the equal representation of plaintiff and defense counsel on the Pennsylvania Supreme Court's Civil Procedural Rules Committee, Appellate Court Procedural Rules Committee, and Committee on Rules of Evidence?

I support fair and equal representation on court rules committees from lawyers across the Commonwealth and across practice areas. I do not believe that any segment of practitioners, plaintiff side or defense side, should have a dominant role.

8. Venue:
- Do you support the current venue rules for medical liability actions found in Pa.R.C.P. Nos. 1006, 2130, 2156 and 2179?
 - Do you, and will you oppose all efforts to eliminate the current medical liability venue rules or otherwise broaden venue in medical liability cases?
 - Do you support extending the current venue rule for medical liability cases in Pennsylvania Rule of Civil Procedure 1006(a.1) to cover all civil actions?

I cannot commit in advance as to how I would vote with respect to a particular rule proposal. I know, however, that the 2002 venue rule change, reflected in the MCARE Act and the rules

of civil procedure, only occurred after thorough review and study and substantial evidence weighing in favor of the change. Any retreat from the current rule, in my view, would require at least an equally compelling case that a rule revision is in the public interest and not merely a change to curry favor with special interests.

9. Do you support statewide standards governing the time within which judges and courts should issue an order, decision, or opinion or otherwise dispose of motions and cases?

I agree with the policy set forth in Rule 703(A) of the Pa. Rules of Judicial Administration: "It is the policy of the unified judicial system that any matter at any stage of a proceeding be brought to a fair conclusion as promptly as possible, consistent with the character of the matter and the resources of the system. The requirements of this rule further specify and implement this policy in keeping with the Court's constitutionally mandated responsibility to oversee the prompt and proper disposition of the business of the Pennsylvania courts."

Cases vary in complexity, so it would be difficult to establish a single governing standard that can be applied across the board. However, the Commonwealth Court, on which I sit and currently serve as its President Judge, has a long-standing policy goal of issuing panel and *en banc* decisions within 90 days of submission, which is a standard set by the American Bar Association. As a Pennsylvania Supreme Court justice, I would encourage my colleagues on the court to implement the same policy goal with respect to that court's decisions.

10. Would you support the imposition of reasonable limits on personal injury lawyer advertising?

I have not studied this subject and, therefore, have not formed an opinion on the matter. To the extent it is a serious issue, however, I would be open to considering any appropriate reforms to attorney advertising, sensitive to the constitutional rights of free speech and to pursue an occupation.

11. What is the proper role of stare decisis when deciding cases in the appellate courts? Do you agree that predictability in the law is important to maintain a healthy business and medical climate in Pennsylvania?

The doctrine of stare decisis serves an important function, as it provides certainty and predictability to a particular rule of law for those who must abide by the rule regularly in their lives or business. In this regard, precedent should not be lightly set aside.

12. Recent appellate decisions have weakened protections provided by the Peer Review Protection Act (PRPA) which provides an absolute privilege for certain designated health care providers to discuss negative patient events to ensure that they do not occur again. As a jurist, would you support the PRPA's intent and allow health care providers to police themselves without fear that their findings will be used against them in a subsequent malpractice case?

I support upholding the intent of the General Assembly as set forth in any law it passes. That is the role of judges--to construe and apply statutes according to the intent of the legislature as set forth in the clear and unambiguous language chosen by the legislature.

13. Has your campaign committee received any campaign contributions from any political action committee (PAC), PAC Board, or other entity affiliated with Pennsylvania's plaintiffs' lawyer community, including but not limited to:
- LawPac, Fund for Change, the Committee for a Better Tomorrow, Pennsylvanians for the Disabled, Fairness PA, or PA Alliance Action?
 - If your answer is "Yes", please list the PAC(s).
 - Is your campaign planning on soliciting or accepting any funding from PACs listed in (a) between now and Election Day in November?

No.

14. Should appellate court judges be appointed or elected in Pennsylvania?
- If you believe they should be appointed, what system should be implemented to accomplish this?
 - If you believe they should be elected, do you prefer the current state-wide election system or a system that would divide the Commonwealth into judicial districts?

Any change to the way we elect our judges in Pennsylvania would have to occur through a constitutional amendment. As any such amendment could be challenged in the Commonwealth Court or the Pennsylvania Supreme Court, adhering to the Pennsylvania Code of Judicial Conduct, I prefer not to answer this question.

15. Please identify any endorsements your campaign has received.

**Pennsylvania Republican Party
Pennsylvania Manufacturers Association
Commonwealth Partners Chamber of Entrepreneurs
Pennsylvania Pro-Life Federation
Pa. State Troopers Association
Pa. Treasurer Stacy Garrity
Pa. Auditor General Tim DeFoor
Firearms Owners Against Crime (highest recommendation)
Gun Owners of America**



MEET JUDGE KEVIN BROBSON

President Judge Kevin Brobson will offer a new voice and perspective to Pennsylvania's Supreme Court. He will be a voice of reason, a defender of the law as it is written, and a champion of fair and impartial justice

Born and raised in Lycoming County, Kevin is the son of a retired Pennsylvania State Trooper and grandson of former Philadelphia Police Officer. His mother worked at the Little League Baseball's National headquarters in Williamsport. Growing up, his parents taught him that there is no substitute for hard work.



Kevin went to college and law school in Central Pennsylvania and then clerked for a federal judge in Philadelphia before becoming an associate with Pittsburgh-headquartered Buchanan Ingersoll & Rooney. There he stayed in private practice for 14 years, working in commercial litigation and administrative law, eventually becoming a shareholder and practice group chair in the firm.

Since 2010, Kevin has served as a judge on the Commonwealth Court of Pennsylvania, a statewide intermediate appellate court one step below the Pennsylvania Supreme Court. The Commonwealth Court is entrusted with the important responsibility of ensuring that government, at all levels, follows the law. He has not shied away from the controversial cases during his tenure. He has ruled in favor of gun rights, school choice, and, perhaps most notably, the justiciability of constitutional challenges to congressional districts drawn by the state legislature. His colleagues expressed their confidence in his collegiality, professionalism, and leadership when, in December 2020, they elected Kevin to serve as the 10th President Judge of the Commonwealth Court.

President Judge Brobson and his wife Lauren are raising their three children in a rural community just outside of Harrisburg, Dauphin County. Kevin is an active and engaged father and husband, often found coaching teams, cheering on the sidelines, running the after-school family shuttle, cooking dinner, and walking the family dogs. The Pennsylvania Bar Association has awarded him its highest rating—highly recommended—for a seat on the Pennsylvania Supreme Court.

www.brobsonforpa.com

Paid for by Judge Brobson For Supreme Court