



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item Nos.:	4 & 5	Date:	22 Feb 2010
Proposed Motion Nos.:	2010-0039 2010-0040	Prepared by:	Nick Wagner

SUMMARY

Proposed Motions 2010-0039 and 2010-0040 (pp. 5-8 of these materials) would fill new judicial positions in the Northeast and Shoreline Divisions of King County District Court. The three candidates for the Shoreline Division position were interviewed by the Committee of the Whole on Monday, February 8. The six candidates for the Northeast Division position will be interviewed by the committee at a special meeting on Monday, February 22, beginning at 9:30 a.m. The Council is expected to take final action on both appointments later that day.

This staff report supplements the binder of materials that was distributed to each councilmember approximately four weeks ago. The binder contains: (1) the written materials submitted by each candidate to the King County Bar Association for the bar association screening process; (2) the bar association ratings and rating criteria¹; and (3) tables listing selected information about each candidate.

Updated versions of both the bar association ratings and the tables listing selected information about the candidates are included in this staff report at pages 9-19. **Except for those updates, this staff report and its attachments *do not* take the place of the binder of materials on the candidates, which councilmembers should continue to refer to as needed, but *do* take the place of the February 8 staff report on the Shoreline Division appointment.**

BACKGROUND

A judicial officer needs-assessment, conducted by the Administrative Office of the Courts in 2008, determined that the King County District Court caseload had increased by 46 percent from 2004 to 2007 and that the court needed at least five more judges. On that basis, and at the county's request, the state legislature in 2009 enacted Engrossed Senate Bill (ESB) 5135, which increased the number of authorized judicial officers in King County District Court by five, from 21 to 26, phased in over three years – two in 2009, two in 2010, and one in 2011.

As authorized by the state legislature, the Council by Ordinance 16644 (adopted on 8 September 2009) created two new judicial positions – one in the District Court's Northeast Division and one

¹ Please note that the binder includes the rating criteria used by Washington Women Lawyers (WWL) at the state level, rather than those used by the King County Chapter of WWL. The ratings criteria used by the King County Chapter are included in these materials at pp. 21-22.

in the court's Shoreline Division. In the 2010 annual budget (Ordinance 16717, adopted on 23 November 2009) the Council funded those new positions.

Under state law, RCW 3.34.100, the county legislative authority is directed to fill all district court vacancies by appointment.² The King County Code, chapter 2.70, prescribes a merit selection process for filling such vacancies, including:

- Advertising of existing or anticipated vacancies by the clerk of the Council;
- Rating of interested applicants by the King County Bar Association (KCBA) and any other bar association with an established judicial candidate evaluation procedure;
- Referral by KCBA to the Council of the names of the candidates receiving the highest rating, with a minimum of three recommended candidates for each position to be filled;
- Review of the candidates by the Council's Committee of the Whole, which must then make a recommendation to the Council; and
- Final appointment by the Council.

KCBA has submitted to the Council a list of three candidates for the new judicial position in the District Court's Shoreline Division and a list of six candidates for the new judicial position in the Northeast Division, together with the ratings given to each candidate by KCBA and other bar associations that have established judicial candidate evaluation procedures.

Proposed Motions 2010-0039 and 2010-0040 would fill the two new judicial positions, once each motion is amended to name the appointee.

THE CANDIDATES

The six candidates for the **Northeast Division** position, in alphabetical order, are:

- Michael Finkle
- Rebecca Graham
- Richard Lawrence Mitchell
- Ketu Shah
- Vicki Toyohara
- Donna Tucker

The three candidates for the **Shoreline Division** position, in alphabetical order, are:

- Marcine Anderson
- Leonard Stephen Rochon
- Sidney Strong

² The appointee "shall hold office until the next general election and until a successor is elected and qualified." RCW 3.34.100.

Written materials concerning each candidate were distributed to councilmembers about four weeks ago in a separate binder. The materials consist in large part of the candidates' responses to an extensive Uniform Judicial Evaluation Questionnaire prepared by the Washington State Governor's Office. Some candidates have submitted additional materials, such as letters of recommendation, directly to councilmembers.

THE BAR ASSOCIATION RATINGS

Pursuant to the King County Code, the candidates have been rated by the King County Bar Associations and other bar associations having established judicial selection procedures. A table summarizing the ratings is included at page 9 of these materials. That table updates and supersedes the ratings table that was included with the binder of candidate materials.

APPOINTMENT PROCESS – AS PLANNED

February 8 Special COW Meeting

The three candidates for the Shoreline Division position were interviewed at the February 8 special meeting of the Committee of the Whole. The appointment motion for the Shoreline Division appointment, Proposed Motion 2010-0040, remains in committee and will be on the agenda for the committee's February 22 special meeting. The motion has not yet been amended to name the appointee.

February 22 Special COW Meeting

The six candidates for the Northeast Division position are scheduled to be interviewed at the committee's February 22 special meeting. As on February 8, each candidate will be given an opportunity to provide an opening statement and will then be asked to respond, within a prescribed time period, to a series of questions. In the interest of fairness, each Northeast Division candidate will be asked the same questions as the other Northeast Division candidates. After answering the councilmembers' questions, each candidate will be given an opportunity for closing comments. The total time for each candidate is expected to be about 15 minutes.

Following the interviews, the committee is expected to meet in executive session to discuss the qualifications of the candidates for each open judicial position – the Shoreline Division position as well as the Northeast Division position – and then to come out of executive session and report both appointment motions out of committee, either with or without a recommendation.

February 22 Council Meeting – Final Action

At the Council meeting later the same day, councilmembers are expected to consider and take final action on Proposed Motions 2010-0039 and 2010-0040, appointing new judges to the District Court's Northeast and Shoreline Divisions. As provided by state law, the appointments will run "until the next general election and until a successor is elected and qualified" (RCW 3.34.100). In other words, the appointed judges will need to run for re-election if they wish to continue serving after certification of the general election results in November of this year.

AMENDMENT OF THE PROPOSED MOTIONS

Proposed Motions 2010-0039 and 2010-0040 must each be amended by inserting the name of the appointee before adoption by the Council. The Committee of the Whole may amend either or both of the motions in committee or may report either or both of the motions out of committee without recommendation.

INVITEES

Northeast Division Candidates

- 1. Michael Finkle
- 2. Rebecca Graham
- 3. Richard Lawrence Mitchell
- 4. Ketu Shah
- 5. Vicki Toyohara
- 6. Donna Tucker

ATTACHMENTS

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KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

February 17, 2010

Motion

Proposed No. 2010-0039.1

Sponsors Dunn

1 A MOTION making an appointment to fill a new judicial
2 position in the Northeast division of King County district
3 court.

4 WHEREAS, as authorized by the state legislature in 2008 because of the
5 increasing district court caseload, the metropolitan King County council by Ordinance
6 16644, adopted on September 8, 2009, created and by Ordinance 16717, adopted on
7 November 23, 2009, funded two additional district court judicial positions, including one
8 new position in the Northeast division of King County district court, and

9 WHEREAS, RCW 3.34.100 authorizes the county legislative body to fill judicial
10 vacancies in district court, and

11 WHEREAS, K.C.C. chapter 2.70, provides for the metropolitan King County
12 council to fill judicial vacancies in district court by selecting from among candidates
13 receiving the highest rating from the King County Bar Association or another bar
14 association with an established judicial candidate evaluation procedure, as defined in the
15 King County Code, and

16 WHEREAS, the council has received candidate ratings from the King County Bar
17 Association and five other bar associations with established judicial candidate evaluation
18 procedures; has reviewed written materials concerning each candidate; has conducted

19 interviews of candidates in accordance with K.C.C. chapter 2.70; and has carefully
20 considered the qualifications of the candidates;

21 NOW, THEREFORE, BE IT MOVED by the Council of King County:

22 _____ is hereby appointed to fill the new judicial position
23 in the Northeast division of King County district court.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Robert W. Ferguson, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

February 17, 2010

Motion

Proposed No. 2010-0040.1

Sponsors Ferguson

1 A MOTION making an appointment to fill a new judicial
2 position in the Shoreline division of King County district
3 court.

4 WHEREAS, as authorized by the state legislature in 2008 because of the
5 increasing district court caseload, the metropolitan King County council by Ordinance
6 16644, adopted on September 8, 2009, created and by Ordinance 16717, adopted on
7 November 23, 2009, funded two additional district court judicial positions, including one
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9 WHEREAS, RCW 3.34.100 authorizes the county legislative body to fill judicial
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13 receiving the highest rating from the King County Bar Association or another bar
14 association with an established judicial candidate evaluation procedure, as defined in the
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16 WHEREAS, the council has received candidate ratings from the King County Bar
17 Association and five other bar associations with established judicial candidate evaluation
18 procedures; has reviewed written materials concerning each candidate; has conducted

Motion

19 interviews of candidates in accordance with K.C.C. chapter 2.70; and has carefully
20 considered the qualifications of the candidates;

21 NOW, THEREFORE, BE IT MOVED by the Council of King County:

22 _____ is hereby appointed to fill the new judicial position
23 in the Shoreline division of King County district court.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Robert W. Ferguson, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

CONSOLIDATED BAR RATINGS OF CANDIDATES

Candidate	Joint Asian Judicial Evaluation Committee	King County Bar Association	King County Washington Women Lawyers	Latina/o Bar Association of Washington	Loren Miller Bar Association	OLAW (GLBT Bar Association of Washington)
NORTHEAST DIVISION						
Michael Finkle	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified
Rebecca Graham	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Well Qualified	Exceptionally Well Qualified	Well Qualified
Richard Lawrence Mitchell	Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Well Qualified	Qualified	Well Qualified
Ketu Shah	Exceptionally Well Qualified	Exceptionally Well Qualified	Highly Qualified ¹	Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified
Vicki Toyohara	Well Qualified	Well Qualified	[not rated]	Exceptionally Well Qualified	Well Qualified	Qualified
Donna Tucker	Well Qualified	Exceptionally Well Qualified	[not rated]	Exceptionally Well Qualified	Well Qualified	Exceptionally Well Qualified
SHORELINE DIVISION						
Marcine Anderson	Well Qualified	Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Well Qualified
Leonard Stephen Rochon	[not rated]	Well Qualified	[not rated]	[not rated]	[not rated]	[not rated]
Sidney Strong	[not rated]	Well Qualified	[not rated]	[not rated]	[not rated]	[not rated]

¹ According to KCWWL, its "Highly Qualified" rating is its second highest rating (below "Exceptionally Well Qualified") and is comparable to the "Well Qualified" rating of the other bar associations.

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Comparison of Judicial Candidates – Northeast Division – Selected Criteria¹

	Michael Finkle	Rebecca Graham	Richard Lawrence Mitchell	Ketu Shah	Vicki Toyohara	Donna Tucker
Year admitted to practice law in Washington	1988	1991	1992	1995	1981	1984
Experience practicing law	criminal: 24 years approx; civil: 4+ years	criminal: 14 years approx	criminal: 16 years approx; civil: 10 years approx	criminal and civil: 15 years approx	criminal: 7 years approx	criminal: 21+ years
Jury trials as attorney	criminal: 100 approx	criminal: 190 approx	criminal: 120 approx	criminal and civil: 180 approx	criminal: 100+	criminal: 75+
Judicial experience – years	pro tem: 13 years approx	pro tem: 8+ years	None	pro tem: 2+ years	administrative law judge: 11+ years; pro tem: 4+ years	pro tem: 10 years approx
Judicial experience – jury trials	2 as pro tem	20 as pro tem	None	5 as pro tem	None, but "1000's of bench trials"	15 criminal trials as pro tem
Legal education	J.D., 1981 UCLA	J.D., 1988 University of New Mexico	J.D., 1979 John Marshall School of Law	J.D., 1994 University of Minnesota	J.D., 1980 University of Oregon	J.D., 1983 University of Puget Sound

¹ This table is based on selected information obtained from written materials provided by the candidates and from phone conversations with the candidates. The table should not be considered a substitute for review of the candidates' written materials, which contain a wealth of additional information.

	Michael Finkle	Rebecca Graham	Richard Lawrence Mitchell	Ketu Shah	Vicki Toyohara	Donna Tucker
Undergraduate and graduate education	M.B.A., 1995 Seattle University; B.B.A., 1978 Loyola Marymount University	B.A., 1983 State University of New York	B.S., 1975 Georgia Institute of Technology	B.A., 1990 Whitman College	M.A., 1977 University of Washington; B.A., 1972 Western Washington University	B.A., 1980 Seattle Pacific University; A.A., 1977 Edmonds Community College
Judicial and/or pro tem history	<ul style="list-style-type: none"> • Pro Tem, King County District Court, 2000-present • Pro Tem, King County District Court, 1996-2009 	<ul style="list-style-type: none"> • Pro Tem, King County District Court, 2005-present • Pro Tem, King County Superior Court, 2004-present • Pro Tem, various municipal courts, 2002-2003 	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Pro Tem, King County District Court, 2007-present 	<ul style="list-style-type: none"> • Pro Tem, various municipal courts, 2008-present • Lead Administrative Law Judge, WA Office of Administrative Hearings, 2006-2008 • Administrative Law Judge, WA Office of Administrative Hearings, 1997-2006 • Pro Tem, King County District Court, 1995-1997 	<ul style="list-style-type: none"> • Pro Tem, King County District Court, 2006-present • Pro Tem, various municipal courts, 2000-present • Interim Judge, Des Moines Municipal Court, 2007

	Michael Finkle	Rebecca Graham	Richard Lawrence Mitchell	Ketu Shah	Vicki Toyohara	Donna Tucker
Employment history as attorney	<ul style="list-style-type: none"> • Assistant Seattle City Attorney Supervisor, 1990-present • Deputy Los Angeles City Attorney, 1986-1990 • Associate, Reish & Reicher, 1985-1986 • Associate, Greenberg, Bernhardt et al., 1981-1985 	<ul style="list-style-type: none"> • Sole practitioner, 2001-present • Staff Attorney, Associated Council for the Accused, 1990-2001 • Staff Attorney, New Mexico Public Defender, 1988-1990 • Associate, Law Office of David Graham, 1988-1990 	<ul style="list-style-type: none"> • Prosecuting Attorney, City of Redmond, 1995-present • Deputy Prosecuting Attorney, City of Redmond, 1993-1995 • Code Enforcement Officer, City of Redmond, 1991-1993 • Sole Practitioner, 1979-1989 	<ul style="list-style-type: none"> • Sole practitioner, 2000-present • Assistant Seattle City Attorney, 1999-2000 • Assistant Vancouver City Attorney, 1997-1999 	<ul style="list-style-type: none"> • Executive Director, WA State Supreme Court Minority & Justice Commission, 1992-1997 • Contracts Administrator, WA State Dept of General Admin., 1990-1992 • Assistant Seattle City Attorney, 1982-1988 • Special Deputy Prosecuting Attorney, King County Prosecuting Attorney, 1981-1982 	<ul style="list-style-type: none"> • Principal Attorney, Tucker & Stein, 1987-2005 • Associate, Kirshenbaum & Combs, 1984-1987

	Michael Finkle	Rebecca Graham	Richard Lawrence Mitchell	Ketu Shah	Vicki Toyohara	Donna Tucker
Judicial philosophy (in 50 words or fewer)	"I will always treat everyone with respect. I will always maintain the moral courage to make the correct legal decision rather than the politically easy one. I will always respect the sanctity of the law, even if I disagree with it. I will always continue to grow professionally and personally."	"I treat all people who appear before me with dignity and acknowledge their humanity. I am well prepared, listen actively, set clear expectations, and am courteous. I take an active role to ensure that parties' rights are honored while balancing the needs of public safety."	"I have developed a good knowledge of the law and a sense of justice that I will use in deciding issues that come before me. A judge's action can have a profound effect on people's lives. I have the experience and maturity to make fair and responsible decisions."	"The orderly resolution of disagreements is the core purpose of the judiciary. To accomplish this goal, respecting all litigants is paramount. The bench must be impartial, intelligent, and humane in its decisions, that is, be fair to all. When litigants receive a fair hearing, the judiciary is strengthened and civility is achieved."	"Justice is the basic foundation of a just society. The judge is the cornerstone of the judicial system and represents the face of justice to the public, 24/7. A judge should be beyond reproach, with the highest of standards of integrity and ethics and never be subject to bias or favor. "It is the judge's responsibility to maintain the dignity, respect and decorum of the justice system; to ensure the independence and integrity of the justice system by . . .	"Ensure fair and impartial opportunity for litigants to be heard. Understand and faithfully support the rule of law. Give clear, understandable reasons for my rulings. Patiently treat all parties with dignity, courtesy and respect. Require parties appearing in my courtroom to do the same."

	<p>Michael Finkle</p>	<p>Rebecca Graham</p>	<p>Richard Lawrence Mitchell</p>	<p>Ketu Shah</p>	<p>Vicki Toyohara</p>	<p>Donna Tucker</p>
				<p>“ . . . ensuring that all persons are treated fairly and with dignity and respect; receive equal justice under law; and receive equal access to justice in our civil and criminal justice system.”</p>		

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Comparison of Judicial Candidates – Shoreline Division – Selected Criteria¹

	Marcine Anderson	Leonard Stephen Rochon	Sidney Strong
Year admitted to practice law in Washington	1990	1980	1968
Experience practicing law	civil and criminal: 24+ years	criminal: 29+ years	civil and criminal: 43 years
Jury trials as attorney	criminal: 25+	criminal: 80-100 approx	civil and criminal: 75-100 approx
Judicial experience – years	pro tem: 12+ years	municipal court judge: 11+ years pro tem: 18 years	pro tem: 2 cases
Judicial experience – jury trials	15 as pro tem	75 as municipal court judge or pro tem	None
Legal education	J.D., 1984 Suffolk University Law School	J.D., 1978 University of Puget Sound	J.D., 1967 University of Montana
Undergraduate education	B.A., 1977 University of Oregon	B.A., 1975 Seattle University	B.A., 1964 University of Montana

¹ This table is based on selected information obtained from written materials provided by the candidates and from phone conversations with the candidates. The table should not be considered a substitute for review of the candidates' written materials, which contain a wealth of additional information.

	Marcine Anderson	Leonard Stephen Rochon	Sidney Strong
Judicial and/or pro tem history	<ul style="list-style-type: none"> • Pro Tem, King County District Court, 1998-present • Pro Tem, Seattle Municipal Court, 1997-1999 	<ul style="list-style-type: none"> • Presiding Judge, Maple Valley and Pacific Municipal Courts, 1998-present • Presiding Judge, Algona Municipal Court, 2009-present 	<ul style="list-style-type: none"> • Pro Tem, King County Superior Court, two cases "more than 15 years ago"
Employment history as attorney	<ul style="list-style-type: none"> • Senior Deputy Prosecuting Attorney, King County, Seattle, 1995-present • Attorney, Kenyon Sullivan, 1995 • Sole Practitioner, 1994-1995 • Associate, Ogden Murphy Wallace, 1993-1994 • Associate, McMonagle & Twiss, 1991-1993 • Associate, Bryan Schiffrin McMonagle Elston & Twiss, 1991 • Ass't Gen'l Counsel & Special Ass't to GM, Mass. Bay Transp. Authority, 1986-1991 	<ul style="list-style-type: none"> • Sole Practitioner, 1992-present • Staff Attorney, Associated Counsel for the Accused, 1985-1992 • Staff Attorney, Eastside Defender Association, 1980-1984 	<ul style="list-style-type: none"> • Sole practitioner, 2002-present • Partner, Strong & Konat, 1995-2002 • Partner, Strong & Kydd, 1987-1995 • Partner, Halverson & Strong, 1971-1987 • General Counsel, Seattle Urban League, 1969-1971 • Staff Counsel, Seattle Legal Services Center, 1967-1971

<p>Judicial philosophy (in 50 words or fewer)</p>	<p>Marcine Anderson</p> <p>"The Shoreline District Court is a 'People's Court.' For many people it is the only time they will ever see the inside of a courthouse. My judicial philosophy is to take great care in making sure that the public has confidence in the court system."</p>	<p>Leonard Stephen Rochon</p> <p>"I am committed to the protection of individual rights, to provision of a level 'playing field' for parties who are treated with respect, and, mindful of the public resources, to accountability for those found to have offended, to judicial efficiency and community safety."</p>	<p>Sidney Strong</p> <p>"I believe in the rule and spirit of the law. Justice results from an interpretation and application of the law only after each litigant is given the opportunity to fully present their claims and defenses. Courtroom decorum must be maintained, but not as an end to deny court access."</p>
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- C. The Candidate may use the rating of the Chapter for three years.*

VI. CRITERIA FOR RATING CANDIDATES

- A. Criteria to be rated as qualified: Candidates for the qualified rating shall possess all the following:

1. Active membership in good standing of the Washington State Bar and in good standing in every Bar in which that person is, or has been a member.
2. Maturity, integrity, courtesy, intellectual honesty, fairness, good judgment, curiosity, common sense and freedom from bias, and a temperament appropriate to the judiciary.
3. Respect for the law, for the judicial process, and for the dignity of the court.
4. A demonstrated commitment to equal justice under the law, and fairness and open-mindedness with sensitivity to and respect for all persons, regardless of race, color, gender, sexual orientation, national origin, ancestry, religion, political ideology, creed, age, marital status or physical or mental handicap, disability or impairment. This commitment and sensitivity can be evidenced by the individual's involvement in community affairs and activities, by professional background and/or by a sensitivity to issues important to women within the profession or under the law.
5. The courage and ability to make difficult decisions under stress.
6. Good legal ability and competence, as evidenced by one's legal experience and practice.
7. The ability to communicate clearly and effectively with attorneys, litigants, witnesses and jurors.
8. The energy and capacity for hard work.
9. The ability to manage pretrial and trial proceedings.
10. An interest in and commitment to working with other judges and court administrators to improve the administration of justice, including an ability to effectively administer the business of the court.

* The three-year rating applies to ratings in effect as of September 2002, and ratings ratified thereafter.

- B. "HIGHLY QUALIFIED": To receive a Highly Qualified rating, a candidate must excel in a significant number of the criteria necessary to receive a Qualified Rating. In addition, the Committee may consider the following:
1. Experience as a neutral decision-maker;
 2. Significant public service.
- C. "EXCEPTIONALLY WELL QUALIFIED": To receive an Exceptionally Well Qualified rating, a candidate shall possess exceptional accomplishments in a significant number of the criteria necessary to support a "Qualified" rating. In addition, the Committee may also consider accomplishments in the two additional criteria mentioned in "Highly Qualified".
- D. "NO RATING": A candidate shall receive a "No Rating" when:
1. The Committee has insufficient information to rate; or
 2. For any reason the Committee deems appropriate.
- E. "NOT QUALIFIED": A candidate shall be rated "Not Qualified" if he or she fails to met the minimum criteria for a Qualified rating.