



# Tennessee Appellate Judges Evaluation Report

*Prepared by the Judicial Performance Evaluation Commission*



# 2010

# INTRODUCTION

In 1994, the Tennessee General Assembly changed the method of electing state appellate judges by adopting the Tennessee Plan. Under the Plan, every appellate judge who seeks election to fill either an unexpired or full eight (8) year term of office must be evaluated by the Judicial Performance Evaluation Commission prior to a scheduled August election. The Commission is charged with the duty to evaluate these judges and to make a recommendation to retain or replace these judges. The purpose of the evaluation process is two-fold: (1) to assist the public in evaluating the performance of incumbent appellate court judges; and (2) to promote self-improvement among all judges.

The Commission is made up of nine (9) members, which includes lawyers, non-lawyers and state trial court judges. The Commission, by law, must represent gender and racial balance. The law also includes provisions that ensure that all three grand divisions are represented on the Commission. Members participating in the 2010 evaluation process include E. Riley Anderson; Jeffrey S. Bivins; John A. Day, Chair; John T. Fowlkes, Jr.; Henrietta Grant, Vice Chair; John Rambo; Amy Reedy; Renata Soto; and, Michael E. Tant.

The Commission's report contains the evaluation results and retention recommendations for the one Supreme Court justice and one Court of Appeals judge who are standing for retention election in August 2010. Under the guidelines outlined in Supreme Court Rule 27, as required by the Plan, evaluations are based upon the following criteria:

- Integrity
- Knowledge and Understanding of the Law
- Ability to Communicate
- Preparation and Attentiveness
- Service to the Profession
- Effectiveness in Working with Other Judges and Court Personnel

In developing individual evaluations, the Commission considered the following: results of performance evaluation survey questionnaires; opinions written by each judge; personal information self-reported by each judge; caseload and workload statistics for each judge; and any public input that may have been received. Applications previously submitted by the judges to the Judicial Selection Commission also were made available for review by the Commission. The Commission conducted a formal interview with each judge to discuss judicial performance issues as part of the evaluation process.

The Commission used the results of the survey questionnaires to identify both performance strengths and areas for potential improvement in developing each individual evaluation. The surveys contained questions concerning oral argument, written opinions, administrative performance and general performance of each appellate judge. For each question, respondents could rate the judge on a scale from 1 to 10, with 1 being "poor" and 10 being "excellent". The complete ratings are as follows: A rating of 1-2 is poor; a rating of 3-4 is "fair"; a rating of 5-6 is "adequate"; a rating of 7-8 is "good"; and, a rating of 9-10 is "excellent". Survey forms were distributed to four groups of respondents who have interaction with the appellate bench: attorneys, court personnel, trial court judges, and appellate court judges.

The evaluations contained herein express the Commission's impressions of each judge's experience and performance, and include the Commission's vote and recommendation regarding whether each judge should be retained or replaced.

## Justice Sharon G. Lee

**Recommendation:** RETAIN

**Commission Vote:** 9 FOR RETENTION – 0 FOR REPLACEMENT

**Legal Education and Experience:** Justice Sharon G. Lee received a law degree from the University of Tennessee College of Law in 1978. She engaged in the private practice of law in Madisonville from 1978 until 2004, during which time she served as County Attorney for Monroe County, as City Judge for Madisonville, and as City Attorney for Madisonville and Vonore. She was appointed to the Tennessee Court of Appeals in June 2004, elected in August 2004, and reelected in 2006. She was appointed to the Tennessee Supreme Court in October 2008.

**Service to the Profession:** Justice Lee is a member of the Tennessee Bar Association, Tennessee Lawyers Association for Women, East Tennessee Lawyers Association for Women, Monroe County Bar Association, Knoxville Bar Association, Tennessee Bar Foundation, Knoxville Bar Foundation, Hamilton Burnett Chapter of the American Inns of Court, and the National Association of Women Judges. She co-authored Opening and Closing Arguments, an article on the Judicial Selection Process for the Tennessee Lawyers Association for Women newsletter, and a book review of The History of the Tennessee Supreme Court for the Knoxville Bar Association's newsletter. She frequently lectures on legal topics to both legal and non-legal audiences.

**Performance Evaluation:** Justice Lee's survey ratings from appellate court judges, trial court judges, and court personnel reflect an overall excellent performance. Her ratings in the areas of oral argument, administrative performance and general performance were consistently noteworthy from these groups. Attorneys surveyed gave lower ratings than the other groups. However, she received a "good" rating overall from attorneys. Appellate and trial court judges consistently rated her written opinions as "excellent", with a small number of attorneys responding and rating her opinions as "good".

**Interview:** The Commission found that Justice Lee is very knowledgeable and experienced in the law, as demonstrated by her experiences both as a legal practitioner and as a member of the Court of Appeals. Justice Lee noted that there is an adjustment between serving on the Court of Appeals and the Supreme Court because of the additional administrative duties that are required of justices of the Supreme Court. Justice Lee is serving as the Supreme Court liaison to several judicial committees, including the Tennessee Lawyer Assistance Program. She stated that while the Supreme Court writes fewer opinions than the Court of Appeals, the review of applications for permission to appeal, the addition of administration duties and the increase in the number of requests to speak at public functions ensure a significant workload. Justice Lee's heavy schedule speaks highly of her work ethic, and her work product demonstrates her commitment to timely, high-quality written opinions.

**Recommendation:** The Commission unanimously recommends Justice Sharon G. Lee for retention on the Tennessee Supreme Court.

### JUSTICE LEE'S RESPONSE TO THE EVALUATION:

I am grateful that the Judicial Performance Evaluation Commission has unanimously recommended me for retention on the Tennessee Supreme Court. I consider it a high honor and a privilege to serve on the Tennessee Supreme Court. It is a responsibility I take very seriously. I will continue to strive for excellence in all aspects of my professional and personal life. The citizens of Tennessee deserve nothing less from me as a judge and elected official.

## Judge John Westley McClarty

**Recommendation:** RETAIN

**Commission Vote:** 9 FOR RETENTION – 0 FOR REPLACEMENT

**Legal Education and Experience:** Judge John Westley McClarty received a law degree from Southern University School of Law in 1976. He engaged in the private practice of law in Chattanooga after graduating from law school. He also served as a part-time Juvenile Court Referee for Hamilton County in 1990. Judge McClarty was appointed to the Tennessee Court of Appeals in January 2009.

**Service to the Profession:** Judge McClarty is a member of the Chattanooga Bar Association, Chattanooga Bar Foundation and American Board of Trial Advocates. He is a past board member of the Tennessee Trial Lawyers Association and past president of the Chattanooga Trial Lawyers Association. He is a Fellow in the American College of Trial Lawyers. Judge McClarty also served as a hearing panel member for the Board of Professional Responsibility from 2001-2009. Judge McClarty has served as an instructor in the Criminal Justice Department for Cleveland State Community College and also has also given presentations on housing discrimination to the Chattanooga Bar Association.

**Performance Evaluation:** Judge McClarty's survey ratings from appellate court judges, trial court judges, attorneys and court personnel reflect an overall "good" performance. He received ratings of "excellent" from appellate judges, attorneys, trial judges and court personnel in the categories of administrative performance and general performance. He also was rated "excellent" in oral argument by appellate court judges, attorneys and court personnel (trial court judges do not rate in this category). Judge McClarty was rated "good" in the quality of his written opinions, reflecting an area for self improvement.

**Interview:** As a result of its interview with Judge McClarty, the Commission found Judge McClarty to have a broad range of knowledge and experience in civil law. Judge McClarty has a history of service to the community. While most new judges experience a backlog of opinions while transitioning into and adapting to the judicial position, Judge McClarty has completed his work in a timely manner, a fact that demonstrates his impressive work ethic. Judge McClarty has recently completed judicial opinion writing courses that will help him improve the quality of written opinions.

**Recommendation:** The Commission unanimously recommends Judge John Westley McClarty for retention on the Tennessee Court of Appeals.