

SUPREME COURT JUSTICES UP FOR RETENTION IN 2024

Honorable Monica M. Márquez	MEETS PERFORMANCE STANDARDS
Honorable Maria E. Berkenkotter	MEETS PERFORMANCE STANDARDS
Honorable Brian D. Boatright	MEETS PERFORMANCE STANDARDS

Below are the published summaries of the each judge’s performance. The actual performance reviews the summaries are based upon are in separate PDF’s. I have highlighted some areas like the name and specific parts of the summaries.

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Note: Justice Marquez was appointed by Democrat Governor Bill Ritter in 2010.

Recommendation: No vote – Justice Marquez was one of the four justices who ruled that Trump could not be on the Colorado (CO) ballot due to the 14th Amendment (Section 3, Insurrectionist). The other three dissented. The CO Supreme Court decision was unanimously struck down by SCOTUS. Her last review was in 2021 where 0% of the 47 attorneys responding and 3% of he 32 judges responding agreed that Marquez did not meet the performance requirements. Her 2024 review showed that 5% of the 20 responding attorneys and 2% of the 41 responding judges agreed that Marquez did not meet the performance requirements.

The State Commission on Judicial Performance finds that **Chief Justice Monica M. Márquez MEETS PERFORMANCE STANDARDS**, by a vote of 10-0 with one recusal. The Colorado statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, and service to the legal profession and the public.

The Commission found Chief Justice Márquez to be well prepared and articulate in oral argument, courteous, and respectful to attorneys appearing before the Court. The Commission reviewed several of Chief Justice Márquez’ opinions and found them to be clear, thoughtful, well-reasoned, and issued in a timely manner. The Commission found Chief Justice Marquez to be inquisitive, deeply thoughtful and asked insightful and detailed questions. Overall, the Commission believes that Chief Justice Márquez is an asset to the Colorado Supreme Court, while commending her thoughtful reflection and continuous activity in the community. Attorney survey responses indicate that Chief Justice Márquez’ performance is strong in the areas of being fair and impartial towards each side of the case and conducting hearings in a neutral manner. Numerous attorneys commented that Chief Justice Márquez is intelligent, thoughtful, and brings a new unbiased vision to the court, and her fairness and impartiality are unquestioned. The survey responses and comments of judges indicate that Chief Justice Márquez is dedicated to bettering the workplace culture of the entire judicial branch. She is methodical in her decision-making and embodies the

best qualities of a judicial officer: fair, kind, and inclusive. She writes thoughtful opinions, is hard working, and deeply committed to improving the court system as the Chief Justice.

The Commission surveyed responses from attorneys and judges regarding Chief Justice Márquez' performance, read opinions she authored, observed her in oral arguments, reviewed her self-evaluation, and conducted a personal interview. She received an overall score of 3.8 on a 4.0 scale. Among the survey questions was "Meets performance standards?". Of attorneys responding to the survey, 95% stated Yes, with 5% rating as "No, does not meet,". Of judges responding to the survey, 98% stated yes, with 2% rating as "No, does not meet,". A total of 20 attorneys and 41 Judges responded to the survey.

Chief Justice Márquez was appointed to the Colorado Supreme Court in 2010 and became Chief Justice on July 26, 2024. She received a bachelor's degree from Stanford University in 1991 and earned her law degree from Yale Law School in 1997. Following graduation, Chief Justice Márquez served as a law clerk for two federal judges. She was in private law practice until 2002, and then worked in the Colorado Attorney General's Office. In that Office she served as Assistant Solicitor General and Assistant Attorney General in the Public Officials Unit and Criminal Appellate Section, and as Deputy Attorney General in charge of the State Services Section. Prior to her appointment to the Court, Chief Justice Márquez served on the boards of the Colorado Hispanic Bar Association, the Colorado LGBT Bar Association, and the Latina Initiative, and chaired the Denver Mayor's LGBT Commission.

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Note: Justice Berkenkotter was appointed by Democrat Governor Bill Polis in 2020.

Recommendation: NO vote – Polis, like all governors, appoints those who he believes can help implement his ideology. I would prefer a justice appointed by a conservative governor. Berkenkotter's 2023 review showed that 17% of the 13 responding attorneys and 6% of the 28 responding judges agreed she did not meet the performance standards. Her 2024 review showed that 10% of the 21 responding attorneys and 0% of the 33 responding judges agreed she did not meet the performance standards. Note: The actual number of respondents in the published performance review do not match the summary described below. Her performance was improving and she was one of the three justices who dissented on the opinion of removing Trump from the CO ballot, but her dissent was based upon the process and not the constitutionality of the actual case.

The State Commission on Judicial Performance finds that **Justice Maria E. Berkenkotter MEETS PERFORMANCE STANDARDS** by a vote of 10-0 with one recusal. The Colorado statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and the public.

Justice Berkenkotter has been on the Colorado Supreme Court since January of 2021. The Commission finds that Justice Berkenkotter received high scores in all areas in her 2024 Evaluation including fairness and impartiality, issuing timely written opinions solidly based upon the facts and law, and being a leader in effective judicial administration and

community service. These scores are consistent with the high scores she received in her 2023 Interim Evaluation. Comments from attorneys and judges include that she is thoughtful, practical, kind, and respectful in her approach to the parties, counsel, and other justices. Her written opinions are clear and well-organized. The Commission was especially impressed with Justice Berkenkotter’s leadership in addressing the issues raised by the lawyers’ and judges’ use of artificial intelligence and her positive efforts to help achieve team collaboration among other members of the judiciary, law clerks, and staff.

To conduct the evaluation, the Commission interviewed Justice Berkenkotter, reviewed her self-evaluation, observed oral arguments, read a selection of her legal opinions, and considered survey responses from attorneys and judges. One survey question asked whether Justice Berkenkotter met judicial performance standards. Of the attorneys who responded to that question, 91% answered yes and 9% answered no. Of the judges who responded to that question, 100% answered yes. A total of 54 attorneys and judges responded to the survey.

Prior to her appointment to the Colorado Supreme Court in 2021, Justice Berkenkotter served as a District Court Judge in the Twentieth Judicial District from 2006 to 2013 and served as the Chief Judge of the Twentieth Judicial District from 2013 to 2017. Following her District Court experience, Justice Berkenkotter conducted complex mediations, arbitrations, and judge pro tem appointments while at the Judicial Arbitrator Group, Inc. Prior to her judicial experience, she led the Antitrust, Consumer Protection and Tobacco Litigation Units of the Colorado Attorney General’s Office and was in private practice at Holmes & Starr, P.C. in Denver. She also clerked for Justice Howard M. Kirshbaum of the Colorado Supreme Court after graduating from the University of Denver Sturm College of Law in 1987.

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Note: Justice Boatright was appointed by Democrat Governor Hickenlooper in 2011.

Recommendation: NO vote – Justice Boatright’s last review in 2021 showed that 22% of the 84 responding attorneys and 6% of the 34 responding judges agreed he did not meet the performance standards. In 2024, 8% of the 21 responding attorneys and 2% of the 44 responding judges agreed he did not meet the performance standards. Boatright was one of over 100 judges who failed to file mandated financial disclosures or failed to verify the filing had been received. This displays a lack of compliance with the law.

Note: It is a misdemeanor to willingly not file a financial disclosure but this law is rarely enforced.

The following paragraph was taken from https://www.coloradopolitics.com/courts/colorado-judges-financial-disclosures/article_34c27491-e737-5d15-994f-2aca27767ed3.html. *Similarly, the Secretary of State’s Office does not routinely confirm the receipt of any filing unless asked to. In at least one case — that of Supreme Court Chief Justice Brian Boatright — a filing from 2014 remained missing for more than nine years until The Gazette, and then Boatright, asked about it and it was later found.*

The State Commission on Judicial Performance finds that **Justice Brian D. Boatright MEETS PERFORMANCE STANDARDS**, by a vote of 8-0 with three recusals. The Colorado statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and the public.

Justice Boatright was appointed to the Colorado Supreme Court in 2011 and served as the Chief Justice from January 2021 through July 2024. The Commission finds that he meets the Colorado statutory judicial standards. Justice Boatright did an excellent job in leading the entire Colorado court system, including the Supreme Court during his time as Chief Justice. During his tenure he implemented the “workplace initiative” program and assigned all supreme court justices (including himself) as liaison to specific Colorado Court Administrative Divisions. The Commission finds that Justice Boatright is courteous to all parties in the courtroom and his opinions are well-written and understandable. The Commission feels that Justice Brian D. Boatright is a valuable asset to the Supreme Court and to the State of Colorado Judicial Branch.

The evaluation of Justice Boatright included a personal interview, reviews of a selection of written opinions, a review of his self-evaluation, and a review of survey responses from attorneys and judges. The Justice received an overall score of 3.6 out of 4 from the survey participants, which includes fellow judges and attorneys. To the question if Justice Boatright meets performance standards 79% of attorneys answered yes, 98% of judges answered yes, and 13% of attorneys had no opinion. A total of 19 attorneys and 44 judges responded to the survey.

Justice Boatright was sworn in to the Supreme Court of Colorado in November of 2011. In 2021 he was selected by the members of the supreme court to be the Chief Justice. He is a Colorado native who graduated from Jefferson High School in 1980 and received his undergraduate degree from Westminster College in Fulton, MO in 1988. Justice Boatright received his law degree from the University of Denver Sturm College of Law in 1988. After work in private practice he joined the First Judicial District, District Attorney’s Office (Jefferson/Gilpin County) from 1990 to 1999. In 1999 he was appointed as District Court Judge where he presided over criminal, civil, domestic, juvenile, probate, and mental health dockets. Justice Boatright’s term of Chief Justice expired in July of 2024. Justice Boatright is active in the community with speaking engagements and attending multiple events during the year that include the Jefferson and Gilpin bar association, Court Appointed Special Advocates, and Leadership Jeffco. He also mentors young lawyers who are interested in becoming judges.

COURT OF APPEALS JUDGES UP FOR RETENTION IN 2024

Honorable Gilbert M. Román	MEETS PERFORMANCE STANDARDS
Honorable Stephanie Dunn	MEETS PERFORMANCE STANDARDS
Honorable Jerry N. Jones	MEETS PERFORMANCE STANDARDS
Honorable W. Eric Kuhn	MEETS PERFORMANCE STANDARDS
Honorable Timothy J. Schutz	MEETS PERFORMANCE STANDARDS

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Note: Judge Roman was appointed by the last Republican CO Governor (Bill Owens) in 2005.

Recommendation: Yes vote – His 2023 rating was very good with no attorneys stating he did not meet performance standards but his 2024 rating had 15% (2) attorneys stating the same. It is unknown why the significant change, but he was appointed by a Republican Governor, which in today’s political world, is good enough for me to decide to keep this judge as one of the few having been appointed by a Republican governor.

The State Commission on Judicial Performance finds that **Chief Judge Gilbert M. Román MEETS PERFORMANCE STANDARDS**, by a vote of 10-0 with one recusal. Colorado’s statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, and service to the legal profession and the public.

Chief Judge Román has been on the Colorado Court of Appeals since August of 2005 and this is his third time standing for retention as a Court of Appeals Judge. The Commission finds that his opinions are thoughtful and he has an excellent judicial demeanor. He is an engaged leader who successfully manages an extraordinarily busy docket on an individual and collective basis. The Commission commends Chief Judge Román especially for his leadership and management training and his extraordinary service driving public trust and confidence in the state’s judicial system. In sum, the Commission finds Chief Judge Román is a valuable and effective leader of the Court of Appeals.

To conduct its evaluation, the Commission interviewed Chief Judge Román, reviewed his self-evaluation, observed oral arguments, read a selection of his legal opinions, and considered survey responses from attorneys and judges. Survey respondents agreed Chief Judge Román meets judicial performance standards: 77% of attorneys and 100% of judges who responded to that question answered “yes.” He received an overall score of 3.7 on a 4.0 scale. Chief Judge Román received positive comments from lawyers and judges for being fair, impartial and neutral and with regard to his exceptional writing skills. A total of 13 attorneys and 34 judges responded to the survey.

Chief Judge Román was appointed to the Colorado Court of Appeals on August 1, 2005. He is a 1984 graduate of Colorado State University and received his law degree from the University of Michigan Law School in 1987. Prior to his appointment, Chief Judge Román was in private practice focusing on complex civil litigation. He has received a number of awards,

including the Richard Marden Davis Award from the Denver Bar Foundation and the Outstanding Lawyer Award from the Hispanic National Bar Association. Chief Judge Román has served as an adjunct faculty member at the University of Denver Sturm College of Law and as an instructor at the National Institute for Trial Advocacy. He formerly served on the Board of Governors for the Colorado Bar Association and as a board member of both the Colorado Hispanic and the Hispanic National Bar Associations. Chief Judge Román is very active in the community, representing the judicial branch in many educational and professional forums.

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Note: Judge Dunn was appointed by Democratic Governor John Hickenlooper in 2012.

Recommendation: No Vote – Judge Dunn previously worked for Perkins Coie before becoming appointed to the Appeals Court. This is the firm that orchestrated the Russian Dossier hoax against President Trump on behalf of Hillary Clinton for the purpose of trying to remove him from office. While that occurred four years later, in my opinion it taints this person’s background as well as being appointed by a Democrat Governor. The 2023 performance review showed that 7% of the 96 responding attorneys and 3% of the 25 responding judges agreed the judge did not meet performance standards. Her 2024 review showed that 6% of the 17 responding attorneys and 0% of the 33 responding judges agreed the judge did not meet the performance requirements.

The State Commission on Judicial Performance finds that **Judge Stephanie Dunn MEETS PERFORMANCE STANDARDS**, by a vote of 10-0 with one recusal. Colorado’s statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, and service to the legal profession and the public.

Judge Dunn has been on the Colorado Court of Appeals since June 2012 and this is her 2nd time standing for retention as a Court of Appeals Judge. The Commission finds that her opinions are thoughtful and she has an excellent judicial demeanor. She is an increasingly senior judge who is successfully mentoring and training a new cohort of colleagues while successfully managing an extraordinarily busy docket. The Commission commends Judge Dunn especially for her significant engagement in the community and leadership roles on myriad committees designed to advance the profession and the operation of the courts. In sum, the Commission finds Judge Dunn is a valuable and effective member of the Court of Appeals.

To conduct its evaluation, the Commission interviewed Judge Dunn, reviewed her self-evaluation, observed oral arguments, read a selection of her legal opinions, and considered survey responses from attorneys and judges. Survey respondents agreed Judge Dunn meets judicial performance standards: 94% of attorneys and 100% of judges who responded to that question answered “yes.” She received an overall score of 3.8 on a 4.0 scale. Judge Dunn received positive comments from lawyers and judges for being fair, impartial and neutral and with regard to her exceptional analytic and writing skills. A total of 16 attorneys and 33 judges responded to the survey.

Judge Dunn was appointed as a Judge of the Court of Appeals in June, 2012. She earned a bachelor's degree from the University of Colorado in 1990 and earned her law degree from the University of Denver, Sturm College of Law in 1993. Before joining the bench, she was a partner at the law firm of Perkins Coie, LLC where she practiced from 2003-2012. While a partner at Perkins Coie, she was Chair of both the Denver Diversity committee and the Denver Pro Bono committee. Her work at Perkins Coie focused on business litigation and appellate practice in both state and federal courts. In addition to membership in several bar associations, she is a member of the National Association of Women Judges and The Colorado Lawyer's Committee Hate Crimes Education Task Force. She also is a Fellow of the Colorado Bar Foundation and participates in the Our Courts program.

Note: Justice Jones was appointed by Republican Governor Bill Owens in 2006.

Recommendation: No vote – He was appointed by a Republican Governor, but his 2023 performance vs 2024 in regards to attorney reviews was a move in the wrong direction. Ninety attorneys responded and 23 judges responded with 15% of the attorneys and 3% of the judges stating he did not meet performance standards. In 2024 only 20 attorneys responded with 25% stating Judge Jones did not meet performance standards, while 26 judges responded and none made that response. It appears, based upon the summary below, this judge has not changed his behavior and after 18 years on the bench, is not likely to change.

The State Commission on Judicial Performance finds that **Judge Jerry N. Jones** of the Colorado Court of Appeals **MEETS PERFORMANCE STANDARDS** by a vote of 10-0 with one recusal. The Colorado statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and public.

Judge Jones has been on the Colorado Court of Appeals for eighteen years. His last retention evaluation was in 2016. The Commission finds that Judge Jones is fair and impartial, is thoroughly prepared for oral arguments, has a keen intellect, and writes clear legal opinions based upon the facts and law. In its evaluation, the Commission uses survey data with feedback from attorneys participating in oral arguments. **Judge Jones actively participates in oral arguments. In current and prior surveys related to oral arguments, Judge Jones was both commended and criticized concerning his perceived demeanor during oral argument. Commissioners reviewed a large sample of recorded oral arguments in which Judge Jones was a member of the panel. At times his judicial temperament can appear adversarial and discourteous. We understand and share these concerns. During Judge Jones' interview with the Commission, he expressed an openness to recommendations on how to improve his personal style.** We believe one way in which Judge Jones might address some of the concerns about his temperament during oral arguments would be to briefly explain to counsel how a particular line of questioning will help inform his approach to the case. The Commission applauds Judge Jones' leadership on several Colorado Supreme Court and bar association committees, and the Commission enjoyed hearing Judge Jones describe how meaningful his co-coaching of a high school mock trial team was for him.

To conduct the evaluation, the Commission interviewed Judge Jones, reviewed his self-evaluation, observed oral arguments, read a selection of his legal opinions, and considered survey responses from attorneys and judges. One survey question asked whether Judge Jones met judicial performance standards. Of the attorneys who responded to that question, 75% answered yes and 25% answered no. Of the judges who responded to that question, 100% answered yes. A total of 20 attorneys and 27 judges responded to the survey.

Judge Jones was appointed to the Court of Appeals on July 5, 2006. Prior to serving on the Court of Appeals he was a partner at the Denver law firm of Moye White LLP practicing in commercial litigation and appeals. During his time at Moye White he also served as a Special Assistant Attorney General in the State Services Section working on higher education issues, and in the Criminal Section handling appeals on behalf of the People of the State of Colorado. He also served as the Chief of the Appellate Division of the United States Attorney's Office for two years. He was a member of the Faculty of Federal Advocates and served as Chair of the Judicial Performance Commission for the Second Judicial District. He is a 1986 graduate of the University of Denver Sturm College of Law and served on the Executive Board of the University of Denver Law Review.

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Note: Judge Kuhn was appointed by Democratic Governor Polis in 2021.

Recommendation: No vote - Judge Kuhn was significantly involved in the COVID restrictions implemented by Governor Polis (see below), which in retrospect were one of the greatest constitutional abuses in the nation's history (my opinion). His review in 2023 showed 18% of the 99 attorneys responding and 8% of the 13 judges responding stated he did not meet the performance standards. That number did decrease to 6% of the 16 responding attorneys and 0% of the 24 responding judges

These two sentences were taken from www.coloradopoitics.com. *Kuhn's additional work during the pandemic included "standing up a public health operation and giving guidance that many of us, including me, did not know existed," Weiser said. "As I learned from Eric, the state and county public health departments had this wide authority to act, imposing restrictions that would guide action during this public health emergency."*

This sentence was taken from www.coloradojudicial.gov. *Judge Kuhn is active in many professional organizations. He is a member of the Minoru Yasui Inn of Court, which is dedicated to improving the skills, professionalism, and ethics of the bench and bar, and the Colorado LGBTQ+ Bar Association.*

The State Commission on Judicial Performance finds that **Judge W. Eric Kuhn MEETS PERFORMANCE STANDARDS**, by a vote of 10-0 with one recusal. Colorado's statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, and service to the legal profession and the public.

Judge Kuhn has been on the Colorado Court of Appeals since July 2021, and this is his first time standing for retention as a Court of Appeals Judge. The Commission finds that his opinions are timely, clear, and well-reasoned. At oral arguments, he is well-prepared, succinct in his questions, and respectful. The Commission commends Judge Kuhn for his collegiality and collaboration among his colleagues, for his work on a special division to help reduce the court's COVID backlog, and also for his work as the Co-Chair of the Appellate Courts Technology Committee. In sum, the Commission finds Judge Kuhn is a valuable addition to the Court of Appeals.

To conduct our evaluation, the Commission interviewed Judge Kuhn, reviewed his self-evaluation, observed oral arguments, read a selection of his legal opinions, and considered survey responses from attorneys and judges. Survey respondents agreed Judge Kuhn meets judicial performance standards. 88% of attorneys and 100% of judges who responded to that question answered "yes." He received an overall score of 3.7 on a 4.0 scale. Judge Kuhn received positive comments from lawyers for his preparation and temperament at oral argument, and comments from fellow judges for his collegiality and work ethic. A total of 18 attorneys and 24 judges responded to the survey.

Judge Kuhn joined the Colorado Court of Appeals in 2021. He earned his undergraduate degree from Colorado College and his law degree from the University of Denver. He started his career in private practice handling probate and estate planning matters. He moved to the Colorado Department of Law where he served as a Senior Assistant Attorney General in the Health Care and Public Officials Units. In those roles, he handled all aspects of advice, litigation, and appeals, focusing on healthcare, public health, and complex constitutional and legal questions faced by elected officials and government agencies. He is an active member of the Minoru Yasui Inn of Court and is a trustee for a national foundation focused on innovations in aging.

Note: Judge Schutz was appointed by Democratic Governor Polis in 2021.

Recommendation: No vote - Judge Schutz appears to believe the equity and systemic rhetoric that has permeated society. According to the same www.coloradopolitics.com article, the judge has advocated for the inclusion of a transgender or nonbinary designation on juror questionnaires. His 2023 performance showed that 13% of the 110 responding attorneys and 8% of the 15 responding judges believed the judge did not meet the performance standards. The 2024 performance review showed that 11% of the 16 responding attorneys and 0% of the 29 responding judges believed the judge did not meet the performance standards.

The below quotes by Judge Schutz were spoken during his swearing in ceremony and reported by https://www.coloradopolitics.com/courts/timothy-schutz-delivers-pro-equity-message-in-formal-swearing-in-to-colorado-court-of-appeals/article_186e198a-2238-11ed-a1d2-8b5f60cb8678.html *During the ceremony, Schutz, of Monument, strongly endorsed a judicial philosophy that inserts equity as a factor in legal decision-making. "Tradition and precedent are cornerstone, necessary and ongoing virtues of the rule of law," he said. "But they can also sometimes perpetuate systemic inequities and biases and serve as a shortcut to avoid the risk and the burdens of analysis grounded in furtherance of the highest ideals of our country's founding."*

The State Commission on Judicial Performance finds that **Judge Timothy J. Schutz** **MEETS PERFORMANCE STANDARDS**, by a vote of 10-0 with one recusal. Colorado's statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, and service to the legal profession and the public.

Judge Schutz has been on the Colorado Court of Appeals since January 2022, and this is his first time standing for retention as a Court of Appeals Judge. The Commission finds that his opinions are thoughtful, organized, and well-written. At oral argument he has an excellent judicial demeanor, engages with questions, and is conscientious of all parties. The Commission commends Judge Schutz especially for his extraordinary service to the Access to Justice Commission and his efforts on issues surrounding race and the justice system. In sum, the Commission finds judge Schutz is a valuable addition to the Court of Appeals.

To conduct its evaluation, the Commission interviewed Judge Schutz, reviewed his self-evaluation, observed oral arguments, read a selection of his legal opinions, and considered survey responses from attorneys and judges. Survey respondents agreed Judge Schutz meets judicial performance standards. 78% of attorneys and 94% of judges who responded to that question answered "yes." He received an overall score of 3.5 on a 4.0 scale. Judge Schutz received positive comments from lawyers with respect to his courteous and empathetic demeanor during oral arguments, and from fellow judges especially with respect to the valuable perspective that he brings as a former trial court judge. A total of 19 attorneys and 31 judges responded to the survey.

Judge Schutz earned his undergraduate degree from Minnesota State University Moorhead and his law degree from the University of North Dakota. He started his career at the law firm of Holland & Hart. Later he practiced at the law firm of Hanes & Schutz in the areas of intellectual property, civil litigation, land use disputes, and the representation of special districts. After two decades in private practice, Judge Schutz was appointed to the District Court for the Fourth Judicial District (El Paso County Colorado) as a trial court judge, and for eleven years he managed active criminal, civil, juvenile, and domestic cases. Judge Schutz is a champion for race equality in our justice system.

DISTRICT COURT JUDGES

Honorable Benjamin Figa	MEETS PERFORMANCE STANDARDS
Honorable Ben L. Leutwyler III	MEETS PERFORMANCE STANDARDS
Honorable Robert R. Lung	MEETS PERFORMANCE STANDARDS
Honorable Bonnie Heather McLean	MEETS PERFORMANCE STANDARDS
Honorable Don Jesse Toussaint	MEETS PERFORMANCE STANDARDS
Honorable Shay K. Whitaker	MEETS PERFORMANCE STANDARDS
Honorable Joseph R. Whitfield Jr.	MEETS PERFORMANCE STANDARDS

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Note: Judge Figa was appointed by Democratic Governor Polis in 2022.

Recommendation: No vote – This is Judge Figa’s first review and 11% of the 36 attorneys responding, and 50% of the 40 non-attorneys responding agreed the judge did not meet the performance standards. The non-attorney category did include court staff and judges. Reviewing the detailed 20 page performance review showed performance scores ranging from 2.0 to a high of 3.7 out of 4.0 with only two of the six categories at or surpassing 3.0 (3.0 Demeanor & 3.2 communications).

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three Commissioners absent from voting, that **Judge Benjamin Figa MEETS PERFORMANCE STANDARDS.**

During his initial term, Judge Figa primarily presides over a Domestic Relations docket in Douglas County. Judge Figa is described as diligent, taking the time to understand and analyze the issues so he can issue well-reasoned orders. Observations by the Commission revealed Judge Figa to be humble, hardworking, and respectful of parties and counsel while also maintaining control over his courtroom. Judge Figa has worked hard to move through his heavy docket, and his current number of open cases are well under the benchmark for this docket type. Survey respondents praised his communication, noting he listened and was respectful, while also maintaining good control over his courtroom. **Comments indicate Judge Figa’s lower survey scores stem primarily from being new to Domestic Relations and assigned to a high-volume docket, resulting in longer wait times for a hearing date or ruling.** Input from Chief Judge Amico, as well as interviews of representatives from the District Attorney’s Office, Public Defender’s Office, and Probation, revealed that Judge Figa has a strong work ethic, is reflective and self-aware, and is always striving to improve. The Commission acknowledges Judge Figa’s dedication to service and commitment to the legal profession. The Commission agrees Judge Figa meets performance standards and recommends his retention.

The Commission conducted a personal interview with Judge Figa, observed him in the Courtroom, and reviewed his written orders. In a judicial performance survey with a

maximum score of 4.0, Judge Figa received a 3.9 from Colorado's Appellate Judges (10 responses). Survey respondents asked to rate Judge Figa's performance standards gave him an overall score of 2.9. Judge Figa's scores from attorneys are significantly higher than his scores from non-attorneys. Among survey respondents, 81% of attorneys (29 total) and 45% of non-attorneys (18 total) agreed that Judge Figa meets performance standards. Survey comments specifically highlight communication and demeanor as Judge Figa's strengths.

Judge Figa earned his B.A. from Northwestern University. Immediately after receiving his law degree from the University of Denver Sturm College of Law in 2009, Judge Figa clerked for Chief Justice Michael L. Bender (Ret.) of the Colorado Supreme Court. Before his appointment in July 2022, Judge Figa practiced civil litigation, served as an Assistant City Attorney for the City and County of Denver's Municipal Operations Section, a Deputy Legal Counsel for the Office of Governor John W. Hickenlooper, and a Deputy District Attorney in the 20th Judicial District.

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Note: Judge Leutwyler was appointed by Democratic Governor Hickenlooper in 2016.

Recommendation: No vote – Judge Leutwyler has at least two significant rulings against him regarding legal decisions he made (see below). His 2021 review showed that 14% of the 47 responding attorneys and 13% of the 20 responding non-attorneys did not believe the judge met the performance requirements. His 2024 performance review showed an overall score of 3.2 with 7% of the 28 responding attorneys and 25% of the 4 responding non-attorneys did not believe the judge met the performance requirements.

The below paragraphs were taken from an article at https://www.coloradopolitics.com/courts/judget-let-biased-juror-served-prompts-reversal-colorado/article_3c0b2916-0bc4-11ee-a365-bb944951f120.html

A man with a history of raping women, who is serving 136 years in prison, will receive a new trial after the state's second-highest court concluded an Arapahoe County judge allowed a biased juror to serve in the 2021 trial.

On Thursday, a three-judge panel for the Court of Appeals concluded, by 2-1, that it was improper for a woman to remain on Tre Miekale Carrasco's jury after she admitted it would be "hard" to find him not guilty. District Court Judge Ben L. Leutwyler's refusal to dismiss the woman, identified as Juror H, was a mistake.

"Juror H adhered to an incorrect view of the law," wrote Judge Anthony J. Navarro in the June 15 opinion. "Her statements indicated plainly that she would have difficulty presuming Carrasco innocent of the charged crimes."

The below paragraphs were taken from an article at https://www.coloradopolitics.com/courts/appeals-court-says-trial-judges-cannot-initiate-probation-revocation-proceedings/article_c41dbfa4-9468-11ed-b22a-43878c0bf7c0.html

An Arapahoe County judge went beyond his legal authority when he ordered a defendant's probation officer to seek revocation of the man's probation, Colorado's second-highest court decided last week.

The three-judge panel for the Court of Appeals also took the unusual step of removing District Court Judge Ben L. Leutwyler from the case going forward. His directive to begin revocation proceedings against Richard Joseph Karwacki, and later being the one who decided whether to actually revoke Karwacki's probation, created the appearance that Leutwyler was not a neutral party, concluded the panel.

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three commissioners absent from voting, that **Judge Ben L. Leutwyler III MEETS PERFORMANCE STANDARDS.**

Judge Leutwyler presides over civil matters in Arapahoe County, Colorado. Judge Leutwyler's strengths include his passion for the law, his judicial demeanor, and his work ethic. As described by those that interact with him, he is patient and respectful, knowledgeable in the law, well-prepared, dependable, fair, and he conducts himself professionally at all times. Commission members observed these qualities in him during his personal interview and while observing him in court proceedings. Judge Leutwyler works to continuously improve the management of his docket in an effort to increase efficiency. He strives for balanced sentencing, utilizing plain and easy to understand language in rulings, and equity in his decisions. He uses the knowledge gained in these reviews to refine his judicial officer skills and written decisions. Based on these findings the Commission unanimously agreed that Judge Leutwyler meets performance standards.

The Commission met with Chief Judge Michelle A. Amico to discuss her interactions with Judge Leutwyler, as well as with members of the District Attorney's Office, Public Defender's Office and the Probation Office, to discuss their impressions of Judge Leutwyler's performance. The Commission members also conducted a personal interview with Judge Leutwyler, observed him during court proceedings, and reviewed judicial performance survey responses from attorneys and non-attorneys that interacted with him in his courtroom. The surveys reflected personal opinions on Judge Leutwyler's Case Management, Application and Knowledge of the Law, Communications, Diligence, Demeanor, and Fairness. Of the thirty-nine (39) completed surveys returned, Judge Leutwyler achieved an overall performance rating of 3.2 of a possible 4.0. His ratings for meeting performance standards from attorneys was 80%, and 75% from non-attorneys.

Judge Leutwyler was appointed to the bench on July 1, 2016. He earned his undergraduate degree from the University of Iowa and his law degree from Georgia State University. Prior to his appointment as a district court judge he served as a magistrate in the Eighteenth Judicial District presiding over domestic relations and misdemeanor cases. Judge Leutwyler volunteers with the high school mock trial program, serves on the Colorado Judicial

Conference planning committee, and serves on the Advisory Committee for the Arapahoe Community College paralegal program.

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Note: Judge Lung was appointed by Democratic Governor Hickenlooper in 2016.

Recommendation: No vote – The 2021 performance survey showed that 9% of the 147 responding attorneys and 18% of the 41 responding non-attorneys believed that Lung did not meet the performance standards. The 2024 performance survey showed that 11% of the 56 responding attorneys and 29% of the 45 responding non-attorneys did not believe Lung met the performance standards. The judges reviewed performance is getting worse.

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three commissioners absent from voting, that **Judge Robert R. Lung MEETS PERFORMANCE STANDARDS.**

Judge Lung has managed a domestic relations docket in Douglas County for several years. His strengths include his experience in dealing with domestic relations matters, his knowledge and application of the law, his communication skills, his demeanor, and his diligence. Attorneys and citizens who appear before Judge Lung find him to be prompt, personable, caring, and fair. Judge Lung is also credited for his frequent participation in continuing legal education matters as both student and instructor. Judge Lung manages a docket that frequently involves highly emotional and contested matters, but his experience and demeanor gives litigants the sense he cares and is focused on reaching a just outcome. Judge Lung receives particular praise for his active case management and his passion for family law. Based on these findings the Commission unanimously agreed that Judge Lung meets performance standards.

In addition to meeting with Chief Judge Amico, the Commission conducted a personal interview with Judge Lung, observed him in the Courtroom, considered survey results, and reviewed his written work. Observations by the Commission revealed Judge Lung to be dedicated, humble, and focused on ensuring parties and attorneys who appear before him are respected and heard. Judge Lung receives particularly high marks for his initial meeting with the parties appearing before him, as he takes the time to explain the process in great detail and establishing ground rules and expectations for attorneys and parties. Judge Lung acknowledges he strives to continuously improve on the bench, and he strives to manage a docket that can be extremely challenging for all involved. Judge Lung believes in timely docket management and respecting the parties' and attorneys' time. Judge Lung's surveys reflected opinions on his Case Management, Application and Knowledge of the Law, Communications, Diligence, Demeanor, and Fairness. Of the 112 completed surveys returned, Judge Lung achieved an overall performance rating of 3.1 of a possible 4.0. His ratings for meeting performance standards from attorneys was 84% and 67% from non-attorneys.

Judge Lung earned his undergraduate degrees from Regis University, his law degree from the University of Dayton. Judge Lung was appointed to the District Court in 2016. For 13 years prior to his appointment, he served as a District Court Magistrate in the same jurisdiction. Judge Lung is nationally recognized for his work in the field of human trafficking, and he is a frequent contributor to both local and statewide bar association programs. At present, he is a member of Colorado's Standing Committee on Family Issues, a member of the Domestic Relations Bench Bar Summit Subcommittee, and a Core Member of the 18th Judicial District's Culture Change Initiative.

Note: Judge McLean was appointed by Democratic Governor Hickenlooper in 2014.

Recommendation: No vote – Judge McLean's last review in 2021 showed that 16% of the 49 responding attorneys and 25 % of the 18 responding non-attorneys did not believe she met the performance standards. The 2024 survey showed that 10% of the 20 responding attorneys and 6% of the 17 responding non-attorneys did not believe she met the performance standards. Although the 2024 review was significant improvement, the information below shows this judge has not upheld her oath of office by knowingly violating the law in regards to her own financial reporting requirements. You cannot have a police officer violating the law personally while enforcing it professionally and the same goes for a judge.

Note: It is a misdemeanor to willingly not file a financial disclosure but this law is rarely enforced.

The following paragraphs were taken from https://www.coloradopolitics.com/courts/colorado-judges-financial-disclosures/article_34c27491-e737-5d15-994f-2aca27767ed3.html *While a majority of the judges had missing disclosures only for this year, nearly two dozen of them have multiple years of missing filings, The Gazette found.*

One judge, Arapahoe County District Judge Bonnie McLean of the 18th Judicial District, hasn't had a financial disclosure on file since 2019, the Secretary of State's Office said.

Appointed to the bench in 2014 by Hickenlooper, McLean sits on the Colorado Commission on Judicial Discipline, which, except for judges in Denver County courts, has jurisdiction over any district or county court judge accused of misconduct, including failing to file the disclosures.

When contacted, McLean simply said her "filings are currently up to date" and offered no other explanation for why they had lagged for so long.

The Secretary of State's Office confirmed her recent filing.

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three Commissioners absent from voting, that **Judge Bonnie Heather McLean MEETS PERFORMANCE STANDARDS.**

Judge McLean is the Presiding Judge for the Domestic Relations and Juvenile Dockets and the Problem-Solving Courts. Judge McLean’s strengths include her experience with and dedication to specialty courts, her pragmatic approach, her compassion to all parties and participants, and her leadership on the bench. Those who interact with Judge McLean describe her as respectful, empathetic, kind, passionate, and hard-working, Commission members noted Judge McLean’s passion for and commitment to the District’s Specialty Courts in courtroom observations and during her interview. Judge McLean is praised for treating everyone with dignity and respect, managing a busy docket, and appropriately issuing sentences. In addition to her extensive service to the legal profession, Judge McLean avoids impropriety, applies the law and rules fairly, communicates clearly, and efficiently manages her docket. Based on these findings the Commission unanimously agreed that Judge McLean meets performance standards.

In addition to meeting with Chief Judge Amico, the Commission interviewed members of the District Attorney’s Office, Public Defender’s Office and Probation regarding their interactions with and impressions of Judge McLean’s performance. Survey responses reviewed from both attorneys and non-attorneys praised Judge McLean’s communication skills, temperament, and control of her docket. In her interview with the Commission, Judge McLean acknowledged the few criticisms in her surveys constructively, with a plan on how to improve her communication and managing her busy docket and mentoring schedule. Judge McLean’s surveys reflected feedback on her Case Management, Application and Knowledge of the Law, Communications, Diligence, Demeanor, and Fairness. Of the forty-two (42) completed surveys returned Judge McLean achieved an overall performance rating of 3.6 of a possible 4.0. Her ratings for meeting performance standards from attorneys was 85% and 94% from non-attorneys.

Judge McLean was appointed in 2015. She graduated cum laude from the University of Colorado at Boulder and earned her law degree from the University of Denver Sturm College of Law. Prior to her appointment, Judge McLean served as a County Court Magistrate for the Eighteenth Judicial District, presiding over specialty courts. Judge McLean worked as a Deputy District Attorney in the Eighteenth Judicial District before becoming a magistrate. Her public service was recognized by the Arapahoe County Bar Association in 2022. She is a member of the Colorado Commission on Judicial Discipline and Chair of the Arapahoe County Domestic Relations Best Practice Team.

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Note: Judge Toussaint was appointed by Democratic Governor Polis in 2020.

Recommendation: No vote – Reading various press releases about Toussaint’s appointment, it appears that he was appointed because Polis wanted a minority on the bench. It is plainly stated in the articles, and Toussaint has also commented on the need for diversity in the court rooms so people feel more comfortable seeing someone like them.” That quote is from <https://www.law.du.edu/about/news/don-toussaint-jd09-sworn-arapahoe-county-court-judge>.

Diversity is also an issue close to Toussaint's heart. Often times what people see when they go to court is not representative of their own background. He adds that the City of Aurora alone has a population that speaks 120 different languages.

"When they come to court it's important that they see people that reflect them," he says, adding this goes across all lines, including race, sexual orientation, culture and much more. This is also why he makes his time available to speak at civic events, as well as speak with students from all walks of life about inclusivity and diversity, encouraging them to get involved in the legal system.

He may be well qualified but he is biased believing that skin color is important in the execution of jurisprudence. Judge Toussaint's 2023 review showed that 26% of the 40 responding attorneys and 60% of the 5 responding non-attorneys did not believe he met the performance standards. His 2024 review showed that 21% of the 24 responding attorneys and 67% of the 3 responding non-attorneys did not believe he met the performance standards. His performance reviews do not show much if any progress, but believing race/skin color is important in a court room in my opinion is a dangerous bias to hold as a judge. Merit, competence and performance in carrying out application of the law is critical, not the skin color of the judge.

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three Commissioners absent from voting, that **Judge Don Jesse Toussaint MEETS PERFORMANCE STANDARDS.**

Judge Toussaint presides over a civil docket in Division 14. Judge Toussaint's strengths include his management of varying cases, dynamic writing, and professional demeanor. His commitment to thorough written rulings, sense of duty, and his compassion to all parties and participants are well respected. Those who interact with Judge Toussaint describe him as professional, dedicated, passionate, and having integrity. Commission members observed Judge Toussaint's passion for and commitment to the bench and his oath to serve. Judge Toussaint is praised for treating everyone with dignity and respect, managing a busy docket, and issuing sentences appropriately.

In addition to his extensive service to the legal profession, Judge Toussaint avoids impropriety, applies the law and rules fairly, communicates clearly, and manages his docket efficiently. Based on these findings the Commission unanimously agreed that Judge Toussaint meets performance standards. In addition to meeting with Chief Judge Amico, the Commission interviewed members of the District Attorney's Office, Public Defender's Office, and Probation regarding their interactions with and impressions of Judge Toussaint's performance. Survey responses reviewed from both attorneys and non-attorneys affirmed Judge Toussaint's communication skills, temperament, and ability to manage significant caseloads. During his time with the Commission, Judge Toussaint acknowledged the few criticisms in his surveys constructively, and shared how he has applied the feedback he received. Judge Toussaint's surveys reflected strength in fairness, promoting access through virtual options, and providing explanations for rulings. He is regarded as a very supportive colleague and an experienced and thoughtful servant leader.

Judge Toussaint was appointed to the district court in 2021. Prior to his appointment to the district court, Judge Toussaint served as an Arapahoe County Court Judge, a district court magistrate for the Eighteenth Judicial District, and as an assistant city attorney for the city of Aurora for five years. Judge Toussaint was also an associate for White and Steele, P.C. Judge Toussaint earned his Bachelor of Arts Degree in English Technical Writing from the University of Colorado Denver, a Master of Science Degree in Management from Regis University, and a Juris Doctorate from the University of Denver Sturm College of Law.

Note: Judge Whitaker was appointed by Democratic Governor Hickenlooper in 2015.

Recommendation: No vote – Judge Whitaker’s last review was in 2021. That review showed that 13% of the 37 responding attorneys and 0 % of the 5 responding non-attorneys did not believe she met the performance standards. The 2024 survey showed that 7% of the 14 responding attorneys and 0% of the 6 responding non-attorneys did not believe she met the performance standards. Her reviews were better than most of the other judges in this election, but within the past year (2023) she has had a least two criminal cases overturned. Each cases was remanded for a new trial from errors that were routine or obvious and should not have occurred. They were not from complicated cases that required difficult interpretations of the law where an appeal would be understandable. The following paragraphs are taken from https://www.coloradopolitics.com/courts/appeals-court-overturns-sex-assault-conviction-following-improper-witness-testimony/article_cc826080-95c9-11ec-ad4b-43f25809e268.html.

A Douglas County judge mistakenly let an expert witness vouch for the credibility of a child victim, prompting the state's Court of Appeals to reverse the defendant's sexual assault convictions.

"But our appellate courts have long held that when an expert's testimony breaches the boundary of educating the jury and instead comments on an accuser's veracity, the testimony is 'plainly inadmissible'," wrote Judge Timothy J. Schutz in the Feb. 17 opinion.

Schutz said the error should have been "obvious" to the judge and to the lawyers on the case. Given the lack of physical evidence of an assault, Ramirez's conviction hinged in substantial part on whether the jury believed the alleged victim had told the truth.

The following paragraphs are taken from https://www.coloradopolitics.com/courts/appeals-court-reverses-10-year-sentence-arapahoe-county-judge-error/article_50a4a540-24cf-11ee-aa5f-6bb2a1e755e5.html.

An Arapahoe County judge declined to give a key instruction to jurors in a man's assault trial, prompting the state's second-highest court to reverse the conviction and order a new trial.

Salinas-Martinez's jurors evaluated whether he acted in self-defense, but rejected that claim. They did not consider whether Salinas-Martinez should be convicted of the less serious felony, as District Court Judge Shay Whitaker declined to give the provocation instruction. Her reasons for doing so were not documented.

Under Colorado law, there must be some evidence that a defendant was provoked in order to justify a jury instruction. The evidence must suggest:

A three-judge panel for the Court of Appeals concluded that, even if it was unlikely jurors would have believed Salinas-Martinez, there was evidence supporting the notion that the victim physically provoked him.

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three Commissioners absent from voting, that **Judge Shay K. Whitaker MEETS PERFORMANCE STANDARDS.**

Judge Whitaker presides over a criminal docket. Judge Whitaker's strengths include her demeanor, fairness, and case management, noting her pre-docket Webex procedure increases efficiency. A few weaknesses were mentioned, but comments noted wanting more explanation of the legal basis of her rulings. Commission members noted Judge Whitaker is committed to public service and to ensuring fairness and accessibility of her Courtroom. Judge Whitaker is praised for her demeanor and case management skills. In both her interview with the Commission and her self-evaluation materials, Judge Whitaker explained she wants her courtroom to feel safe and accessible to all parties. She focuses on her demeanor and being patient, taking the time to explain the process throughout, and to confirm everyone understands. Based on these findings the Commission unanimously agreed that Judge Whitaker **meets performance standards.**

In addition to meeting with Chief Judge Amico, the Commission interviewed members of the District Attorney's Office, Public Defender's Office, and Probation regarding their interactions with and impressions of Judge Whitaker's performance. Survey responses reviewed from both attorneys and non-attorneys praised Judge Whitaker's temperament, punctuality, and communication skills. Survey respondents described Judge Whitaker as fair, personable, and calm. Litigants appearing before her say she maintains control over her courtroom while still being respectful, taking the time to explain issues clearly, using language everyone can understand. Judge Whitaker's surveys reflected feedback on her Case Management, Application and Knowledge of the Law, Communications, Diligence, Demeanor, and Fairness. Of the twenty (20) completed surveys returned (14 attorneys, 6 non-attorneys), Judge Whitaker achieved an overall performance rating of 3.4 of a possible 4.0. Thirteen (13) out of fourteen (14) attorneys rated her as meeting performance standards (93%), with 100% of non-attorneys agreeing.

Judge Whitaker was appointed in 2015. She obtained both her undergraduate degree and law degree from Ohio State University before moving to Colorado and beginning her career as a criminal defense attorney. Judge Whitaker worked as Alternate Defense Counsel representing indigent defendants for 18 years in Arapahoe, Douglas, Lincoln, and Kit Carson counties. She handled a split docket in Douglas County, consisting of civil, adult criminal, dependency and neglect, and juvenile criminal matters, before rotating to an entirely criminal docket.

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Note: Judge Whitfield was appointed by Democratic Governor Polis in 2021.

Recommendation: No vote – Judge Whitfield’s last review was in 2023. That review showed that 22% of the 25 responding attorneys and 6% of the 18 responding non-attorneys did not believe he met the performance standards. The 2024 survey showed that 38% of the 24 responding attorneys and 11% of the 9 responding non-attorneys did not believe he met the performance standards. Note: The below summary has the wrong number of non-attorneys. The actual PDF review showed 9 total non-attorneys responded, not 11. The judge’s performance is not improving. The Colorado Office of Judicial Performance Evaluation showed that the vote for Judge meeting performance standards was 5-2 (<https://judicialperformance.colorado.gov/whitfield-jr-joseph-r-2024-evaluation>). This is significant because Judge Whitfield is the only judge on this ballot without a unanimous vote on his performance, in spite of the various issues uncovered from this research on the other judges. It begs the question just what were the issues that resulted in two votes against his performance?

The Eighteenth Judicial District Commission on Judicial Performance voted 5-2, with three commissioners absent from voting, that **Judge Joseph R. Whitfield, Jr. MEETS PERFORMANCE STANDARDS.**

Judge Whitfield presides over a criminal docket in Arapahoe County, Colorado. His strengths include his willingness to make decisions free from outside pressures, maintaining appropriate control of proceedings, preparation, and providing litigants with ample time to present their case. Judge Whitfield has learned issuing decisions from the bench advantages his docket management. Judge Whitfield takes pride in “being himself” on the bench. The Commission believes Judge Whitfield is passionate about serving his community. He makes commendable efforts to stay apprised of developing law and works hard to manage a busy docket and trial schedule.

The Commission observed Judge Whitfield in court and reviewed judicial performance survey responses from attorneys and non-attorneys who appeared in his courtroom. Among the attorneys responding to the survey, 54% answered yes that Judge Whitfield meets performance standards; 38% answered no; and 8% had no opinion. Of the non-attorneys responding to the survey, 78% answered yes; 11% answered no; and 11% had no opinion. A total of 24 attorneys and 13 non-attorneys responded to the judicial performance survey expressing their opinion of Judge Whitfield. In addition to meeting with Judge Whitfield and Chief Judge Amico, the Commission interviewed members of the District Attorney’s Office, Public Defender’s Office, and Probation regarding their interactions with and impressions of Judge Whitfield’s performance. While some raised concerns about Judge Whitfield’s timeliness, case management, and a bias in favor of prosecutors when making decisions, a

healthy sampling of appellate judges gave Judge Whitfield extremely high marks based on their review of his rulings. The Committee anticipates that Judge Whitfield will remain receptive to constructive criticism as he continues to grow in his role as a judicial officer.

Judge Whitfield received his undergraduate degree from Occidental College, and both his law degree and LL.M. from the School of Law at Washington University in St. Louis. Judge Whitfield was appointed to the 18th Judicial District Court in February 2021. Prior to his appointment, Judge Whitfield served as a Deputy District Attorney in the 18th Judicial District from 2011 to 2021. Judge Whitfield serves on several local boards and state commissions and coaches youth sports.

DOUGLAS COUNTY COURT JUDGES

Honorable Kelly Erin Waidler	MEETS PERFORMANCE STANDARDS
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Note: Judge Waidler was appointed by Democratic Governor Polis in 2021.

Recommendation: No vote – Judge Waidler failed to follow up on her financial disclosure filing to make sure it was received, assuming her explanation is credible. Given the number of judges who have been doing this for years, I have my doubts. It indicates a lack of personal responsibility. Judge Waidler’s last review was in 2023. That review showed that 7% of the 25 responding attorneys and 12% of the 59 responding non-attorneys did not believe she met the performance standards. The 2024 survey showed that 12% of the 25 responding attorneys and 5% of the 38 responding non-attorneys did not believe she met the performance standards. While the 2024 performance essentially reversed in the numbers, the lack of properly ensuring financial filings were done and received, especially in light of 106 judges failing to meet the filing requirements, convinces me this judge should not continue in her current capacity.

Note: It is a misdemeanor to willingly not file a financial disclosure but this law is rarely enforced.

The following paragraph was taken from https://www.coloradopolitics.com/courts/colorado-judges-financial-disclosures/article_34c27491-e737-5d15-994f-2aca27767ed3.html. *At least three judges — County Judge Kelly Waidler of the 18th Judicial District, District Judge Mark MacDonnell, the chief judge of the 16th Judicial District, and District Judge Sharon Holbrook of the 17th Judicial District — learned that although their disclosures were filed on time last year, they were sent to an incorrect email address and never officially recorded. The Secretary of State's Office said it is incumbent on the judges to check and any mistake is still in violation of the requirement to file.*

The Eighteenth Judicial District Commission on Judicial Performance unanimously agrees by a vote of 7-0, with three commissioners absent from voting, that **Judge Kelly Erin Waidler MEETS PERFORMANCE STANDARDS.**

Judge Waidler presides over predominately criminal cases in Douglas County, Colorado. Judge Waidler's demeanor is described as being patient, courteous, and professional. Survey respondents praised her communication skills having received high scores in her ability to use language that is accessible to everyone and speaking clearly so individuals in the courtroom can hear and understand what is being said. Attorneys and non-attorneys consistently provided positive survey responses regarding Judge Waidler. She received high scores across all evaluated categories, notably excelling in case management, communication, and diligence. Respondents and interviewees consistently praised her patience in the courtroom and overall demeanor. The Commission, having observed these qualities during its evaluation, is unanimous in its recommendation for Judge Waidler's retention. Based on these findings the Commission unanimously agreed that Judge Kelly Erin Waidler meets performance standards.

In addition to meeting with Chief Judge Amico, the Commission conducted a personal interview with Judge Waidler, reviewed orders she authored, observed her in court, met with representatives from the Office of the District Attorney, Colorado State Public Defender, and the Probation department, and reviewed judicial performance survey responses from attorneys and non-attorneys who had interaction in Judge Waidler's court. Survey respondents were asked if they thought Judge Waidler met judicial performance standards. Of the attorneys responding to the survey, 84% answered yes; 12% answered no; and 4% had no opinion. Of the non-attorneys responding to the survey, 82% answered yes, 5% answered no; and 13% had no opinion. A total of 27 attorneys and 44 non-attorneys responded to the judicial performance surveys expressing their opinion of Judge Waidler. The Commission acknowledges Judge Waidler's service to the community and positive performance in her inaugural judicial performance evaluation.

Judge Waidler was appointed to the County Court by Governor Jared Polis in April 2021. She graduated from Colorado College and received a Bachelor of Arts in Political Science before attending the University of Denver Sturm College of Law and obtaining her law degree in 2007. Judge Waidler worked in the Denver District Attorney's Office for her entire legal career leading up to her judicial appointment and was a Chief Deputy District Attorney at the time she left office.