

**DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE**

515 FIFTH STREET, N.W., BUILDING A, ROOM 246
WASHINGTON, D.C. 20001
(202) 727-1363

April 30, 2018

The Honorable Donald J. Trump
President of the United States
The White House
Washington, D.C. 20500

Re: Evaluation of the Honorable Fern Flanagan Saddler

Dear Mr. President:

The fifteen-year term of the Honorable Fern Flanagan Saddler, an Associate Judge of the Superior Court of the District of Columbia, expires on June 30, 2018. She has served in her present judicial position for fifteen years, and she is seeking reappointment to another term.

Judge Saddler filed her declaration of candidacy for reappointment with the Commission on December 28, 2017. The Commission hereby submits this evaluation of Judge Saddler's performance during her present term of office and her fitness for reappointment to another fifteen-year term, pursuant to Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 744, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228. Section 433(c) provides:

Not less than six months prior to the expiration of his term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of his term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the

declaring candidate's term of office, prepare and submit to the President a written evaluation of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to the mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

The Commission reserves the term "well qualified" for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and the candidate's performance consistently reflects credit on the judicial system. The Commission will determine a judge is "qualified" if he or she satisfactorily performs his or her assigned duties or whose strong positive attributes are materially offset, but not overborne, by negative traits. A finding of "unqualified" means the Commission has found the judge to be unfit for judicial service.

In evaluating Judge Saddler's qualifications for reappointment, the Commission has carefully reviewed her record as a sitting judge. On December 28, 2017, Judge Saddler provided the Commission with a statement of her service on the Court which discussed the significant aspects of her judicial, professional, and community activities during the past fifteen years. The statement was accompanied by statistical reports from

her judicial assignments in the Domestic Violence Unit of the Superior Court, and opinions of the District of Columbia Court of Appeals reviewing and affirming the Judge's decisions in cases in which she was the trial judge. The Commission also received communications from attorneys concerning Judge Saddler's qualifications, and Commission members personally interviewed several attorneys, Court personnel, and Superior Court judges with direct and specific knowledge of her performance on the bench. In addition, the Commission reviewed its own complaint file concerning Judge Saddler. The Judicial Medical Form submitted by the Judge's physician affirmed that she is in good health and is fit to continue her judicial service without restrictions. Judge Saddler's monthly time reports and Annual Financial Reports, which are required by statute to be filed by every judge, have been reviewed. The Commission also considered an analysis of her record on appeal.

The Commission met with Chief Judge Robert E. Morin on March 14, 2018, who furnished additional information about Judge Saddler's judicial performance and qualifications. And, the Commission met with Judge Saddler on two occasions to discuss her record, and the information the Commission had received during the course of its evaluation.

During her tenure on the Court, Judge Saddler has served exclusively in the Family Court and the Domestic Violence Unit. Her first assignments, from 2003 to 2009, were in the three major Branches of the Family Court, namely, Juvenile, Abuse and Neglect, and Domestic Relations. Notwithstanding the demands and stress of these assignments that concern very volatile issues, such as child custody/support, distribution

of real and personal property, and divorce, Judge Saddler was praised for her patience, compassion, and knowledge of the law, while presiding over these cases. Plus the Judge was praised for her skill in accommodating litigants who appeared without the assistance of counsel, by ensuring that their matters were fairly heard and that both parties involved were treated with respect and received due process.

In 2010, Judge Saddler was assigned to the Domestic Violence Unit of Superior Court where she has handled thousands of cases including trials concerning domestic violence, sexual assault and abuse, child and elder abuse, and parental kidnapping. The Domestic Violence Unit consists of two sides; one is criminal, and one concerns Civil Protection Orders. Associate Judges spend 1 to 2 years on one side and then rotate to the other side of the Unit. Judge Saddler has rotated four times between the two sides. Again Judge Saddler received accolades from attorneys who regularly appeared before her in the Domestic Violence Unit. She was praised for her “deep understanding of the dynamics of domestic violence”, “knows domestic violence case law and applicable statutes”, “takes all cases seriously and spends time considering each party’s side”, and she was described as, “pleasant, patient, and respectful”.

In January 2017, Chief Judge Robert E. Morin, appointed Judge Saddler Presiding Judge of the Domestic Violence Unit. Since her appointment as Presiding Judge, she has created several new protocols, organized training programs for judges, Court staff, and the Metropolitan Police Department, and provided the incentive for the legal assistance program for self-represented litigants to be implemented under the auspices of the D.C. Law Students In Court Program.

During her tenure, Judge Saddler has served on the Superior Court Rules Committee, the Domestic Violence Advisory Rules Committee, the Committee on Domestic Violence Unit Strategic Planning, and she chaired the Superior Court Committee on Court Interpreters. She is a regular participant in local and national forums and conferences that address domestic violence issues. She is dedicated to mentoring high school students, attorneys, and visiting judges about the Court system and other related issues concerning the law and the legal profession.

In 2016 Judge Saddler received the prestigious Charlotte E. Ray Award from the Greater Washington Area Chapter, Women Lawyers Division, of the National Bar Association in recognition of the Judge's commitment to mentorship, and outstanding leadership and dedication to the advancement of female attorneys. The award also honored Judge Saddler for being a trailblazer in the legal community.

Though many of those with whom the Commission spoke commended Judge Saddler on her dedication to the Court, her demeanor, and her handling of cases in the Domestic Violence Unit, the Commission did, however, receive a significant number of adverse comments concerning her lack of efficiency and poor case management. In particular, she was criticized for not ruling on Motions in a timely fashion, continuing matters when issues were ripe for resolution, scheduling delays and holding too many status conferences, long delays between hearings and final rulings, and scheduling cases that do not begin and end on consecutive dates and often are scheduled out over weeks and sometimes months. The Commission did review statistical information provided by the Court of Judge Saddler's cases. Based on the limited analysis of this data it was

obvious that Judge Saddler did have a larger backlog of Motions and cases pending than most judges who served in the Domestic Violence Unit during the period reviewed.

The Commission is concerned about the impact of Judge Saddler's inefficiency on the administration of justice, attorneys, litigants, and the Court. Litigants and the public expect a timely resolution of the matters presented. When a case is unnecessarily continued or rulings are not made expeditiously, it may deprive a defendant of his or her liberty, risk the safety of individuals in the community, and cause financial and emotional harm to a party. In addition, when a judge does not efficiently manage a calendar, it then falls to the other judges in the assignment to compensate for the delays by adding the delinquent cases to their assigned calendars, thereby increasing the already overburdened caseloads of other judges.

The Commission is also troubled by Judge Saddler's lack of diversity in judicial assignments over her fifteen years on the bench. Virtually all Superior Court judges serve in each Division of the Court, with the exception on occasion being the Probate and Tax Division. Judge Saddler has served exclusively on the Family Court and in the Domestic Violence Unit. The Commission appreciates that all judges have a preferable judicial assignment or enjoy the work in a particular Division, but it is vitally important for judges to extend their judicial education and supplement their knowledge of different facets of the law by serving in all Divisions of the Court. What a judge learns in one Division only serves to help with the resolution of a complicated issue faced in another Division. In addition, the ability to rotate judges assists the Chief Judge in being able to make assignments based on the needs of the Court. Rotation also provides a needed

respite for judges from the high volume and very intense and stressful assignments in some Divisions. The Commission expects that in the next fifteen years that Judge Saddler, as an active judge, will be assigned to the Divisions of the Court in which she has not served and will accept such assignments.


The Commission discussed its concerns with Judge Saddler on more than one occasion including on March 14, 2018, and again on April 18, 2018. Judge Saddler provided an explanation for the timeliness issues that resulted in such critical comment. The Commission stressed during the meetings that Judge Saddler must make significant changes in her case management, with regular checks on the age of Motions and the efficient disposition of trials and cases. All judges must be able to serve on all calendars of the Court. The Commission stressed the importance of Judge Saddler's accepting assignments in Divisions of the Court, other than the Family Court and Domestic Violence Unit.


In light of Judge Saddler's record of judicial performance, her dedication to the Court and the community, and after a careful and thorough evaluation of all the information received and compiled, it is the view of the Commission that Judge Saddler should continue her judicial service. The Commission concludes that Judge Fern Flanagan Saddler should be reappointed to an additional fifteen-year term, with four members of the Commission finding her to be well qualified for such reappointment, and three members finding Judge Saddler unqualified for reappointment, and her term shall be automatically extended for a full term of fifteen years from June 30, 2018.

Respectfully submitted,

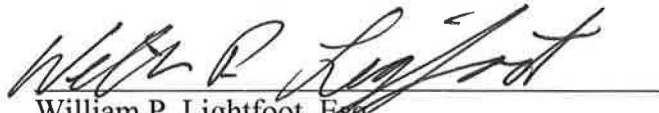
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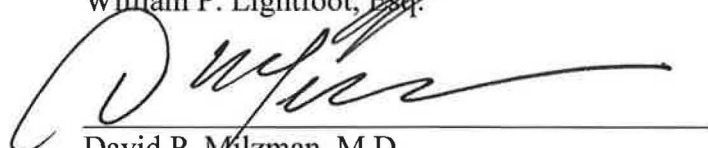

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cc: The Honorable Fern Flanagan Saddler