

25th Legislative District Democrats

Please attach a resume which includes political activities.

Candidate Endorsement Request (*Superior Court*)

Full Name (as shown on ballot) **Shelly K. Speir**

Office Sought: **Pierce County Superior Court Judge – Pos. 5** Today's Date: **June 20, 2016**

Years in the district that you want to represent: **22 years**

Campaign Information

Name of Campaign: **Speir for Judge Committee** Campaign Manager: **Mary Ann Ottinger**

Campaign Address: **PO Box 20084, Seattle, WA 98102**

Campaign Phone: **253-987-6689** Email: speirforjudge@gmail.com Fax: _____

Website: www.speirforjudge.com

How much money do you intend to spend on this campaign? **\$75,000 - \$100,000** How much in personal funds do you intend to spend? **I intend to make up whatever deficit in fundraising we have with personal funds.** How much have you raised so far? **Approximately \$45,000**

Are you using union printers and/or sign shops to do your campaign printing? **Yes. All my existing materials were printed in union shops.**

Questionnaire

Please keep your answers brief.

Please list your qualifications for seeking office:

I have spent my entire legal career handling cases—over 175 now—here in Pierce County Superior Court. I have taken several significant cases through trial, both to juries and the bench. I have had significant trial success in that court, including a complex piece of litigation that resulted in a \$2.2 million verdict in favor of my client. I have been honored to be named both a “Super Lawyer” and one of the “Top Attorneys in Washington” by well-respected legal publications.

I have also served as an MAR arbitrator (a final decision-maker in cases referred to mandatory arbitration by the Superior Court) in Pierce and Thurston Counties.

In addition to working as a private attorney for 18 years, I have also worked as a legal researcher/briefer for other attorneys. My legal scholarship is widely recognized by my peers, and I am frequently asked to teach Continuing Legal Education classes to other attorneys.

Prior to becoming a lawyer, I was a teacher. As a teacher I learned how to work collaboratively with parents, other teachers, principals, counselors, and law enforcement to solve problems at my school. I believe this experience has prepared me for working with other stakeholders to solve problems facing the legal system. Collaborative problem-solving has become increasingly important in the judiciary, as the justice system has many moving parts.

I have a strong work ethic and am not afraid to learn new skills. No matter what challenges I have faced during my career, I have always risen above them. I believe my training and experience prepared me well to serve Pierce County as a fair and reasoned judge.

What special skills do you bring to the bench?

Because I have spent my entire legal career litigating in Pierce County Superior Court, I have an in-depth understanding of the procedures and court rules in that court. And because I have spent my career representing ordinary working people and their families, I also have a keen understanding of how court costs and procedural obstacles can cause unnecessary stress to litigants – both civil and criminal. I have been privileged to serve on the Executive Committee of the WSBA’s Litigation Section which has done an extensive review of court rules which will impact all Superior Courts. I believe my sensitivity to how rule changes impact ordinary people will be a great benefit to the Court as these changes are implemented. Finally, my legal research and writing skills have given me the ability to carefully analyze the facts and apply them to applicable law so as to avoid unnecessary and costly reversals of judgment.

Please list your reasons for seeking office:

In 2016, three of Pierce County’s experienced trial judges will be retiring. This concerns me because we need judges with local Superior Court trial experience to oversee Pierce County’s busy docket. We also need judges with diverse perspectives on the bench. If elected, I will rely on my 18 years as a trial lawyer to ensure that rules are applied fairly to all litigants and that cases are processed as efficiently as possible. I know that even though our courts face many challenges—like an aging juvenile justice facility, soldiers and veterans who need court services, an overcrowded and understaffed state mental health hospital, and an increasing number of citizens who cannot afford an attorney—Pierce County citizens still expect and deserve a judge who will do what is right and fair for the community.

Have you been involved in partisan politics in Washington State before? Please give details:

No

Have you run for an office before? Please give details:

No

Have you held office, either elected or appointed? Please give details:

No

What do you believe will be the three most important issues in your campaign?

First, the people of Pierce County deserve to have judges who take the bench with significant experience litigating *in that court*. There is no substitute for such experience. I will come to the bench with 18 years of hard work under my belt, nearly all of which has been spent in the court I will now preside over. I understand the rules and special needs of those who use this Superior Court and the experiences of the ordinary people who need to access justice there. I have extensive experience handling complex litigation in Pierce County Superior Court. Court records show that my opponent has never handled a case in Pierce County Superior Court, while I have over 175 cases to my credit. Diversity of perspective among our 22 judges is also important. It is not good for the people to have a bench made up almost entirely of former prosecutors or employees of the State.

Second, the voters should want to know who the judges of the Pierce County Superior Court believe will make the best judge. Fourteen current and former Pierce County Superior Court judges have publicly stated their belief that I will be the best addition to the Court. None have supported my opponent. The voters should also want to know who the attorneys practicing regularly in the Pierce County Superior Court believe will be the best asset to the judiciary. Nearly 200 of them – lawyers who practice in all different specialties – have stated their belief that I will be the kind of judge who will be an asset to the Court. I have also been endorsed by nearly all of the leaders of the Washington State Association for Justice and many Past Presidents of the

Tacoma-Pierce County Bar Association. My opponent has virtually no endorsements from attorneys who practice here. And I believe the people of Pierce County, now more than ever, want a judge who is connected to the struggles of ordinary working families. That quality exemplifies my entire legal career.

Finally, above all, the people of Pierce County are entitled to expect integrity and honesty from their judges. Those are qualities I take seriously. The people also have a right to expect judges who have a proven ability to correctly analyze the law and apply it to the facts in deciding case, without the need for unnecessary and expensive appeals. I have a proven track record of such careful analysis,

What is the role of the judge?

The most obvious role of the judge is to listen carefully to the facts of each case and apply the correct law to those facts in deciding each case.

However, judges perform many unseen roles as well. In both civil and criminal cases, judges hear many pre-trial motions which require a keen ability to apply constitutional principles, statutory and case law, and court rules to each individual set of facts. Often, judicial decisions in these pre-trial proceedings help the parties resolve the case short of trial by clarifying the issues. Judges also have the ability – and I believe the obligation – to nudge the parties toward mediating their disputes short of trial. In a trial, there is a winner and a loser; while mediation offers the parties an opportunity to fashion some sort of “win/win” resolution.

Judges also have a function in efficiently administering the justice system, which has many moving parts – courtroom, administrative, personnel, probation, corrections, mental health and substance abuse services, juvenile detention and supervision, working with law enforcement, and integrating with other courts.

Judges also serve as the public face of our justice system. We have an obligation to continually educate and interact with those who elect us, to work with young people who need to see how the justice system actually works (as opposed to what they see in their social media feeds).

Have you previously served on the bench?

No, however, I have served as an arbitrator in both Pierce and Thurston County.

Please summarize your legal practice (prior to taking the bench if applicable).

I handle plaintiff's personal injury cases for the most part, and most of my clients are ordinary working people who live right here in Pierce County. I have also handled sexual harassment, wrongful termination, and hostile work environment claims; real estate and land use law; and wills, trusts, and probates.

I handle complex civil litigation on a daily basis. My clients are typically ordinary, everyday citizens who have claims against much larger opponents, such as insurance companies, corporations, and/or governmental entities, and I have been committed to zealously advocating for my clients' interests in the face of such opposition.

Early in my career, I handled a few criminal appeals for the defense. However, I have never been a government attorney (a prosecutor or an attorney general).

What do you perceive as the greatest obstacles to justice, if any?

Studies confirm that there is still considerable racial disparity in our justice system. Judges must carefully review the factual basis for charges to ensure that defendants are not being “profiled.” In cases that proceed to trial, judges must attempt to set bail that is not excessive. Judges must also make sure that diverse jurors are not being improperly stricken from the jury. Finally, during sentencing, judges must ensure that defendants are not being sentenced based on anything other than the verdict rendered and the defendant's criminal history. Judges are, however, very constrained by adopted sentencing guidelines and mandatory minimums.

In civil cases, the presence of juror bias is sometimes difficult to uncover. Attempts by a judge to determine if a juror can follow the judge's instructions can sometimes hide bias, rather than bring it to light. Judges must therefore allow the lawyers to conduct their jury selection in an appropriate manner and not attempt to rehabilitate jurors who answer in a way that suggests a bias.

Juror pools in most urban areas do not properly reflect the demographic of the community. There are a variety of reasons that more minority citizens do not show up for their jury service, but most are economic reasons. The failure of our courts to produce a true "jury of one's peers" is a significant factor in some areas. There is an ongoing statewide study of this problem, which needs to be brought to a conclusion, attempting to address this disparity.

Recent studies show that even though our poorest citizens experience an average of nine legal issues a year, about half of all Washingtonians cannot afford a lawyer. A great many citizens fall into that difficult legal crevasse when they do not qualify for Legal Aid but certainly cannot afford to hire a private attorney. As a judge, I would expect to see many litigants appearing before me without the assistance of an attorney. This can be very challenging for judges. It would be my job to ensure that these litigants were treated fairly and that all Pierce County citizens had full access to the court.

Frequently, litigants who come to court without an attorney are attempting to resolve family law issues on their own. As a judge, I would not be able to offer legal advice to these litigants, but I would be able to refer them to others who could assist them. Often, citizens are not aware of resources that are available to them at no cost or for reduced fees. For example, in Pierce County there is a Courthouse Facilitator whose job is to assist pro se litigants (litigants who are not represented by attorneys) to complete forms and work their way through court processes in family law cases. For other types of cases, the Tacoma-Pierce County Bar Association maintains lists of attorneys who offer legal services for reduced rates (the Lawyer Referral Service). The Tacoma-Pierce County Bar Association also organizes Volunteer Legal Clinics that are open to the public, and for which no fees are charged. Individuals who contact the Clinic are referred to attorneys who give advice in family law, landlord-tenant issues, foreclosures, military and veterans' issues, and other cases.

There are also ways to resolve disputes without necessarily filing lawsuits. The Pierce County Center for Dispute Resolution is a place where citizens can go to work through disputes privately, and they do not need an attorney to come to resolution. Again, many Pierce County citizens are not aware of this resource. The entire legal community could do more to spread the word about each of these valuable programs.

Do you believe there is under-representation of women or people of color in the court system? If so, how would you work to correct the problem?

Some courts have achieved remarkable change in past decades to improve the representation of women and people of color on the bench and in other roles within the court system. The King County Superior Court now has, by way of example, 29 women in a 53 judge court – 55% of the bench. And both the Presiding Judge and Assistant Presiding Judges are women. A dozen of the judges in that court are people of color. However, by way of contrast, some of our rural courts have never had a woman judge or a person of color.

It is important that the public sees a judiciary that reflects the diversity of the community, just as it is important that the public sees a law enforcement presence as such a reflection. Historically, there has certainly been disparity in the selection process – both appointment and election – which has unfairly impacted both groups. However, in recent years, while significant progress has been made to diversify the bench, other factors, such as increasing the pool of minority and women lawyers who aspire to the judiciary, have been identified. The greatest contribution judges can make to increasing diversity on the bench is to serve as mentors and "career guides" to lawyers who show promise and interest in the judiciary, give them opportunities to hone their trial skills, writing skills, leadership, and decision-making. For above all, minority status does not trump the qualities we all have a right to expect in our judges – legal knowledge, courtroom skill, communication skill, writing ability, fairness and integrity.

Do you believe that all citizens have adequate access to legal help and the legal system? If not, what can be done to provide wider and better access?

Access to justice is largely an economic issue.

Recent studies show that even though our poorest citizens experience an average of nine legal issues a year, about half of all Washingtonians cannot afford a lawyer. A great many citizens fall into that difficult legal crevasse when they do not qualify for Legal Aid but certainly cannot afford to hire a private attorney. As a judge, I would expect to see many litigants appearing before me without the assistance of an attorney. This can be very challenging for judges. It would be my job to ensure that these litigants were treated fairly and that all Pierce County citizens had full access to the court.

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Adequate funding for the criminal justice system will likely remain a challenge for years to come. Public Defender caseloads still remain crushing due to underfunding. Judges can ethically advocate for greater support for offices of public defense simply by speaking out about what they see on a daily basis – criminal defendants who meet their lawyer for the first time in a 2 minute court hearing and then never see him or her again until trial; public defenders who have to beg for funding to hire an investigator or expert witness; inadequate funding for court interpreters, often leaving non-English speaking families and victims out of the legal process.

Do you ever wake up in the middle of the night, thinking about a case, wishing you had handled something differently? If so, please describe one such case.

Yes, I have woken up in the middle of the night, worrying that I have made the right decision or used the best strategy in a case. However, because my decisions are always the product of thorough research and consideration of all the known facts, I have never regretted any of my decisions. I feel I have always done my best for my clients.

I am also proud of my reputation in the legal community as being an attorney who treats everyone—even opposing counsel—with respect and courtesy. I do not regret any of my interactions with opposing counsel, trial judges, or clients.

What criteria would you use for deciding whether to impose or affirm sentences outside of the standard ranges?

While Washington's Sentencing Guidelines are quite specific about the factors a judge is to consider within the standard range, I would generally start in the middle of the specified range and then consider the follow in deciding whether to go up or down within the range or even outside the range:

- **Is this a first time offender or have there been multiple violent offenses in the past?**
- **Was the defendant the primary actor or an accessory?**

- Were there significant injuries or death involved in the crime?
- Were the defendant's actions particularly heinous?
- Defendant's age? What will the impact of a lengthy sentence be?
- Any mental health issues?
- Defendant's support in the community – both past and future?
- Would stacking sentences result in an unjust result under the circumstances?
- Any other facts that are either particularly mitigating or particularly egregious?

As a prospective judge, what do you consider to be your greatest strengths? Weaknesses?

Probably my greatest strength is my courtroom experience over 18 years in the Pierce County Superior Court, which will give me a solid base for stepping into my role as a judge I that court. I am totally familiar with the processes and procedures of that court, intricacies of scheduling both civil and criminal matters, the rules of procedure, the rules of evidence, and can "hit the ground running" no matter where I am assigned.

My weakness would probably be my lack of recent criminal experience; however, that will be overcome by hard work, consultation with other judges, lots of reading, and listening carefully to the facts and arguments in each case.

If you became aware of unethical conduct on the part of a trial advocate in a case in which you were presiding, how would you handle it? Do you believe judges should be required to report attorney misconduct?

My response to such unethical conduct would largely depend on the magnitude of the attorney's actions, the circumstances under which it occurred, and whether the attorney's actions unfairly impacted the legal proceeding before me. Generally speaking, however, I would first attempt to confer with the attorney, in the presence of opposing counsel, describe what I had observed and my concerns, hear from the attorney, and then propose an ethical solution. If that did not achieve a result, or if the behavior was more serious in nature, I would speak to the attorney's supervisor. And if the behavior was not corrected – or became a repeating occurrence – I would not hesitate to file a complaint with the WSBA.

The Code of Judicial Conduct provides that judges do have a responsibility to report attorney misconduct. Rule 2.15 states as follows:

“(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects should inform the appropriate authority.

(D) A judge who receives credible information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action.”

What role, if any, do you believe the County Prosecutor and/or their office should have in regards to activities involving judicial candidates, judicial candidate endorsements, and judicial elections?

While the elected County Prosecutor and those who work under him have a right, as attorneys and citizens, to publicly support and endorse judicial candidates, elected Prosecutors play a special role in our criminal justice system in that their actions and interactions with the court system should be seen as above reproach, unfailingly fair, and without even the perception of bias. For this reason, elected Prosecutors in most jurisdictions have taken the wise approach not to endorse, donate to, or involve themselves in judicial campaigns at all. Many have also prohibited their Deputy Prosecutors from getting involved in judicial campaigns. I believe this sort of independence is the best policy. Participation, either directly or indirectly, by a County Prosecutor in judicial recruitment, endorsement, or support can easily be perceived by the public as an attempt by the County Prosecutor to “stack the deck” with judges to his liking or who he believes can be controlled in some fashion.

I am proud of the independent campaign I have run for Pierce County Superior Court Judge.

What forms of voluntary professional and community service have you been involved with in the past? Currently?

The largest share of my professional commitment has been to the educational programs of the Washington State Association for Justice (WSAJ). I am a frequent speaker at continuing legal education programs and have produced written materials used by trial lawyers throughout the state. I currently serve on the Board of Directors of that association. I am also an active member of the Washington State Bar Association's Litigation Section. I am a member of the Tacoma-Pierce County Bar Association, and the Pierce County Chapter of Washington Women Lawyers.

I have made myself available for reduced fee legal services through Tacoma-Pierce County Bar Association's Lawyer Referral Service. I also work on a contingency fee basis, which allows me to take small cases which would not have been cost effective if I had been billing hourly, and to work with clients who would not otherwise have been able to afford an attorney.

I have also worked as a volunteer fundraiser for Mary Bridge Children's Hospital.

While serving on the bench, do you believe you have a role in bringing important legal or judicial issues before the public or the legislature? Why or why not? What should your role be?

While certainly judges are constrained by the restrictions of the Code of Judicial Conduct from speaking out about issues that may come before them in a legal proceeding, judges do also have an obligation to speak out about issues that affect "the administration of justice." Because many judges use the restrictions of the CJC as an excuse to remain silent on virtually everything, there are many issues the public knows nothing about because they are not privy to what goes on inside the courthouse walls. For example, I think judges have an obligation to speak out for greater funding for community mental health services and can impact the public debate by describing how limited resources plays out in the court, the jail, and the ultimate release of an offender. Judges likewise have an obligation to speak out for working families who cannot afford the legal help they need by describing how an ordinary family in crisis is forced to navigate the court system on their own. To the extent that judges see the impact of legislative policy every day, they are the "eyes and ears" of both the Legislature and the public.

What is your general judicial philosophy?

I believe that judges are the guardians of due process, often disregarding the popularity of their decisions. Judges have a responsibility to ensure that all litigants have access to the court, and all litigants must be treated fairly by officers of the court. I believe that judges must also take responsibility collaboratively for the administrative work of the court to ensure that cases are moved efficiently through the system without compromising people's rights.

What would you do to make Superior Court more efficient?

I believe that Pierce County has come a long way in reducing its backlog of cases. However, there is always room for improvement. Pierce County's resources are already stretched to the maximum, and when felony charges that are not supported by sufficient evidence are filed, it wastes court time and resources. It also makes it difficult for the Court to provide defendants with speedy trials, as required by law.

On the civil side, Pierce County was wise to institute mandatory case schedules. However, cases would proceed more smoothly if certain deadlines were added to the schedules. For example, a deadline for CR 35 (medical) exams would do away with last minute discovery disputes that fill the court's motion docket.

What is your vision for the future of our judicial system: What changes would you advocate and why?

If money were no object, I would like to see a courthouse where adult, family, juvenile, and other specialty courts were under the same roof. This would make the provision of coordinated services more efficient and accessible. I would like to see Pierce County's Linx system expanded to include

district and municipal case information, so that a person could remotely access their case no matter which Pierce County court had jurisdiction. I would like to see sharing of jail resources so that Pierce County could specialize its detention services and maximize use of available cell space. I would like to see a formal relationship established with local tribes (particularly the Nisqually and Puyallup), similar to what has been done in other counties. I would like to see an increase in the compensation paid to citizens selected for jury duty, as well as improved parking for jurors.

I would want to see more extensive use of alternative sentencing for non-violent offenders.

Regarding civil procedure, I would like to see a greater number of courthouse facilitators and guardians ad litem available to work with pro se litigants in family law cases. I would like to see Pierce County continue to make use of case schedules to keep dockets moving, and would advocate for the addition of additional deadlines, such as a deadline for CR 35 (medical) exams, to increase efficiency.

Why should the 25th Legislative District Democrats support you over any other candidates running for this position?

I am the only candidate who has worked her entire career in Pierce County Superior Court and who has extensive Superior Court trial and legal scholarship experience. I know our Court and, if elected, will take office already familiar with its processes. It is important to have judges who have extensive experience in the Court over which they seek to preside. Court records show that my opponent has never handled a single case in Pierce County Superior Court.

I also have a proven history of being able to work collaboratively with colleagues and other stakeholders in an increasingly complex justice system.

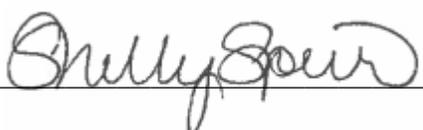
My candidacy is supported by nearly 200 lawyers who practice regularly in Pierce County Superior Court. My opponent has no attorney endorsements at all. This is important because the attorneys who work in this court – day in and day out – in a variety of specialties – know me, respect me, and believe that I will be the kind of judge who will be an asset to our judiciary. Additionally, my candidacy is supported by 14 Pierce County Superior Court Judges. My opponent has no endorsements from the court where she seeks to work. This is important because unlike my opponent, I have an extensive history practicing in this court, and the judges there know the quality of my work, my integrity, and my ability to be a collaborative colleague.

Are there any additional comments you would like to share with the 25th Legislative District Democrats?

Democratic Party values place human beings over corporate profit; celebrate individuality over conformity; and treat government as a tool of the people to improve their society. Throughout my career, I have represented ordinary, everyday individuals against large corporations and have sought to hold corporations responsible when pursuit of profits has resulted in injury to others. I have taken these cases on a contingency basis, which has allowed me to take cases which would not have been cost-effective for a lawyer billing by the hour, and to work with people who would not otherwise have been able to afford an attorney.

I am proud that I have been recognized for my work with ordinary working families by receiving the support of the Labor Movement. I have been endorsed to date by the Pierce County Central Labor Council, IBEW 483, Machinists 751, AFSCME 793, and Carpenters 41. I look forward to additional support as my campaign moves forward.

My signature below signifies that I am seeking the endorsement of the 25th Legislative District Democrats. I understand that this endorsement may or may not come with monetary support. I also understand that the 25th Legislative District Democrats may withdraw its endorsement.

Candidate Signature:  Today's Date: June 25, 2016

Please return your completed questionnaire to ericherde@gmail.com