

JASON M. COLLINS

1308 Lily Ct., Missoula, MT 59802 | 225.405.8350 | Jason.Collins@umontana.edu

February 25, 2015

Judicial Nomination Commission

c/o Lois Menzies

Office of Court Administrator

P.O. Box 203005

Helena, MT 59620-3005

Re: Consideration of Brian Smith

Dear Sir or Madam:

I write you today to express my support for Brian Smith to replace Judge McLean. I have known Brian since I began my employment as a law clerk at Garlington, Lohn, and Robinson in June of 2014. Throughout my tenure at GLR, Brian has been an exceptional mentor, applying thoughtful criticism and an in-depth knowledge of the law to my work product. I find his guidance and wisdom indispensable and firmly believe he will make an excellent judge. I recommend him to the Judicial Nomination Commission without reservation.

Thank you for your consideration. Please do not hesitate to contact me should you have any questions or would like additional information.

Sincerely,



Jason M. Collins

ENCLOSURE (NONE)

From: [Menzies, Lois](#)
To: [Cook, Kevin](#)
Subject: Smith -- Public Comment
Date: Tuesday, March 10, 2015 3:54:21 PM

From: Mike Wilson [<mailto:mikewilson444@gmail.com>]
Sent: Wednesday, February 25, 2015 9:24 AM
To: MT Supreme Court,
Subject: Comment re: 4th Judicial District Vacancy

Judicial Nomination Commission,

I am writing to recommend Brian Smith for the vacancy created by Judge McLean's retirement. I have worked as a Law Clerk under Brian at Garlington, Lohn, and Robinson, PLLP since May of 2014. Brian acts as a mentor to my fellow Law Clerks and me. Brian always takes time to explain the legal issues present in the projects he assigns and is always patient in answering questions. The breadth of Brian's knowledge of the law is apparent. I have learned a great deal working under Brian. I am confident his knowledge of the law and even-tempered manner would make him an excellent judge. I encourage you to do what is best for the people of Missoula County and nominate Brian for the vacant seat.

Sincerely,

Mike Wilson
Law Clerk
Garlington, Lohn, and Robinson

From: [Menzies, Lois](#)
To: [Cook, Kevin](#)
Subject: Smith -- Public Comment
Date: Tuesday, March 10, 2015 3:55:49 PM

From: "Rick Weaver" <rvweaver@dailyinterlake.com>
To: "MONA Charles" <mcharles@centurylink.net>
Sent: Wednesday, February 25, 2015 8:16:40 AM
Subject: Brian J. Smith

Hi Mona,

How are you? I hope things are going well for you.

I believe you are still a member of the Judicial Nomination Commission so I thought I would send you my thoughts regarding Brian J. Smith, an applicant for district court judge for the 4th Judicial District.

Over the past few years I have gotten to know Brian on both a professional and personal level. I believe he is an excellent attorney, always giving sound advice and looking at situations from all sides. In my experience Brian has always demonstrated sound judgement, something that is necessary for a district court judge. He has also shown a vast knowledge of the law.

In my 40+ year newspaper career I have met some wonderful attorneys, district court judges, and Supreme Court Justices throughout Montana. I believe Brian has abilities on par with the best of them. He would make a great district judge!

I would strongly endorse Brian for the position of district court judge! He is a good man and a very good attorney.

Respectfully,

Rick

Rick V. Weaver
Publisher
Daily Inter Lake
Hagadone Montana Newspapers



Lamb & Carey Law

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March 12, 2014

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

Dear Commissioners:

I read in the Independent Record the Notice that you began accepting applications for the Fourth Judicial District judgeship currently held by the Honorable Ed McLean. I have some experience with a number of the applicants, and wanted to share my insights on Brian Smith. I am a University of Montana graduate and have practiced law in the state of Montana from 1980 through the present. Throughout the course of my career I have had numerous occasions to interact directly in various litigation contexts with Mr. Smith, and am also familiar with his experience and ability as an attorney, as well as the reputation he has earned and enjoys in the legal community. In sum, I believe that Mr. Smith has a breadth and depth of relevant experience that would be hard to equal. Brian is an excellent attorney and an effective, ethical advocate. He possesses a fine legal mind and an excellent work ethic. He enjoys universal respect among other members of the Bar – including even “adverse counsel” such as myself.

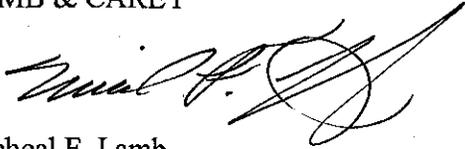
You are aware of his professional affiliations, accomplishments, etc. from the application materials which I assume he has already submitted. I will not belabor those points here. However, I would be remiss if I failed to note that equally important from my perspective – beyond his work as an attorney – are his contributions to the legal community at large, through his work as an adjunct professor at the law school, as a mediator, continuing legal education presenter, etc. Further, and most important from my perspective, I believe that Brian is possessed of a deep seated belief in the value of our justice system and a “judicial” temperament: qualities that are foundationally important to any jurist, but which unfortunately are often in short supply.

I believe that Brian Smith would be a fine addition to the Montana Judiciary, and I am very pleased he has applied to become a public servant. He can be trusted to provide a level playing field to everyone who appears in his courtroom. I appreciate very much your willingness to serve in this most vital role and your consideration of my comments.

If you have any other questions or concerns I would be happy to provide any information I have which might be of further assistance.

Very truly yours,

LAMB & CAREY

A handwritten signature in black ink, appearing to read "Micheal F. Lamb". The signature is stylized with a large, looping initial "M" and a long, sweeping underline.

Micheal F. Lamb

Cook, Kevin

From: Menzies, Lois
Sent: Tuesday, March 17, 2015 2:29 PM
To: Cook, Kevin
Subject: Smith -- Public Comment

From: AnneMarie Finn [<mailto:annemarie.esq@gmail.com>]
Sent: Saturday, March 14, 2015 1:56 PM
To: MT Supreme Court,
Subject: Brian J Smith: Nominee for 4th District Judicial Appointment

To: The Members of the Judicial Nominating Commission,

I am writing to offer my sincere and wholehearted support for Brian J. Smith, Esq., for appointment to the 4th District Court Judgeship, said position being vacated by The Honorable Ed McLean

I am an attorney in good standing in the Commonwealth of Massachusetts, and the State of Rhode Island. After practicing law for twenty -two years, I am now retired and residing in Missoula, with my husband, also an attorney and native of Missoula. My practice in Massachusetts was solely in civil litigation, and I was a principal, and one of six trial lawyers with a busy firm, that held the distinction of trying the most cases in the Commonwealth of MA for the last consecutive eight years of my career, and still holds that honor today. Succinctly, I have tried a lot of cases, both jury trials, and bench trials. This "public endorsement" is not about me, however, it is about the best candidate for this Judgeship, Brian Smith.

I have known Brian personally for over thirty years. I know him to be honest, fair, open minded, and he has a genuine concern for others in any situation, particularly one which may not be as fortunate as his own. This is evidenced by Brian's career path, beginning with his work as a Public Defender in Polson. I believe that Brian gained valuable trial and court room experience in that capacity, but as his own application states, more importantly, he saw that a system he believed in, our own justice system, was one that treated all with dignity and respect. All were given "a fair chance". This embodies Brian's philosophy throughout his extensive litigation career.

I will not repeat his experience and litigation background, but I would like to stress how important I believe that courtroom experience is, in anyone being considered for this Judicial Appointment. I have practiced before many judges in my career, and those with the litigation background and experience such as Brian's, always distinguished themselves as great judges. They made decisions that were based on good, sound reasoning, and their evidentiary rulings, though maybe not always in my favor, were always based on an excellent working knowledge of the Rules of Evidence and the Rules of Civil Procedure. Brian's resume reflects exactly that working knowledge and "hands on" experience that I saw in these judges, and that is needed on the bench.

In 2010, I found myself in need of legal representation. The matter involved denial of medical insurance coverage for a necessary service. This was clearly not Brian's area of expertise. However, in deciding whom I wanted representing me (now in an unfamiliar role as client), I chose Brian Smith. I made this choice because I knew of his trial skills, as well as his detailed analytical skills, and dedication to preparing a case. Brian displayed his superior writing skills, and knowledge of the law, in preparing a brief on the case. The case was decided in my favor based on that brief, without the need for a hearing.

In my many discussions with Brian about practicing law over the last thirty years, Brian has always expressed his desire to become a Judge. His career, taken in it's entirety, has prepared him and led him to this nomination for the 4th District

Judgeship. I believe he is qualified without exception, for this position, and that he possesses the inner strength, respect for others, and respect for the law and our justice system, that will make him the "Best on the Bench".

Very truly yours,

Anne-Marie Finn, Esq.
8715A Ranch Club Road
Missoula, MT 59808

Sent from my iPad,
Anne-Marie Finn

March 14, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P. O. Box 203005
Helena, MT 59620-3005

Re: Brian J. Smith District Court Judgeship Application

Distinguished Members of the Judicial Nomination Commission,

I have known Brian Smith for more than thirty-five years, and am familiar with the entire scope of his career at the Montana bar. From the time I worked with Brian at Datsopoulos, MacDonald & Lind while he was a student intern and I was a new associate, through the years of his public defender work and small private firm experience in Polson, to his later larger firm private practice and transportation business leadership experience in Missoula, to his present position as Partner with Garlington, Lohn & Robinson, I have time and again seen Brian demonstrate what, to me, embody the ideal qualities the residents of the 4th Judicial District would want in their District Judge.

I am fortunate to have worked with many fine and accomplished lawyers during my own years of law practice, beginning with my clerkship for the Honorable Frank Haswell, Chief Justice of the Montana Supreme Court, to my brief time as an associate with Datsopoulos, MacDonald & Lind, to my retirement as Assistant Vice President, Senior Tax Counsel after twenty years with a Fortune 500 company headquartered in a Boston suburb, a position in which I often worked closely with attorneys from many of the best known firms in not only Boston, but also New York, Washington D. C., Chicago and San Francisco. I recommend and endorse Brian Smith for appointment to fill the vacated seat of Judge Ed McLean with confidence that it would be difficult for me to point to more than a few of the other fine lawyers I have known and worked with who would be as well suited to the job as Brian in terms of intellect and work ethic or breadth of experience. Fewer still could complement those qualities with Brian's temperament and common touch.

Thank you for this opportunity to comment in support of an exemplary lawyer, admirable man, and worthy applicant.

Sincerely,



Stanley M. ("Mick") Finn
8715A Ranch Club Road
Missoula, Montana 59808



MILODRAGOVICH ◦ DALE ◦ STEINBRENNER, P.C.

ATTORNEYS

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TIMOTHY E. DAILEY
MICHAEL D. BYBEE
LIESSEL SHOQUIST
RACHEL H. PARKIN

March 18, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
PO Box 203005
Helena, MT 59620-3005

**Via email: mtsupremecourt@mt.gov and
U.S. First-Class Mail**

RE: Comments
Judicial Applicants – Department 1, Fourth Judicial District

Dear Commission Members:

I have been a practicing attorney in Missoula for over forty years. My practice involves significant trial work, mostly in civil litigation. I have familiarity with most of the applicants for the position being vacated by Judge McLean and I have reviewed the applications of the seven individuals requesting the appointment.

In my opinion, the controlling criteria for selection as judicial officer includes such traits as:

- 1) honesty,
- 2) integrity,
- 3) industriousness,
- 4) empathy,
- 5) patience,
- 6) respect for others,
- 7) civility, and
- 8) legal experience, including participation in jury trials.

Based upon my knowledge of the candidates, and my review of their applications, the applicants satisfy the first seven required traits for a judicial officer. However, it is trait number eight that clearly places Brian Smith far more qualified than any of the other applicants.

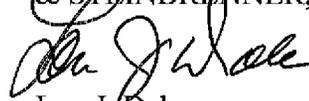
Presiding over a jury trial with the inevitable ingrained controversies as to evidentiary rulings and trial procedures is not for the inexperienced. Brian has significantly more jury trial experience than any of

Judicial Nomination Commission
March 18, 2015
Page 2

the other applicants. Further, Brian has the diversity of experience that all attorneys will appreciate and expect of a District Judge. Brian deserves your endorsement as the most qualified candidate for advancement for selection by Governor Bullock.

Sincerely,

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.



Lon J. Dale

EMAIL: lon@bigskylawyers.com

Barry Stang

1415 Winne
Helena, MT 59601
(406) 581-1298
stangbarry@gmail.com

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

RE: 4th Judicial District Judge Vacancy

Dear Judicial Nominating Committee,

I would like to recommend Brian J. Smith of Missoula for the position being vacated by Judge McLean.

I have known and worked with Mr. Smith for over 15 years as Executive Vice President of the Motor Carriers of Montana. Mr. Smith has been the legal counsel for our board for an even longer period of time.

I have found that Mr. Smith's knowledge is well rounded on all issues as his experience has been varied. He has helped MCM through various issues including legal work for the association. I have also found Mr. Smith a pleasure to work with and his knowledge of the law well rounded from employee issues, legal contracts, and to civil litigation.

I believe his experience of working with the industry and his ability to solve varied issues would make him a great choice for a judge in Montana. He has a knack for problem solving and resolution of issues in a fair manner.

His varied experience and his thirty some years of experience as well as his ties to the community will make him a great asset for the 4th Judicial District.

Thank you for your consideration of Mr. Smith for this position and should you have any feelings please feel free to contact me.

Thanks

A handwritten signature in black ink, appearing to read 'Barry Stang', with a large, sweeping flourish extending to the right.

Barry "Spook" Stang



VISCOMI & GERSH, PLLP

ATTORNEYS AT LAW

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WHITEFISH, MONTANA 59937

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▲ BOARD CERTIFIED CIVIL TRIAL ADVOCATE
▲ ALSO ADMITTED IN FLORIDA
■ ALSO ADMITTED IN COLORADO

WEB: WWW.BIGSKYATTORNEYS.COM
EMAIL: MAIL@BIGSKYATTORNEYS.COM

March 16, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

Re: Application of Brian J. Smith

Dear Ms. Menzies:

This letter is being provided to you in wholehearted support of Brian Smith's application for the district court position for the 4th Judicial District seat being vacated by Judge Ed McLean.

I have been practicing law for the past 32 years, in West Palm Beach, Florida from 1983 to July, 1998, and in Whitefish, Montana since that time. My current practice is primarily civil litigation and mediation.

I have known Brian since he started at Garlington, Lohn & Robinson, PLLP in 2006. Since that time, I have conducted a significant number of mediations for Brian in the areas of commercial litigation and insurance defense. Every time I handled such a mediation, I found Brian to be extremely well-prepared, not only as to the pertinent facts and law of his case, but also his clients' reasonable expectations. I have also enjoyed working with Brian in these mediations because he was always very polite and professional.

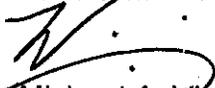
Looking at Brian's extensive legal background and experience, as well as his excellent reputation for competency and integrity, I am confident he will make an excellent district court judge. Also, based upon my personal experience with Brian, I can see how he will have the perfect judicial temperament to maintain proper decorum in his courtroom.

For these reasons and more, I urge the Judicial Nomination Committee to seriously consider Brian's application. It would be my honor to discuss Brian's qualifications with any

Lois Menzies
March 16, 2015
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member of the JNC at any time if it would be helpful. Thank you for considering my letter.

Sincerely,
VISCOMI & GERSH, PLLP

A handwritten signature in black ink, appearing to read "M. Viscomi", written over a horizontal line.

Michael A. Viscomi, Esq.

March 18, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

RE: Brian J. Smith

Dear Members of the Judicial Nomination Commission:

I am writing in support of Brian J. Smith's application to be appointed as a District Judge of the Fourth Judicial District.

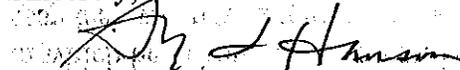
I am a retired attorney, having practiced in Missoula for over forty years with the firm of Garlington Lohn & Robinson. Brian was one of my partners, and I was able to observe first hand his professionalism, work ethic and legal ability. Brian was elected by the partners of the firm to be the managing partner, a testament to his leadership ability and the high esteem in which he is held by his peers. He did an excellent job as managing partner, which is not an easy task when trying to coordinate the efforts of a firm with 70 or so employees. As further evidence of his leadership and respect among peers, Brian was elected President of the Transportation Lawyers Association, a national organization.

His legal experience is broad and varied, including complex civil litigation and also criminal matters. In his practice, Brian was always motivated by a desire to find a solution to a problem and not to litigate simply for the sake of litigating. He treats all parties, including opposing parties and counsel, with respect and has a reputation as a fair and reasonable attorney. His integrity is beyond question.

Brian is thoughtful and analytical, qualities which will serve him and the parties who appear before him well as a District Judge. He has a calm demeanor and possesses what I would call "judicial temperament"

I believe that Brian J. Smith is extremely well qualified to be a District Court Judge and I wholeheartedly endorse him for that position.

Sincerely,



Greg E. Hanson
17 Snowdrift Lane
Philipsburg, MT 59858



MILODRAGOVICH • DALE • STEINBRENNER, P.C.

ATTORNEYS

MICHAEL J. MILODRAGOVICH
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HANNAH STONE
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LIESEL SHOQUIST
RACHEL H. PARKIN

March 18, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

Re: Fourth Judicial District Judgeship Vacancy
Applicant: Brian J. Smith

Dear Members of the Commission:

Montana, and particularly the Fourth Judicial District, is particularly fortunate that we have a great field of quality applicants for appointment to fill the vacancy created by Judge McLean's retirement. This letter, unsolicited, is written in support of applicant Brian J. Smith.

Of all candidates, though, Brian has a the greatest amount of experience in the most important facet of the job that is critical to the administration of justice: trial work, whether jury or non-jury. In the time he spent in Polson, here in Missoula with our firm, as General Counsel for Truckers Express and since, Brian was involved in literally hundreds of cases all over the United States. His courtroom experience is not just as an observer. He has been lead counsel, "second-chair", and Truckers' designated representative. There is no other candidate who can match the depth and breadth of his trial experience.

He has dealt with, and observed, all kinds of judges in his years of practice and, knowing Brian, all of that experience will be applied for the benefit of all before him. He will do his level best to render a just decision based on law. That will be done regardless of which side of the "v." the parties may be on, their background, lifestyle, appearance, or political belief. Cases before Brian as a judge would be decided on the facts and the law.

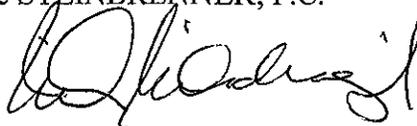
Additionally, while in practice Brian has seen Court systems that work and systems that do not. Couple his trial and administrative background with his immense understanding of the digital world and he would be a tremendous asset to the Montana Judiciary. I am confident that he will do "a day's work for a day's pay" for fair result, while working to make the administration of justice work better for parties,

Judicial Nomination Commission
c/o Lois Menzies
March 18, 2015
Page 2

counsel, and court staff. I recommend Brian unqualifiedly as the next District Court Judge in the Fourth Judicial District.

Very truly yours,

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.

A handwritten signature in black ink, appearing to read "Michael J. Milodragovich", written in a cursive style.

Michael J. Milodragovich
EMAIL: milo@bigskylawyers.com

LAW OFFICES
**CORETTE BLACK CARLSON &
MICKELSON, P.C.**

GREGORY C. BLACK
ROBERT M. CARLSON
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C. KATHLEEN McBRIDE
MARIE KAGIE-SHUTEY
ANNIE N. HARRIS
ANGIE HASQUET

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HOWARD A. JOHNSON (1893-1974)
ROBERT D. CORETTE (1911-1989)
KENDRICK SMITH (1905-1989)

Of Counsel:
WILLIAM M. KEBE, JR.

Retired:
R.D. CORETTE

March 23, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

Re: Letter of recommendation for Brian Smith for Fourth Judicial District Judge

Dear Ms. Menzies:

I am writing this letter of recommendation to the Judicial Nomination Commission in support of Brian Smith for district judge in the Fourth Judicial District.

I have known Brian as a colleague for the last 10 years or so. We have a similar practice in which we both represent from time to time transportation companies, commercial drivers and their insurers. We have represented different defendants in litigation and have been adverse to each other from time to time. I can confidently say based upon my experience with Brian that he is an outstanding candidate to replace Judge McLean.

First, Brian is a gentleman of the first order and is respectful of all participants in litigation including the parties, opposing counsel and the courts. I have been in some heated situations with Brian involving multiple parties and counsel and Brian was always the voice of reason and calm and helped the feuding parties to find a way to resolve the issues respectfully and reasonably. Of course Brian's general nature and good humor in these situations helped as well. Not only is Brian a gentleman in his professional life, but he is also a gentleman and caring individual in his personal life. His commitment to causes such as Habitat for Humanity and providing pro bono work for the Sanders County Women's Shelter is evidence of his commitment to others who are struggling with life's disappointments. Second, Brian is a skilled and knowledgeable attorney with a wealth of experience that he would bring to the district court. Brian has the unique experience of practicing in a small town as a criminal defense lawyer, practicing in a small firm in a small town, practicing in a medium firm in a large town, in-

house counsel to a Montana business, serving as the CEO of a Montana business, and then practicing in a large and well respected firm in Montana. Few lawyers in this state have this varied experience. This experience has clearly made Brian a better lawyer as he understands many of the concerns and motivations of all of the parties in litigation as he has either been their shoes or represented those parties in similar situations before. This experience is of course directly beneficial to a district court judge who must make decisions that will have a significant effect on the people that appear before him.

Not only does Brian's varied practice provide him with insights into people, his experience provides him with a deep wealth of knowledge to apply to the legal arguments and positions he takes on behalf of his clients and will serve him well as a judge. Brian is an intelligent and thoughtful person that examines the law and the evidence with a keen mind and writes his arguments clearly and succinctly. This also will serve him well as a district court judge.

Additionally, there are few lawyers practicing on the civil side of litigation who are willing to make the commitment to sit as a district court judge because often they take a pay cut to do so. As a lawyer who practices in the civil arena I would like to see more lawyers from the civil side that are willing to serve as a district court judge. While much of Brian's career was practicing civil law, he is certainly not unfamiliar with the criminal side having been a public defender early in his career.

Given what I know about Brian, his very keen mind, his compassion, his work ethic, his professionalism, and especially his good nature and sense of humor, I know Brian will make an extremely fine district court judge. I wholeheartedly recommend that the Commission place Brian on the list of candidates to recommend to Governor Bullock for appointment.

Yours very truly,

CORETTE BLACK CARLSON & MICKELSON

By 

Marshal L. Mickelson

G. ANDREW ADAMEK
CHAD E. ADAMS
DANIEL J. AUERBACH
KIMBERLY A. BEATTY
TROY L. BENTSON
SARA S. BERG
LEO BERRY
CARLO J. CANTY
KIMBERLY P. DUDIK
MARK D. ETCHART
OLIVER H. GOE
J. DANIEL HOVEN
JUDD M. JENSEN



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JESSIE L. LUTHER
CHRISTY SURR McCANN
DAVID M. McLEAN
MARK R. TAYLOR
EVAN THOMPSON
W. JOHN TIETZ
STEVEN T. WADE
LAURA E. WALKER
LEO S. WARD
MORGAN WEBER
RYAN C. WILLMORE
R. STEPHEN BROWNING:
RETIRED

March 23, 2015

Judicial Nomination Commission
Attn. Lois Menzies
Office of Court Administrator
PO Box 203005
Helena, MT 59620-3005

RE: *Brian Smith –District Judge Applicant*

Dear Commission Members:

It is my honor and privilege to write this letter in support of Brian Smith and his application to become the next District Court Judge in the 4th Judicial District. I feel the perspective I offer is one worthy of consideration as I have not only litigated cases against Brian, but I have also represented parties on the same side of the proverbial aisle as Brian's clients. As a result of these cases, I have come to know Brian not only as a person, but also as an attorney. At the outset, although I have no hesitation in supporting Brian; I do not believe a letter can accurately convey nor describe who Brian is or what makes him uniquely qualified to serve. Nonetheless, I am hopeful this letter gives you some insight into Brian as both a person and a lawyer.

Throughout my legal career, I have litigated cases across Montana in both State and Federal Courts, as well as the 9th Circuit and the Montana Supreme Court. I believe I have developed an understanding of the amount of work Judges face; the responsibility they carry; and the significant impact they have on the lives of those who appear before them, both parties and attorneys. Without question, Brian possesses all of the attributes required to be a Judge who is not only well respected, but also one who has the necessary drive and work ethic to meet the ever increasing burden facing our judicial officers.

Brian has a calm demeanor, a sense of humor, and an engaging personality. I have never witnessed him to be anything other than respectful and professional. It is this kind of approachability a Judge should possess, which allows all sides to present their respective views and arguments. Whether Brian agrees or disagrees with a position, he values the opinions and arguments of others, and always maintains a level of courtesy and respect.

In addition, Brian's practice has been extensive and busy. In the cases I have observed Brian involved in, he has always been prepared. The understanding he maintained of the finest case details, coupled with his legal analysis and brief writing reflected the time, energy and effort Brian has put forth in each case he worked. It is this same kind of commitment required to not only remain current on a judicial docket, but to make the appropriate rulings in those cases. There is no doubt Brian will put in the necessary time and effort to carry the proverbial load each Judge faces.

A cursory review of Brian's legal career reveals more than remarkable accomplishments and individual success, it also demonstrates the breadth of experience a Judge should have. Brian has practiced in a private law firm handling complex civil litigation, he has practiced as in-house general counsel for a business, and he also practiced as a public defender. With this diverse background, Brian has experienced all facets of the law and having such a well rounded background is rarity for any individual, let alone a District Court Judge.

Finally, Brian's ethical ideals are beyond reproach. Brian would never put himself in a situation where his ethics could be credibly questioned. Instead, Brian has a demonstrated commitment and dedication to all aspects of the practice of law. If Brian had any propensity to put himself in questionable situations, or conducted himself in a way where his judgment could be questioned, he would not be so highly regarded by Judges, attorneys, staff members, and most importantly, community members.

With this brief background, I would ask you give Brian the highest of consideration as he pursues his goal of becoming a District Court Judge. I am

Very truly your,

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By 
David M. McLean

Henningsen, Vucurovich & Richardson, P.C.

ATTORNEYS AT LAW

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(406) 723-3219 • 723-9222
Fax (406) 723-9534

MARK A. VUCUROVICH
ROSS P. RICHARDSON

March 19, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

RE: 4th Judicial District Judge Vacancy
Applicant-Brian J. Smith

To Whom It May Concern:

I am an attorney in Butte, Montana and have been practicing here since 1981. Much of my work involves bankruptcy since I am a Chapter 7 Trustee for this region. I also practice in Silver Bow County District Court.

In the course of my practice I have had occasion to work with Brian J. Smith, who is one of the applicants for the Judicial Vacancy in the 4th Judicial District. Mr. Smith has extensive civil litigation experience and a broad-based experience in all areas of the law. It is my impression that he is a hard worker who ethic ally and diligently represents his clients. All of these attributes are necessary for the position of District Court Judge. I do not hesitate to recommend Brian J. Smith for appointment to that position. If you have any questions, please do not hesitate to contact me.

Very truly yours,

HENNINGSEN, VUCUROVICH
& RICHARDSON, P.C.

BY:



Ross Richardson

RPR/lf

March 20, 2015

Judicial Nomination Commission
C/O Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

Re: Brian Smith

Dear Members of the Commission,

About six years ago, I retired after almost 40 years in the practice of law in Montana with the Missoula firm of Garlington, Lohn & Robinson. During that time I was almost exclusively involve in litigation arena. Over the years, I have been fortunate to practice with and against some of the best practitioners in the state and before excellent judges, state and federal, trial and appellate.

I am writing to support the selection of Brian Smith to be Judge of the Fourth Judicial District. I believe he exemplifies the fine qualities needed to meet the extraordinary standards set by Judge McLean and the other Judges who have so ably filled that position in the past.

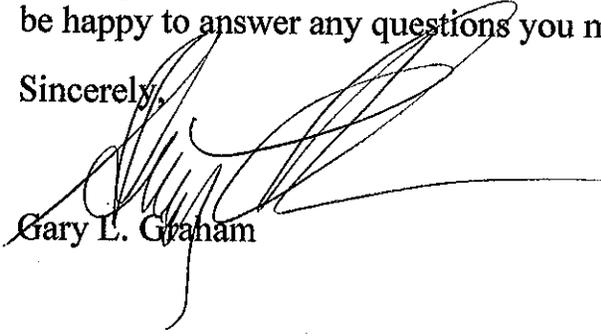
I have known Brian in many capacities. First as an adversary, then as a client when he was President of Truckers Express and finally as a colleague in Garlington, Lohn & Robinson. He has had the experience base needed to quickly adapt to being a judge. The litigation areas he mastered have been exceptionally broad so he has well developed trial skills. His executive position broadened his decision making capabilities and person skills beyond what a normal practicing attorney would be likely to attain. This was honed further by his tenure as managing partner of the firm. Thus the legal and management skills he has mastered are varied.

Perhaps his most exceptional qualities though are personal rather than professional. His temperament is ideal for being a judge. He is not flappable, he is personable and he is fair. He has faced personal adversity and has managed to maintain a calm and dignified attitude and an optimistic frame of mind.

My assessment is that he would always be thoughtful, fair, honest, prepared, decisive, disciplined, hard-working, approachable and flexible as a judge just as he

has been in both his personal and working life thus far. It is difficult to imagine a set of qualities which would be more indicative of an exceptional judge. I would be happy to answer any questions you might have.

Sincerely,



Gary L. Graham

WILLIAMS LAW FIRM, P.C.

235 East Pine, P.O. Box 9440
Missoula, Montana 59807-9440
Tel: 406/721-4350
Fax: 406/721-6037

Mark S. Williams
Susan Moriarity Mitko
Amanda Z. Duman
James D. Johnson
Tammy Wyatt-Shaw
Nicholas J. Pagnotta
Peter B. Ivins

March 24, 2015

Of Counsel:
Shelton C. Williams

Via mtsupremecourt@mt.gov

Judicial Nominations Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

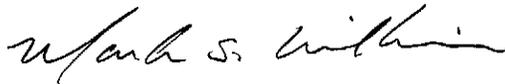
RE: Judicial Nomination, 4th Judicial District

To the Committee:

I am pleased to recommend Missoula attorney Brian Smith for the judicial position that will be vacant with the retirement of the Honorable Ed McLean. I have been practicing law in Missoula County and throughout Montana for 20 plus years. I have known Mr. Smith for much of that time. My practice is civil litigation, as is his. Significantly, over the past two years I had occasion to be on opposite sides of a commercial litigation matter with Brian. The matter involved extensive written discovery, in-person depositions, and court appearances. It was resolved by settlement prior to trial. I found Brian to be an utmost professional with the highest level of decorum and civility. He treated everyone involved with dignity and respect, be it the parties, the court reporters, the opposing counsel or the judge. I feel that he truly has excellent temperament to serve as a judge. Of equal importance, he was knowledgeable about the law and acted with professional ethics and integrity at all times. Missoula County would be fortunate to have him as a judge and I recommend him highly.

Yours truly,

WILLIAMS LAW FIRM, P.C.



Mark S. Williams
MSW:gb
mark@wrmslaw.com
721-4350 x101

March 24, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
PO Box 203005
Helena, MT 59620

Dear Distinguished Members of the Judicial Nomination Commission:

We write, unprompted by and unbeknownst to our dad, Brian J. Smith, to give you a unique perspective on his qualifications to succeed Judge Ed McLean in Montana's 4th Judicial District.

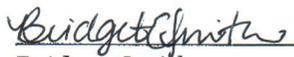
We are living examples of the values our father holds most dear. We treat others as we would expect to be treated. We listen with our head, but also with our heart as people, loved ones included, often have difficulty articulating exactly what they mean. We respect the rule of law, but also understand that no rule is made in a vacuum and context is incredibly important. We try to be patient and thoughtful in all of our interactions. We constantly strive to do our best.

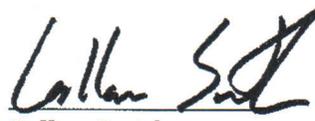
As adults, we emulate our dad, especially the way he treats anyone he encounters - with respect and humility. All families naturally have issues, but if either of us is lucky enough to have children of our own, we can only hope to raise them in the same compassionate, nurturing, thoughtful, loving, and fair environment in which we were raised.

As a District Court Judge, Dad would have the opportunity to help people through the legal system. We are two people that Dad has already helped immensely, and we believe the state of Montana would be best served by nominating him to this esteemed position.

Thank you for your time and consideration.

Sincerely,


Bridget Smith
Daughter


Callan Smith
Son

From: [Menzies, Lois](#)
To: [Cook, Kevin](#)
Subject: Smith -- Public Comment
Date: Wednesday, March 25, 2015 7:41:34 AM

From: tomandsue@bresnan.net [mailto:tomandsue@bresnan.net]
Sent: Tuesday, March 24, 2015 3:20 PM
To: MT Supreme Court,
Subject: public comment re: Fourth Judicial district judgeship

To: Judicial Nomination commission members

Date: March 24, 2015

I have served on the Foster Care (previously Judicial) Review since its formation decades ago. Review panels are appointed by the district judges and advise them on the status of children in the custody of the State. In the course of our deliberations, we review court records and gain some appreciation for what judicial qualities are most effective in these child-family cases.

Judges must have the ability and willingness to listen, often to very disturbing testimony and not rush to premature judgment. They often must demonstrate some sympathy and understanding to draw out fearful and reluctant parties. At the end of the day, however, what matters most is the judge's ability to make firm, clearly understood decisions.

Brian J. Smith is a listener who seeks to understand. He also recognizes that a judge, in the last analysis, is being called upon to make a decision to settle the matter. He has the intelligence, temperament, and judicial understanding to make decisions that will satisfy the law and be clear and understandable to the parties involved.

For Montana's children and families, Brian Smith is the wisest choice for district judge.

Tom Roy,
Professor Emeritus of Social Work and Environmental Studies, University of Montana

Dear Members of the Judicial Nomination Commission:

It is an honor to support the application of Brain J. Smith for district judge in the Fourth Judicial District. I had the opportunity and pleasure to work with, listen to, and observe Brain while I was an attorney with Garlington, Lohn & Robinson. That experience was invaluable, even for an old-timer. A downside of my recent retirement was the loss of this connection.

As evidenced in his application, Brian is uniquely qualified for the judgeship through his extensive range of experiences, not commonly found with district judges, his character, and his temperament. First, Brian is not strongly tied to, or associated with, a political party. This independence means no agenda exists and provides strength to avoid pressure to rule in certain ways. The rulings of judges with strong political connections are too often predictable, meaning the judge may not have seriously considered the facts and applicable law to reach a decision. Such predictability does not enhance the credibility of, or trust in, the judicial system.

Also significant, even critical, is Brian's experience in civil litigation across a broad spectrum. Too many state judges are former county attorneys and do not have much, if any, familiarity with the types of cases many private practitioners handle on a regular basis. Examples include cases involving insurance coverage, real estate, business and partnership issues, multi-parties, foreclosures and catastrophic injuries. The issues in such cases are often exceedingly complex.

Two of the current judges in the Fourth Judicial district are from the ranks of the County Attorney's office; therefore, putting a strong civil litigator on the bench would provide balance. It is interesting to note that the federal courts almost always select attorneys with a strong civil litigation background as judges. For example, Judges Christensen, Molloy, and Haddon had such backgrounds. While emphasizing the need for a judge with a strong background in civil litigation, I also note, as you will read, that Brian has experience with the public defender office and criminal law and with the Sanders County Women's Shelter from his early years. Thus he is fully prepared to handle immediately all the types of matters which come before a state district judge.

Brian has demonstrated he has the qualities and capabilities for leadership and management. As President and CEO of a company and as managing partner of Garlington, Lohn & Robinson, Brian gained useful experience in administration, including supervising personnel and work and creating and running management systems. Brian was elected as Garlington's managing partner after being with the firm for a relatively short period. Previous managing partners had been with the firm for a long time. Attorneys in the firm recognized that Brian brought a unique and useful set of skills and exemplified the qualities needed for the job – integrity, wisdom, fairness, independence and an ability to listen. While considering all factors on an issue, Brian was also decisive as needed. No other applicant would bring this valuable experience to the judgeship.

Excellent writing skills, while not a requirement for the position, certainly enhance a judge's work product. Without these skills, a district court judge's opinions may be confusing, increasing the burden on the Montana Supreme Court to distill the issues on appeal. Brian has an unmatched depth and breadth of writing experience. It is difficult to write an opinion or report on insurance coverage, for example, to a lay person client. The report must be well-organized, understandable, and thorough even while presenting complex legal issues and decisions. Brian has demonstrated his ability in this regard. That he generally does his own research and always his own writing speaks to the integrity of the process. If writing is necessary to clarify one's thinking, as some say, Brian has shown that his analytical thinking is clear. In addition to writing reports for clients, Brian also has had extensive experience drafting agreements and CLE presentations, both of which require the utmost clarity and accuracy.

Brian's experience in major court room litigation, mediation and arbitration will complement the capabilities of the present sitting judges. One judge often refers a case to another judge for mediation or a settlement conference. Brian would excel in that capacity, providing insight, leadership and creativity, rather than simply going "back and forth" as some mediators do. The other applicants would not have the background necessary to be successful mediators.

Finally, Brian exemplifies the ideal of a professional – always straightforward, prepared, courteous, and respectful. The four judges in the Fourth Judicial District recognized these qualities when they chose Brian, out of all the attorneys in Missoula, to represent them in an original proceeding for a writ of supervisory control. Implicit in their selection was also their recognition of the calmness and patience in Brian's temperament which suited the attorney who would represent them. Another aspect of Brian's temperament is a humble graciousness. When coming to Garlington, with a background unequaled by most of the firm's partners, Brian did not require that he join the firm as a partner. This approach speaks volumes as to the type of attorney and person Brian is.

Brian would be not only a fine judge but a truly great one. The profession, community, and State would be extremely fortunate to have him on the bench.

Thank you for consideration of this recommendation of Brian.

Susan Roy

(signed letter to follow in the mail)

**Connell Law Firm
P.O. Box 9108
Missoula, MT 59807
(406) 327-1517**

March 25, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005

Via email: mtsupremecourt@mt.gov

Re: Fourth Judicial District Vacancy

Dear Ms. Menzies and Commission Members:

Brian Smith has applied to fill the upcoming vacancy among the district court judges serving in the Fourth Judicial District, and I am writing to recommend him to you in the strongest possible terms. While a number of the applicants have impressive records, on the basis of personal experience I feel that Brian is the candidate who most deserves your support.

By way of background, I have been practicing law in the Fourth Judicial District for the past 36-plus years, almost all in private practice. I am now in the process of retiring, however, and it therefore won't make much of a personal difference to me, as a lawyer and officer of the court at least, who ends up with the appointment to replace Judge Ed McLean. Given my background as a litigation attorney handling both civil and criminal cases, however, and my knowledge and experience interacting with Mr. Smith in a number of cases over the years, I can say without reservation that he would make an excellent district judge. Brian has a wide range of professional experience, starting with a stint as a public defender but with an emphasis in more recent years on the civil litigation that commands a substantial portion of a district judge's attention. He is a highly regarded litigator known for his intelligence, resourcefulness, creativity, personable nature and – not incidentally – sense of humor, a combination of attributes which, taken collectively, lead one to predict he would have exactly the right kind of judicial temperament to preside over our local bench. While consistently performing at a very high level in serious matters, he has always avoided taking himself too seriously, and as a result he enjoys the respect of attorneys on both sides of the plaintiff / defense divide.

Mr. Smith's application aptly summarizes his professional experience and accomplishments. Speaking as one of his colleagues, as well as someone who has known him

personally for many years, I recommend his candidacy to you without reservation.

Very truly yours,

CONNELL LAW FIRM

By: _____
Mark S. Connell

Cook, Kevin

From: Menzies, Lois
Sent: Wednesday, March 25, 2015 8:51 PM
To: Cook, Kevin
Subject: Smith -- Public Comment

From: Arlene Forney <AForney@hollandhart.com>
Sent: Wednesday, March 25, 2015 4:38 PM
To: Bill Mercer
Subject:

Dear Ms. Menzies:

I write in support of Brian Smith's application to succeed Judge McLean. I have had the opportunity to work with Mr. Smith in a multi-party case in state court in which our respective firms each represented a defendant. This experience forms the basis for my views of his abilities and fitness for this important role in the judicial branch.

Mr. Smith would bring a useful perspective to the role of district court judge. Having served as general counsel for a business, he has a clear understanding of how the pace of a case and the judicial process, in general, impacts parties to cases. At the same time, he has represented many parties as outside counsel in civil cases litigated in state and federal courts. As a result of the breadth of his experience, he has good practical experience upon which to draw for managing a docket and individual cases.

Other than intellectual ability, the most important attribute for a judge is temperament. I have observed Mr. Smith in a variety of settings and believe that he would contribute to the overall civility in state court, which will benefit both parties, counsel, and other participants in the administration of justice.

Sincerely

William W. Mercer

KALKSTEIN, JOHNSON & DYE, P.C.

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MISSOULA, MT 59807-8568
e-mail: cj@kalksteinlaw.com

Gary Kalkstein
C. J. Johnson
Travis Dye
Helia Jazayeri
Jennifer Loobey,
Office Manager

(406) 721-9800
FAX: (406) 721-9896

March 25, 2015

Judicial Nomination Commission
c/o Lois Menzies
Office of the Court Administrator
P.O. Box 203005
Helena, MT 59620

Re: Brian J. Smith

Dear Ms. Menzies:

I respectfully recommend Missoula attorney Brian Smith to the Judicial Nomination Commission. I have known Brian for almost ten years and have had the pleasure of litigating cases with and against him during that time. He is an exceptionally-talented litigator. More importantly, he is an exceptional person.

Brian understands that “justice” is not synonymous with “winning.” Clearly, he is possessed of passion for the law, but what matters more is Brian’s ability to dispassionately evaluate cases and communicate what he believes, instead of what others might want to hear.

Brian is an outstanding lawyer. His character, intelligence, and temperament will

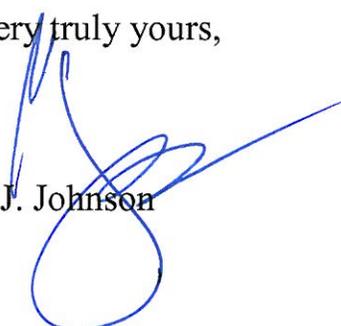
Lois Menzies
Re: Brian J. Smith
March 25, 2015
Page 2

make for an outstanding judge. I recommend him highly for your serious consideration.

Thank you.

Very truly yours,

C.J. Johnson



CJ/jl

WILLIAMS LAW FIRM, P.C.

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Missoula, Montana 59807-9440
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Mark S. Williams
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Peter B. Ivins

March 24, 2015

Of Counsel:
Shelton C. Williams

Via mtsupremecourt@mt.gov

Judicial Nominations Commission
c/o Lois Menzies
Office of Court Administrator
P.O. Box 203005
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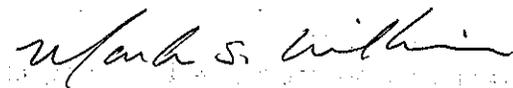
RE: Judicial Nomination, 4th Judicial District

To the Committee:

I am pleased to recommend Missoula attorney Brian Smith for the judicial position that will be vacant with the retirement of the Honorable Ed McLean. I have been practicing law in Missoula County and throughout Montana for 20 plus years. I have known Mr. Smith for much of that time. My practice is civil litigation, as is his. Significantly, over the past two years I had occasion to be on opposite sides of a commercial litigation matter with Brian. The matter involved extensive written discovery, in-person depositions, and court appearances. It was resolved by settlement prior to trial. I found Brian to be an utmost professional with the highest level of decorum and civility. He treated everyone involved with dignity and respect, be it the parties, the court reporters, the opposing counsel or the judge. I feel that he truly has excellent temperament to serve as a judge. Of equal importance, he was knowledgeable about the law and acted with professional ethics and integrity at all times. Missoula County would be fortunate to have him as a judge and I recommend him highly.

Yours truly,

WILLIAMS LAW FIRM, P.C.



Mark S. Williams
MSW:gb
mark@wmslaw.com
721-4350 x101