

JUDICIAL NOMINATIONS

Joseph A. Condo, chair

The Special Committee on Judicial Nominations had an eventful and productive year in fiscal 2007.

The year began with the committee's formulation of revised evaluation procedures. The main features of the new procedures were (i) the ranking of candidates who were deemed qualified for the position as either "qualified" or "highly qualified," with the designation determined by a majority of participating committee members; and (ii) the issuance of an executive summary that described each candidate's professional background and qualifications and the committee's reasons for its ranking. (No report is made regarding candidates not receiving a majority of "qualified" votes.)

The new procedures were approved by the Virginia State Bar Executive Committee in November 2006, and subsequently by the VSB Council at its next regular meeting in March 2007.

In response to requests from United States Senators John W. Warner and James H. Webb Jr., the committee met on February 23, 2007, and interviewed and evaluated twelve candidates for two vacancies on the U.S. District Court in Richmond and Alexandria. It again convened on April 11, 2007, to interview and evaluate ten candidates for two Virginia-designated vacancies on the United States Court of Appeals for the Fourth Circuit. The newly approved procedures were employed by the committee for these evaluations.

While the initial use of the revised procedures — especially the executive summaries — added considerably to the committee's workload, and each set of interviews required a session extending a full day (and, in one instance, into the early evening), the members of the committee are satisfied that this extraordinary effort established an excellent working precedent for future committees' use of the procedures.

On April 18, 2007, committee Chair Joseph A. Condo, VSB President Karen A. Gould, and Deputy Executive Director Mary Yancey Spencer met with each of the senators and their staffs to discuss and receive feedback on the procedures. The senators and staffs were uniformly complimentary. They indicated in particular that the executive summaries were useful to them in conducting their own interviews and evaluations of candidates.

As a result of the first two sets of evaluations using the new procedures, the VSB Executive Committee decided that it would be advisable (i) to assign an additional committee member to assist with the background investigation conducted for each candidate, and (ii) to have an executive committee member act as liaison to the nominations committee and be present for, but not participate in, the candidate interviews and committee deliberations.

The nominations committee was also of the unanimous view that the potential for observers to be present for its deliberations and the formulations of its recommendations would have an impact on the willingness and ability of the committee members to speak candidly and would impede the committee's effectiveness. Accordingly, the committee unanimously recommended that the Virginia State Bar seek an amendment to the Virginia Freedom of Information Act to render confidential, and not subject to disclosure, the committee's deliberations (but not the candidate interviews).

It has been a distinct privilege to preside over this committee during such a momentous year, and all of the members of the committee are to be commended for the diligence, dedication, and thoughtfulness that each has brought to this important endeavor.

In fiscal 2008, Carter Glass IV of Richmond will serve as chair.