

**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

June 6, 2016

The Honorable Barack H. Obama
President of the United States
The White House
Washington, D.C. 20500

Re: Evaluation of the Honorable Lynn Leibovitz

Dear Mr. President:

The fifteen-year term of the Honorable Lynn Leibovitz, an Associate Judge of the Superior Court of the District of Columbia, expires on August 6, 2016. She is seeking reappointment to another 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, the District of Columbia Commission on Judicial Disabilities and Tenure ("the Commission") hereby submits this evaluation of Judge Leibovitz's performance during her present term of office and her fitness for reappointment. Section 433(c) provides:

Not less than six months prior to the expiration of his [or her] 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 [or her] 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 [or her] present term of office and his [or her] 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 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.

Judge Leibovitz filed a timely declaration of candidacy for reappointment with the Commission on January 8, 2016. In evaluating Judge Leibovitz’s qualifications for reappointment, the Commission carefully reviewed the detailed written statement and supporting materials Judge Leibovitz submitted describing her services to the Court. The statement and attached materials described the significant aspects of her judicial, professional, and community activities during the past 15 years. The Commission also considered a selection of judicial

opinions that Judge Leibovitz authored during her first term on the bench and an analysis of her record on appeal.

In addition, the Commission reviewed a confidential statement from Judge Leibovitz's physician attesting to her "excellent" health and Judge Leibovitz's time reports and annual financial statements. None of these documents contains any reason why Judge Leibovitz should not continue to serve as a judicial officer.

The Commission interviewed several people concerning Judge Leibovitz's performance as a Judge, including Court personnel, Superior Court judges, and attorneys who had appeared before her representing the Government and individuals. The Commission met with Chief Judge Lee F. Satterfield to discuss Judge Leibovitz's request to be reappointed. The Chief Judge recommended Judge Leibovitz's reappointment, stating that she chaired one of the most important Court committees, the Judicial Education Committee, and led the Criminal Division, first, as Deputy Presiding Judge and presently, as Presiding Judge. The Chief Judge stated that she "does right by the Court and the people it serves." He recommended Judge Leibovitz for reappointment. Judge Leibovitz met personally with the Commission on May 11, 2016, to discuss her reappointment, including the information that she filed with the Commission, as well as information the Commission had received during the course of its evaluation.

At this time, Judge Leibovitz serves in the Criminal Division of the Superior Court. During her tenure, she has served in the Family Court, Domestic Violence Unit, the Civil Division, and the Criminal Division of the Superior Court. She has mostly served in the Criminal Division, serving only four and one half years of her fifteen-year appointment outside of the Criminal Division. Judge Leibovitz served as the Deputy Presiding Judge of the Criminal

Division for three years and presently, is the Presiding Judge. Judge Leibovitz presided over several significant cases and wrote several substantial opinions. Her decisions are fair and clearly written. The opinions reflect that she has an excellent command of the facts and the relevant law. Moreover, Judge Leibovitz's record on appeal is impressive with a small percentage of cases reversed by the Court of Appeals.

Judge Leibovitz also provides leadership to the Court off the bench. In addition to serving first as Deputy Presiding and now Presiding Judge of the Criminal Division, she has served on many Court committees, including the Judicial Education and Training Committee, the Rules Committee, the Committee on the Selection and Tenure of Magistrate Judges, the Interpreters' Committee, the Jury Management Committee, Pretrial Mental Examination Committee, the Urgent Care Clinic Stakeholders' Committee, and the Criminal Rules Advisory Committee. Most significantly, she was Chair of the Judicial Education and Training Committee from summer 2012 until January 2014. In that role, she established a working group to develop standardized curricula for the training of new judicial officers and recommended the implementation of a coaching program to assist the professional growth of judges. Thereafter, the Court implemented standardized training and a coaching program based on her Committees' designs. Finally, Judge Leibovitz served as a coach to a newer judge.

Judge Leibovitz engages in appropriate extra judicial activities. She was a Professor of Trial Advocacy at Georgetown University Law Center until 2006. She continues to participate in trainings outside the Court at the local law schools, bar organizations and legal institutions. Judge Leibovitz also has represented the Court in making presentations at community meetings.

Judge Leibovitz, by virtue of her intellect, hard work, fairness, and legal scholarship, deserves the term "well qualified" for the overall exceptional service she has provided the citizens of the District of Columbia as a Superior Court Judge. She is dedicated to ensuring that each party receives a fair hearing. Most importantly, she is balanced in her application of the law. She also works hard with other judicial officers, either individually or as a part of judicial training, to ensure an excellent quality of judging. Every individual with whom the Commission spoke enthusiastically endorsed the reappointment of Judge Leibovitz. They stated that she is well prepared and treats those who appear before her with fairness.

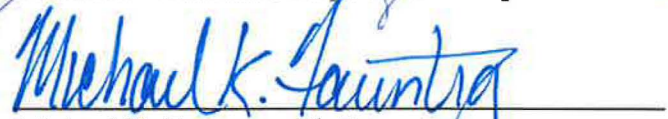
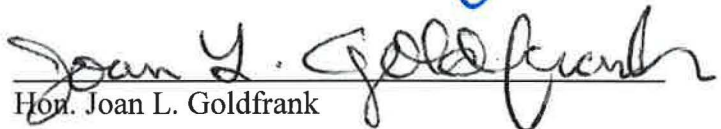
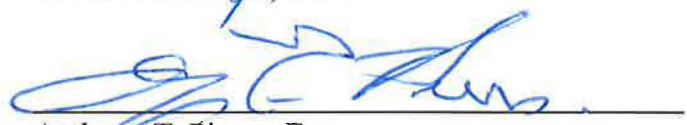
In light of Judge Leibovitz's commendable record of judicial performance and her dedication to and leadership of the Court, and after a careful and thorough evaluation of all the information received and compiled, it is the view of the Commission that Judge Leibovitz should continue her judicial service. The Commission concluded that Judge Leibovitz's work product, legal scholarship and dedication to the Court is a significant and valued contribution to the Court and the District of Columbia community. For all these reasons, the Commission finds Judge Leibovitz well qualified for reappointment, and her term shall be automatically extended for a full term of fifteen years from August 6, 2016.

Respectfully submitted,

DISTRICT OF COLUMBIA COMMISSION ON
JUDICIAL DISABILITIES AND TENURE



Hon. Gladys Kessler, Chairperson


Jeannine C. Sanford, Esq., Vice Chairperson
Michael K. Fauntroy, Ph.D.
Hon. Joan L. Goldfrank
William P. Lightfoot, Esq.
David P. Milzman, M.D.
Anthony T. Pierce, Esq.

cc: The Honorable Lynn Leibovitz