

Liberty City Lesbian, Gay, Bisexual, and Transgender Democratic Club

2009 Judicial Primary Election Questionnaire

Name Barbara Behrend Ernsberger
Office Sought Commonwealth Court Judge
Date April 8, 2009

1. What is your experience with LGBT community both generally and/or professionally?

I am a member of the Gertrude Stein Club and Steel Stonewall Democrats, two organizations that support the LGBT community. Professionally, I have represented individuals who are members of the LGBT community in private lawsuits ranging from child custody to personal injury litigation.

2. How have you advanced though professional and personal achievements, the rights of the LGBT community, racial and ethnic minorities, and persons with disabilities?

I have advanced the rights of the LGBT community, racial, and ethnic minorities, and persons with disabilities in representing them in civil law suits to obtain benefits or damages to which they were entitled to live their lives in dignity, or in custody litigation in which the best interest of the child is the legal standard, and members of the LGBT community are entitled to the same consideration as parents as are heterosexual parents under Pa. Law.

2. Do you support the rights of LGBT people to the following:

- a. Marriage?
- b. Civil Unions?
- c. Domestic Partnership?
- d. Second-parent adoption?
- e. Protection from workplace discrimination?
- f. Protection from housing discrimination?
- g. Protection from acts of violence based on their sexual orientation or gender identity?

I support the rights of LGBT individuals to be treated fairly and equally in the situations described in a through g above.

I appeared at a public hearing in Allegheny County in January 2009 in support of the establishment of a County Human Relations Commission, to protect against discrimination in Allegheny County.

3. Do you consider transgender rights a civil rights issue? Explain your answer.

Transgender individuals are entitled to equal rights under the law, and they should not be treated disparately.

4. How should a judge support public accommodations for transgender individuals appearing before them or otherwise within the criminal justice system?

The criminal justice system does not involve the Commonwealth Court; however, public accommodations should be adapted to the needs of transgender individuals.

5. LGBT youth sometimes act out because of harassment at school or in the home due to their gender/sex identity. When ADAs prosecute cases against these members of our community, what will you do to prepare you staff to be sensitive to their issues? Additionally, LGBT youth who spend time in juvenile detention facilities face many dangers what alternative sentences might you seek in their cases?

The sentencing of juveniles does not appear before the Commonwealth Court; however, LGBT youth should serve their sentences in youth facilities that have staff that are trained to handle issues related to dangers that LGBT youth face in youth facilities. Alternative sentencing into youth programs without aninternment requirement may be appropriate for lesser sentencing for crimes without violence.

6. What has been the general nature of your practice and particular areas of concentration?

Please describe any changes throughout the years?

I have practiced in the areas of personal injury, workers' compensation, and social security law. My law firm represented 250 individuals in claims for the fraudulent sale of life insurance policies and won 6 appellate victories for consumers in Pennsylvania. I tried a number of these cases and obtained both jury and nonjury verdicts in favor of the plaintiffs.

In addition, my law practice has included both estate litigation and domestic litigation.

In 2006 I was appointed to the City of Pittsburgh Planning Commission, and I have participated in the land use and zoning decisions for the casino, new hockey arena, and August Wilson African American Center . As part of my law practice, I began the representation of home owners in a Pittsburgh suburban community against Walmart for a supercenter store that was being buildt within 10 ft of a residential community, that required a waiver of a local 40 ft bufferyard requirement. The planned Walmart would harm the health, safety, and welfare of community.

Describe the most significant cases that you have litigated.

A. Globe Security Systems Co.. v. WCAB , 544 A.2d 953 (Pa 1988), this case established new standard to determine the work-related nature of a suicide, and relate the death to employment. This case benefitted the widow and five minor children , and other claimants in Pennsylvania .The Pa. Supreme Court adopted a chain -of -causation test which it described as being consistent with the humanitarian purpose of the Pa. Workers' Compensation Act.

B. Timothy J. Sullivan, Jr., on behalf of himself and all other veterans similarly situated, vs. Pittsburgh Board of Public Education, et al, In the United States District Court Western District of Pennsylvania, No. 94-0836. This law suit involved a claim under the Federal Civil Rights Act of 1871 . The Pittsburgh Board of Public Education was ignoring the

preference given to Veterans for hiring purposes as teachers . After a trial in the federal court, the Honorable Donetta Ambrose agreed that if the teachers were found qualified that they were entitled to a preference in hiring as Veterans .

C. Toy vs. Metropolitan Life Insurance Company,

TOY v. METROPOLITAN LIFE INSURANCE, 33 WAP 2005 (Pa. 7-18-2007)

1. GEORGINA TOY, Appellant/Cross-Appellee v. METROPOLITAN LIFE INSURANCE

This case was one of the 250 cases involving life insurance fraud in which my law firm represented consumers defrauded in the purchase of life insurance policies. The case was litigated by Kenneth R. Behrend and myself . The Pa. Supreme Court found that a consumer has no duty to read an insurance policy, and can rely upon the oral representations of the sales representative. This decision was a land mark decision that assisted consumers who were sold life insurance policies with deceptive promises at time of sale concerning the expense, projected performance, and other salient characteristics of the policies.

8. State briefly why you are seeking the Democratic nomination to be a judge in Philadelphia and what qualities you believe you possess that would serve you especially well if you were elected to the Court.

I am running statewide for the Pa. Commonwealth Court. This Court is an appellate Court, and hears the appeals for workers' compensation, unemployment law, zoning and land use municipal litigation, and regulatory matters ranging from probation appeals to Department of Public Assistance.

The Commonwealth Court is consistent with workers' compensation , zoning and land use, and petition challenges that I have handled for individuals. I am interested in using my hard-work and expertise in a wider range and forward looking way so that not just one case and the litigants involved therein are considered, but also the future of the law and how the decision will affect the community.

9. The most pressing need in our judicial system is to address the disgrace in which two judges obtained kickbacks for referring juveniles to centers without hearings or legal representation. A task force should be created to determine how this illegal activity went on for five years before it was stopped, and determine what supervision needs to be enacted on a statewide basis to prevent it from happening again.

10. I have performed pro-bono work for a local community group on zoning and land use issues.

11. Do you support a woman's right to choose?
Yes, and I am endorsed by PA NOW.

12. Have you ever been sanctioned for any alleged breach of ethics or professional conduct by

any court, administrative agency, bar association, disciplinary committee, judicial conduct committee, or other professional group?

No.

13. Have you been recommended by the Philadelphia Bar Association.

I did not apply for the recommendation of the Philadelphia Bar Association.