

**Testimony**  
**House of Representatives- State of Kansas**  
**Judiciary Committee**  
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**Bob Hayworth**  
**Kansas Supreme Court Nominating Committee Member**

Good afternoon Mr. Chairman and members of the Committee. My name is Bob Hayworth and I am the Chief Operating Officer of the Kansas City Series of Lockton Companies, the largest privately owned insurance brokerage and consultancy in the world.

I was appointed to the Supreme Court nominating commission in 2012 by Governor Sam Brownback and am currently one of four non-lawyers on the commission. I am honored to serve on this commission and appreciate the Governor's confidence in my ability to offer a businessperson's perspective on appellate judicial selection.

Having just completed the nominating process for two open Court of Appeals judgeships, I am here today to offer you my very brief perspective on the current practice of appellate court judicial selections and why I believe a change in practice is warranted.

The commission had good information on what qualities a good Appellate Court Judge possesses. That information, coupled with the statutory requirements, enabled us to begin with a valid benchmark from which to measure each candidate. I surmised that would be used throughout the process as a focal point for deliberations. That was not the case. During both deliberations and voting, the qualities of a good judge quickly morphed into areas that were suspect to me. They included political philosophy, gender, locale, American Bar Association engagement, and age to name a few. In fact, if my company were to not hire employees based on some of the traits considered and used in deliberations by some members, we would likely end up in appellate court.

We often hear that any change to the current nominating and selection process will introduce politics into the proceedings and not give the people of Kansas a true non-partisan nominating process. Politics are already in the process and to deny it does not play a factor is being less than genuine.

Here is what I mean. Each commission member brings with them their own views about what makes a good Judge or Justice. These opinions are influenced by many factors and political beliefs are certainly one of the factors. If commission members are registered voters, they have self selected a political philosophy with which they mostly agree. Therefore, when reviewing candidates for judgeships, commission members will of course look to see if they can discern any political philosophy as it relates to understanding the judicial philosophy of said candidate.

With all due respect to attorneys, I do not believe they, as opposed to non-lawyers, have a superior ability to select a good judge. Yes, they are certainly more qualified than non-lawyers to review legal qualifications, understand opinion writing and explain other legal investigatory issues. When it comes time to make recommendations to the Governor, however, I believe every commission member's opinion counts, is credible and should carry equal weight. If a non-lawyer is not comfortable challenging their attorney peers on the commission, it is clear the attorneys will dominate discussion and debate. Unfortunately, with a majority of attorneys on this commission, not only can they band together to select whomever they wish, but they also nominate someone who they themselves could appear before at some time in the future. Both of those possible outcomes are troubling to me.

In closing, I am hopeful that as you go about debating the merits of the appellate court selection process in this State, you will remember that no process is without some peril. I do believe, however, that no matter what process you choose, it should be transparent from start to finish, have input from a wide array of citizens and that it recognizes and accepts the fact that political philosophy will be an ever present factor in the selection process. If the "will of the people" suggests a framework from which to build a judiciary, then either the people themselves or their elected representatives appear to me to be in a good position to do so.

Mr. Chairman and committee members, I thank you for inviting me to this hearing. I wish you much success in your legislative careers.