

CANDIDATE COVER SHEET FOR KCBA JUDICIAL SCREENING
Information Taken from Washington State Governor's Office
Uniform Judicial Evaluation Questionnaire

NAME C. Frank Vulliet

Business Address: 7900 SE 28th St Ste 200

Mercer Island, WA 98040

Business Email: _____

Position Sought:

- King County Superior Court
 Washington State Court of Appeals, Div.I
 Washington State Supreme Court

KCBA considers the responses to the following questions on the Washington State Governor's Office's Uniform Judicial Evaluation Questionnaire to be public information, which may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email
Professional History: #8, 9, 10, 11, 12, 13, 14, 15,
Educational Background: #16, 17
Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Community and Civic Activities: #33

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7. _____ Please state the date of all other judicial evaluations you sought, bar polls you participated in, and appointment applications you submitted. Please specify whether you sought appointment or election for each, from whom the evaluation was sought, the position sought, and the outcome. _____

I twice submitted applications for appointment to the bench. The first time I was rated "Well Qualified" by the WSBA sometime in the 80's. However, I withdrew my application for appointment upon realizing that financially it no longer made sense, no matter how much I might like the work, felt I could contribute, and how well I might do, with pending responsibility for a new wife and three step children.

I applied again sometime in the 90's and this time was rated "Qualified." The reason, I believe, is that I was "trashed" by a judge and lawyer without any opportunity to reply. There is an inherent unfairness in providing names knowing what likely will be said, but without opportunity to provide "the rest of the story." See comments in cover letter.

Professional History

8. _____ Year
admitted to practice law in Washington: **October 12, 1971.**

9. _____
Employment History (in reverse chronological order):

See No. 18 below for expanded narrative description of activities in the past 8-10 years.

Founded C.F. Vulliet & Associates June 1, 1993 to specialize in trial and appellate advocacy in commercial, casualty and property cases. Reduced and relocated practice to Mercer Island as The Vulliet Law Office in September 1998 with emphasis on real estate, development, and construction matters.

Stoel Rives Boley Jones & Grey (formerly Jones Grey & Bayley). Law Clerk, summer, 1970; Associate, June 1971 to December 1976; Partner or Principal/Shareholder from January 1977 through May 1993.

Practice devoted to civil litigation representing both individuals and business concerns ranging from small proprietorships to publicly held corporations or their subsidiaries. Historically one-third of my practice involved business or commercial transactions and disputes, one third related to casualty, tort and products liability claims, and the remainder relates to property interests. Specific subjects cover a broad range: contracts, sales, Uniform Commercial Code, maritime matters, insurance coverage, real property and equitable

interests, real estate financing and security, fiduciary and estate litigation, marital and business dissolution and valuations, injunctions, construction contracts, and professional negligence, business torts, and fraud claims. Casualty, personal injury and products liability representation was on behalf of both plaintiffs and defendants. Maritime matters include vessel casualties and seaworthiness, tower's liability, insurance coverage under various insurance forms, vessel liens, charter party issues, LHWCA issues, salvage, seaman's claims, and materialmen's liability for alleged vessel deficiencies.

Other Employment:

United States Naval Reserve; commissioned September 1965. Active Duty: USS PYRO (AE-24), various division officer billets and Operations Officer; Assistant Military Personnel Officer, 13th Naval District; Reserve experience includes Naval Control of Shipping Organization; Operations Officer, USS EVANS (DE-1023); Weapons Officer, USS THEODORE E. CHANDLER (DD-717); Qualified Officer of the Deck and Command Duty Officer; Appointed to the Judge Advocate General's Corps of the Navy, 1975. Former Commanding Officer, Voluntary Training Unit 2208 (Law), Seattle; appointed Military Magistrate for 3 years.

Insurance Department, Crowley Maritime (1969).

Manager, Sporthaus Mahr (1964-5; sales and repairs 1961-64).

Boeing, clerical work on production of Minuteman II missile. (ca. 1961-62).

Village Bike & Ski (part-time employment 2004-2007, primarily during ski season).

10. _____ Please
e list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

State:

Oregon Supreme Court, April 30, 1984.

Federal:

United States Supreme Court, October 9, 1981.

United States Court of Appeals for the Ninth Circuit, August 29, 1973.

United States District Court, Western District of Washington,
October 26, 1971.

United States District Court, Eastern District of Washington,
July 19, 1979.

**United States District Court, District of Oregon, December 17, 1984.
Certified as Article 27(b)-trial/defense counsel, Judge Advocate General of
the Navy, October 12, 1979.**

**(Also admitted *pro haec vice* in the Montana Supreme Court and the U. S.
District court for the District of Montana. Argued an interlocutory appeal in
the Supreme Court but case settled prior to decision).**

11. _____

Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

**None presently other than the Washington and Oregon State Bars. In the
past I have had extensive bar involvement as listed below:**

**American, Washington State, Oregon, and King County Bar Associations;
Maritime Law Association of the United States (Proctor), Washington State
Trial Lawyers.**

**ABA Litigation Section; Commercial and Financial Transactions (Vice Chair,
1981-1987), Federal Procedure, Trial Evidence and Pre-Trial and Discovery
Committees. Chaired or participated in numerous subcommittees and
planning and preparation of professional subjects for ABA annual meetings
and Litigation Section meetings. Coordination Committee, 1986 Litigation
Section meeting, Seattle.**

**Washington State Bar Association Court Rules Committee (1988-1991).
Initiator and drafter of Washington Evidence Rule 904 (adopted 1992) to
expedite the economic proof of non-disputed and formal matters. Court
Improvement Committee, Legal Services to the Armed Services Committee
(Chair). Committee on Professionalism (1999-2002). Committee of Law
Examiners (1999). Former chair, Washington State Bar Committee on Legal
Services to the Armed Forces.**

Oregon State Bar, House of Delegates (1997-1998).

**Maritime Law Association of the United States (Uniformity of U.S. Law
Committee). Written and oral presentations on problems of local legislation,
pilot negligence and vessel/owner liability.**

**King County Bar Association; Management, Operations and Planning
Committee (1985-87); Court Congestion Committee, (1982-5), initiator and
drafter of revised local rules adopted by the court; Annual Judiciary Dinner
Task Force (1986-88). Subcommittees involved early disposition through
settlement, reorganization of the Clerk's office, court referral to referees, and**

pretrial orders and settlement procedures; Lawyer Referral Committee (1975-79; Chair 1978-9); Vice Chair, Bar Administration Committee; Public Affairs and Public Information Committee, Delivery of Legal Services and Specialization Subcommittees; Young Lawyers section committee on court reform.

12. _____ Are you in good standing in every bar association of which you are a member? **Unclear. I am not current on meeting CLE requirements for 2005-2007 (WSBA, current with OSB). It was my intention to apply for an extension to complete by the end of the year, assuming I was not elected. However, I have been advised by an AP reporter that I was suspended on July 14, 2008. I have received neither notice from the WSBA or a copy of such an order as of this date.**³

13. _____ If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. **Not Applicable beyond experiences described above.**

14. _____ Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion).

15. _____ Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you:

REPRESENTATIVE CASES

COMMERCIAL

Stewart Industries v. General Electric, King County Superior Court. Commercial liability of manufacturer of a high technology plastics material to an instrument component manufacturer for material distortion in manufacturing process resulting in nonconformance to technical specifications resulting in product malfunction and lost profits.

³ **SECTION 17: ELIGIBILITY OF JUDGES.** No person shall be eligible to the office of judge of the supreme court, or judge of a superior court, unless he shall have been admitted to practice in the courts of record of this state, or of the Territory of Washington.

Simpson Timber Company v. , King County Superior Court. Establishment of fair value of the minority shares of a major multi-state timber company in response to a statutory "freeze-out" merger.

Bennion Van Camp v. Kassler Escrow, Spokane County Superior Court, WA 96 WN. 2d 443, 635 P. 2d 730 (1981). Separation of legislative and powers and other public policy issues relating to the regulation of state licensed escrow agents in their preparation of deeds and other legal documents as well as governance of the practice of law.

Canadian Imperial Bank of Commerce v. Taggeres, Yakima County Superior Court, Court of Appeals (Division III). Contested foreclosure and upset price litigation relating commercial loan default secured by a large eastern Washington wheat ranch.

Laukers v. Croydon Furniture, King County Superior Court. Multiple secured transaction and tortious interference issues relating to liability of manufacturer for repossession of display goods on loan to a distributor.

CASUALTY

OI-Mar v Barge Anton F, U.S. District Court (W.D. Wash.); 9th Circuit. Disputed causation and legal liability for capsized ocean going grain barge with substantial property damage and total cargo loss. Issues included vessel seaworthiness and tug negligence, and numerous marine insurance coverage issues under hull, protection and indemnity, charterer's, and cargo forms.

Erickson v. The Upjohn Company; U.S. District Court. Drug liability claim for side effects resulting in death; adequacy of warnings.

McMahon v. McMahon, 19th Judicial District, Montana; Montana Supreme Court, and U.S. District Court, (Montana). Complex reconstruction of fatal log truck/automobile collision and numerous legal issues relating to liability for defective rental automobile and insurance coverage. Numerous procedural and evidentiary issues relating to use of computer animations and experts and "proprietary" techniques as well as unresolved liability and damage issues of first impression under Montana law.

Erickson v. Kerr, King County Superior Court, Wash. App, P.2d (1993) 69 Wash App. 891, 851 P.2d 703 (1993). Medical malpractice action involving physician liability for misdiagnosis, failure to inform, negligence in treatment of depression, misadministration of isotropic drugs, and related evidence and legal issues. Also involves issues of adequate warning and liability of manufacturer relating to information provided to the physician and patient.

Williams v. City of Seattle and Dempster Manufacturing, King County Superior Court. Personal injury claim for massive internal injuries suffered in a crushing accident with numerous issues relating to worker safety, human factors engineering, product design, and road and utility pole design maintenance and location. Related complex labor and industries issues to sharing of lifetime medical expense and wage loss well into seven figures.

Hightower v. Locke, King County Superior Court. Automobile-pedestrian collision with severe traumatic injuries from an auto leaving the roadway and crushing a pedestrian against a building in which accident reconstruction overcame self-serving testimony to establish liability of a second vehicle.

Shafer v. Victoria Station, 91 WN 2nd 295, 588 P.2d 233, (1978). Case of first impression in Washington involving bailor's liability for injury by a defective product without sale to the injured party.

North Pacific Seafoods v. F/V Arista, U.S. District Court (W.D. Wash.). Liability of hull underwriters for loss of fishing vessel and vessel liability where vessel's inherent design led to capsize and loss of vessel.

PROPERTY; OTHER.

Kirchner v. Witrak, King County Superior Court. Disputed interpretation and application of restrictive covenants and the authority and procedural obligations of the neighborhood Architectural Control Committee in evaluating a proposed addition to a residence.

In Re Marriage of Sievers and Eisenberg, King County Superior Court. Disputed interpretation of ambiguous marital separation contract (prepared by other lawyers) and resulting liability for substantial corporate and/or personal income tax liabilities plus numerous related issues.

In Re Marriage of C., King County Superior Court, Court of Appeals (Div. I) Wash. App., (1993). Legal issues relating to application of the Washington Parenting Act and Constitution to private sexual conduct and sexual deviancy.

Educational Background

16. _____ Pleas
e list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of Washington, Bachelor of Arts (Modern European History), August 1964.

University of Washington Extension, Certificate in Construction Management, June 1999; Certificate in Commercial Real Estate, June 2000 (academically eligible to enroll in the Masters program in Construction Management, UW School of Architecture).

Other Education and Training: Computer software applications in Microsoft Word, Excel, Outlook and Project to intermediate or advanced levels (Catapult, 1998-9).

17. _____ Please
e list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of California, Hastings College of the Law, Juris Doctor; June 1971 (37/357 graduates) (Note: this was Hastings last "Look to the left, look to the right . . ." entering class. Something over 550 students started. It was also near the end of Hastings' "Over 65 Club" so I had the good fortune and privilege to take classes from Professors Prosser, Perkins, Osborne, Simes and other outstanding teachers forced into early retirement by other law schools long before their minds and teaching abilities had diminished.)

Professional Experience

18. _____ Please
summarize, briefly, the general nature of your current law practice.

I have no current law practice; for some years I often have described myself as a "recovering lawyer" although I occasionally found myself involved in litigation and tried on a couple of occasions to help out a friend. Some of the specifics are mentioned in response to other questions. My practice when active and fully engaged is described in response to questions 9, 15, and elsewhere in this questionnaire.

19. _____ If you
are in practice, please describe your typical clients and any areas of special emphasis within your practice.

See responses to Nos. 9 and 15 and elsewhere herein.

20. _____ If
your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

Initially I intended to work in the estate planning and probate fields and had taken classes in law school to this end including Mortgages, Federal Estate Tax, Federal Income Tax, and the Advanced Estate Planning Seminar (limited to six students chosen by the professor). Although initially assigned to this area I felt I should know something about the courts and court procedures

⁵ I have had two or three since and all were negative although the last did lead to diagnosis and solution to my overall problems as discussed hereafter.

and requested the opportunity to take on several small disputed cases. A couple of collections turned into serious defense cases of claimed commercial damages for defective products and/or negligent repair. I gravitated very quickly to litigation and tried my first jury case within a year or two involving commercial product liability/breach of UCC warranties which case was settled in the third week of trial. I was sole trial counsel for our client, Stewart Industries, but worked very closely with Dwayne Copple who represented the other plaintiff. Dexter Washburn was my supervising partner and participated a great deal in pre-trial preparation but due to scheduling conflict I was figuratively "thrown off the dock" to sink or swim when it came to trial. Craig Campbell was lead counsel for General Electric.

21. Within the last 5 years, did you appear in trial court:

Regularly Occasionally **XXX** Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

Regularly Occasionally **XXX** Infrequently

23. _ Within the last five years, how often did you appear in the court for which you are applying:

Regularly Occasionally **XXX** Infrequently

24. Career Experience:

(a) What percentage of your appearances in the last five years was in:

See comments above re the last decade. Trying to allocate percentages among various courts is pretty much guess-work. If I find my judicial applications from earlier I will attach them which will provide my recollection at that time, which likely will be more accurate.

(Most of my cases were major or involved unique issues and often involved 2-3 years of preparation before a several week trial (if not settled by then) so my trials, as opposed to motion and other procedural or discovery appearances, were far fewer in number compared to a typical plaintiff/defense or criminal practice.

Served one-time as a judge pro tem in Snohomish County Superior Court.

_____	(1) Federal appellate courts	_____ %
_____	(2) Federal trial courts	_____ %
_____	(3) State appellate courts	_____ %
_____	(4) State trial courts	_____ %
_____	(5) Municipal courts	_____ %
_____	(6) District courts	_____ %
_____	(7) Administrative tribunals	_____ %
_____	(8) Tribal courts	_____ %

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____ (9) Other _____ %
 ____ TOTAL 100%

(b) What percentage of your practice in the last five years was:

(1) _____ Civil
 litigation
 (excl. family law) _____ %
 ____ (2) Criminal litigation _____ %
 ____ (3) Family law litigation _____ %
 ____ (4) Non-litigation _____ %
 ____ TOTAL 100%

(c) What percentage of your trials in the last five years were:

____ (1) Jury trials _____ %
 ____ (2) Non-jury trials _____ %
 ____ TOTAL 100%

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials where you were the arbiter/decision maker.

Number	Court	% as Sole / Chief Counsel	% Jury	% as the Arbiter
_____	Municipal	_____	_____	_____
_____	State Dist.	_____	_____	_____
_____	State Superior	_____	_____	_____
_____	Federal Dist.	_____	_____	_____
_____	Administrative	_____	_____	_____
_____	Tribal Courts	_____	_____	_____
_____	Other	_____	_____	_____

(e) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

See Response to No. 15.

(f) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

I know I did some hearings *pro bono* before the Kitsap County commissioners in opposition to a land use application to put a junk/storage yard in a residential neighborhood and it seems to me that I might have done some others as well. I did an appeal hearing on a building permit application on Mercer Island but that was *pro forma* because it was clear the matter was (and did) go to litigation (and trial before Judge McCutcheon). I also did a *pro bono* hearing on unemployment benefits on behalf of the Virginia V Foundation when its former Executive Director was "double dipping" by also operating a business. I don't have any recollection of such beyond those.

25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

My personal experiences over the last decade have given me a lot of insight both into my self and others. It has also brought to my attention a number of short-comings in the justice system which I intend to address. See below.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Not Applicable. Formerly Manager of The St. Cerque Company, LLC, formed in 1998 to provide real estate development/project management services "from Concept to Completion". This was intended to be initially for four developable family owned properties. Because of indecision on part of interested family members these efforts were largely abandoned and St. Cerque was administratively dissolved about 2002 or 2003.

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

See response to No. 10 above.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

I have the courage to do the "right thing." In the past, I have done so irrespective of risk of personal costs, and I have paid more than once.

29. In 50 words or less, please describe your judicial philosophy.

1) _____ Let's reason together, 2) Let the parties know what you know or believe, 3) No harm, no foul, 4) Don't

decide more than needed to support the decision; its not a treatise or an essay, and 5) Decide now, and as much as proper.

30. Have you ever held a judicial office or have you ever been a candidate for such office?

No, other than Military Magistrate in the 13th Naval District, late 1980's. Appointed as on-call Magistrate primarily for pre-trial confinement issues.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office?

Yes. I ran for the State Senate in the 41st Legislative District in 1996.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

Judicial Experience:

Judge *Pro Tempore*, Snohomish County Superior Court (one negligence case); Member, King County Mandatory Arbitration and Federal Court Mediation Panels; Early Disposition Panel, King County Superior Court; Military Magistrate and Review Officer, U.S. Naval Reserve, also member of numerous special courts martial on active duty.

I have also served as an arbitrator a number of times and as a mediator on several occasions. This experience led me to develop several techniques which I found made hearings efficient and left the parties feeling that their respective case had been heard and understood. These techniques include 1) being well-prepared before the hearing; 2) after introductions telling the parties how much of the prehearing material I had reviewed and in what detail, telling them what facts appeared to me to be undisputed and those I perceived to be disputed, telling them what legal and fact issues it appeared to me I would be responsible to determine, and 3) telling them what parts of the case or submissions left me confused or uncertain as to what claims in fact were being made or what the case was about. It is a "Come, let's reason together" approach. This enables the parties to focus their presentations on things important to understanding *their* case and not waste time or effort on things understood. I am not a stone-faced, impassive, or uninvolved listener. Too often I have found such "judicial demeanor" to reflect lack of understanding of facts or issues which only becomes clear when the decision is issued. This in turn leads to a wrong result and additional expense to the parties in trying to rectify the situation through appeal.

I usually provided a detailed written decision and if not, gave a detailed oral decision so the parties and their attorneys' could understand how and why I

reached the decision I did, and decide whether I understood the case they presented and make an informed evaluation whether an appeal was justified.

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

- Boy Scouts of America (Troop Committee Chair, much of the 80's)**
- Virginia V Foundation (Pro bono representation)**
- Intiman Theatre Board of Trustees (1989-1992)**
- King County Bar Foundation (President's Council 1993 – 1998)**
- Mercer Island Civil Service Commission (1994 - 1995)**
- Second Chance Board of Trustees (1996 - 1998)**
- Senate candidate, Washington State Legislature (1996)**
- The Harbor Club (Board of Governors, 1995-1998).**
- Truman Club of Deschutes County (Board Member, 2007-2008)**
- Bend Ski Club (Board Member, 2006-2007)**
- Mt. Bachelor Ski Education Foundation (Masters race program, 2007-current; also served as a race official for a number of races the past two seasons, primarily in Timing and Calculations).**
- United States Ski Association (licensed Masters racer; Level I alpine race official).**
- Sunriver Men's Golf Club (2005-7). Also served as both a volunteer and official for tournaments such as the NCAA, Division I finals (both Men and Women in different years, the PGA Championship and the PGA Jeld-Wen Tradition (one of the five "majors" on the Senior or Champions Tour).**