

46th District Democrats Judicial Questionnaire

Candidate Information

Candidate Name: Gregg Hirakawa

Office sought: King County District Court – Position 4

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Have you read the 46th LD Democrats Draft 2016 Platform? Yes XX, No _____
(Go to http://www.46dems.org/2016_ld_caucus and click “Draft Platform”)

Why are you running for this office?

I sought appointment to the King County District Court because in 1968, my parents took me to Washington D.C. Among other things, we visited the National Archives where I read the actual Bill of Rights. My mother had been incarcerated without due process during World War II, and I began to think about the injustice associated with the Japanese American internment. The experience, in part, led to an interest in civics and public affairs, which continued throughout my professional life. I have worked as a professional journalist, a legislative aide, county prosecutor, public defense lawyer, and now, a sitting District Court judge. I believe being an active citizen means more than voting and paying taxes, and believe we the people can and should always work to form a more perfect union.

Please briefly describe your qualifications for this office and your personal and professional background.

Until my recent appointment to the King County District Court – Position 4, my legal practice, Gregg H. Hirakawa, Attorney at Law, PLLC, primarily involved representing physically or mentally disabled clients requiring Medicaid or Social Security disability benefits. I also handled estate and trust administration and litigation, and public criminal defense cases. I handled trials, administrative hearings, motions, depositions, discovery, and other client matters. In addition, I provided legal representation to a professional association involved with assisting vulnerable victims and mentally incapacitated individuals, and represented the U.S. Department of Veterans Affairs in John Doe guardianship cases. John Doe cases involving U.S. service personnel who are mentally or physically incapacitated, and have no friends or family able to provide legal support or assistance.

In addition, I served as adjunct counsel and monitored legislative activity, performed legal research and drafted material on behalf of the Washington Administrative Office of the Courts' Pattern Jury Instruction Committee.

For the past two years, I regularly served as a Judge Pro Tempore on the King County District Court.

I have also served as Commissioner on the city of Seattle's Ethics and Elections and Civil Service Commissions, and on the most recent King County Charter Review Commission. I currently sit on the King County Board of Ethics, but will resign upon taking the oath of office.

Prior to practicing law, I served as legislative staff to the Washington state House of Representative's Democratic Caucus, and as legislative staff to Metropolitan King County Councilmember Larry Phillips. In addition, I have worked on numerous judicial campaigns including Judge Michael Spearman for Washington state Supreme Court, and served as treasurer on his successful campaign for Washington state Court of Appeals, Division I. I also served as treasurer for Retain Judge Patrick Oishi, King County Superior Court, and was communications director for the 1996 Washington state Democratic Coordinated Campaign.

What's your plan to win?

Voters often overlook down ballot judicial contests in general, and District Court races in particular. In addition, most voters outside the legal community do not particularly care about judicial contests or are not particularly informed about them.

The electoral district for my race is the city of Seattle boundaries. Given limited fundraising opportunities, I plan on self-funding up to \$20,000, and will be seeking endorsements from Seattle area legislative districts, public sector unions, and other organizations which distribute sample ballots to members.

What do you see as the most important functions of the position you are running for? What qualities do you possess that make you the candidate best suited to this role?

District court is a Court of Limited Jurisdiction. It hears, among other things, civil matters up to \$100,000, misdemeanor criminal cases, motor vehicle violations, civil protection orders, small claims, and traffic infractions. District Court judges do see repeat violent offenders, but those are generally the exception, rather than the rule.

For most people, District Court will be their only contact with the justice system. Therefore, probably the most important function of a District Court judge is to demonstrate reasonableness and practicality. District Court judges often see litigants who make mistakes, but who can also learn from those mistakes.

I believe I am well suited to hear such matters because I have been involved with public matters my entire professional life. I understand people deserve second and probably third chances in life. I have worked with vulnerable populations in my legal practice, and understand the issues facing individuals with physical and mental health limitations. Working as a criminal prosecutor and public defense lawyer, I also understand how drug and alcohol addiction can manifest in personal and social

destruction, and create serious public safety concerns. I believe my broad professional experience with a various civil and criminal matters makes me an ideal person to reasonably balance individual needs and liberties with public safety interests.

Have you engaged in pro-bono work in recent years? If so, please describe that activity and if/how that was meaningful to you.

In 2015, I defended a relatively high functioning elderly woman diagnosed with a disabling neurological condition against a guardianship action brought by her son. The woman's husband had handled the couple's household finances throughout their lengthy marriage, but he had died a few years earlier. The woman now relied on her children to help manage her finances. The woman's son, however, had previously transferred almost \$30,000 of his mother's money to himself through his Power of Attorney. During the Guardianship proceedings, the son transferred the title and registration of his mother's relatively new car to himself, and then requested local police provide civil standby services while he physically seized the vehicle from his mother's garage. In response, I successfully brought a pro bono Vulnerable Adult Protection action against the son, forcing him to return the transferred funds and vehicle. The case was significant as the woman's children had essentially turned against her following her husband's death. Local law enforcement would also not intervene as the children claimed they were "transferring" funds to qualify their mother for public assistance. In reality, the transfers prevented the mother from receiving public assistance.

Also in 2015, I helped a daughter seek assistance from Adult Protective Services (APS) against her elderly mother's estate planning attorney. During the pro bono representation, our investigation discovered evidence the attorney, who had been isolating the mother from her family, forged credit card invoices, and purchased multiple personal items and meals on the mother's credit card. APS opened an investigation, as did the Washington State Bar Association which brought formal charges against the attorney. The attorney ultimately resigned in lieu of discipline.

A few years ago, I successfully provided pro bono representation for an elderly woman whose trailer home was flooded following heavy rainfall in Southwest Washington and who had been wrongly denied federal assistance. While federal authorities arranged for temporary housing, the facility did not allow her to keep her beloved pets, so she remained with them in her flood damaged home. The Federal Emergency Management Agency (FEMA) denied all her requests and appeals for relocation or rebuilding assistance. After eight months of additional appeals and on the eve of filing suit in federal court, FEMA officials finally agreed to reverse their previous denials, and granted her relocation assistance. In addition, I worked with Washington State to find homestead housing and persuaded state officials to reduce the homestead time period from 15 to 5 years. Since my client's new homestead housing was outside any known flood plain, she was only required to pay the minimum FEMA mandated flood insurance premiums, which she could afford.

Most lawyers will tell you pro bono work is the most rewarding work in the legal profession. I concur with that opinion. Pro bono cases involve clients with no good alternatives. They are also usually David and Goliath matters, with little chance your client will prevail. Upon a successful outcome, however, seeing the client's face is worth than any retainer. It really can change an attorney's opinion of the legal system.

It has often been said that it is the duty of legislatures to pass laws and the duty of courts to enforce them. However, courts at all levels have invoked principles of interpretation to adapt legislation and constitutional provisions to a myriad of controversies. Two such principles are "public interest" and "original intent". Please now respond to the following questions based on your legal and personal experience. Include specific examples to illustrate your answers where possible.

When reviewing cases, how do you define what is in the "public interest"?

Public interest is generally defined by statute, ordinance or rule drafted by the public's duly elected bodies or administrative agents. I think the government would be hard pressed to take an action against an individual or deprive an individual a benefit, without lawful authority.

I have litigated numerous public benefit cases against Washington's Department of Social and Health Services. In almost every case, the state argued, among other things, a general public interest in preserving limited public resources in denying my disabled client public benefits. In every case, the judge did not find a general interest, and only looked to the Washington Administrative Code or Revised Code of Washington when determining the public's interest.

With special regard to our state constitution, should the "original intent" of the document be considered when addressing modern legal disputes? If so, how do you balance it against arguments that the constitution is a "living", not static, document?

I seriously doubt the framers of the Washington State Constitution contemplated Smartphones and digital communications in 1889. Yet, the court must now regularly address constitutional and legal issues raised by text messaging, email, and social media posts.

As a criminal defense lawyer, I defended an individual initially charged with 15 counts of violating a No Contact Order. The alleged violations were back and forth text messages, many of which were sent within one minute of each other. In addition to evidentiary issues, I raised Fifth Amendment double jeopardy and unit of prosecution issues in a motion to dismiss 14 counts. I argued the text messages sent back and forth were no different than two parties engaged in a telephone call, interrupted by call waiting. Even the prosecutor conceded such activity would probably constitute only one count of the same charge. The court disagreed, but ultimately said there is no Washington or federal case law settling the issue. There is also no evidence the Constitutional drafters contemplated such a scenario. I lost the motion, but have no doubt the Washington State Constitution, and United States Constitution for that matter, is a dynamic document, intended to evolve as a matter of social necessity.