

**CITIZENS UNION CANDIDATE QUESTIONNAIRE
SURROGATE'S COURT
PRIMARY ELECTION 2012**

Citizens Union would appreciate your response to the following questions related to the structure, function and role of the Surrogate's Court. Responses to these questions will be one of several factors Citizens Union will use to evaluate candidates running for the office in order to determine our "Preferred Candidate" for the 2012 Primary Election in the Manhattan Surrogate's Court race.

If you seek our support, we would also need to schedule an interview with you as part of the evaluation process.

We plan to make responses to this questionnaire public on our website, Voters Directory and other appropriate venues. We thank you very much for your response.

Candidate Name: **BARBARA JAFFE** Age: **_60_**

Campaign Address: **Judge Barbara Jaffe for Surrogate, c/o Neil A. Weinrib & Associates,
291 Broadway 17th floor, New York, NY 10007**

Campaign Telephone Number: (**805**) **766-1392** Fax: () _____

Campaign Manager Name: **Eric Williams** Party Affiliation(s): **Democrat**

Website & Email: **www.judgebarbarajaffe.com**
campaign@judgebarbarajaffe.com

Education: **BA, Syracuse University; MA, Syracuse University; JD, Brooklyn Law School**

Occupation/Employer (or years in currently held elected office): **Acting Justice, New York State Supreme Court, Unified Court System, 2.5 years**

Previous Offices and Campaigns: **Judge, Civil Court of the City of New York, 6 years; Judge, Criminal Court of the City of New York, 2 years; ran for Civil Court in contested primary in 2000; ran unopposed for Civil Court in 2001; ran unopposed as incumbent in 2011.**

Are you willing to be interviewed by CU's Local Candidates Committee? YES **_x_**
NO _____

(Please note: Citizens Union can grant its "Preferred Candidate" rating only to candidates we have interviewed.)

Have you completed requisite campaign finance filings? YES **_x_** NO _____

Signature of Candidate: _____/s (email) _____ Date of Response: **_7/18/12_**

1. What qualifications and qualities do you possess that make you particularly well suited to handle the responsibilities of Surrogate?

See attached

2. What are the biggest problems, if any, confronting New York County Surrogate's Court, and how would you address them? What are your views as to the adequacy of the resources the Surrogate's Court has to handle its caseload?

See attached

3. Do you have recommendations for improving the operation of New York County Surrogate's Court? How would you make the Surrogate's Court more "user friendly" to members of the community, particularly those without legal representation?

See attached

4. Do you favor a more open, transparent, and less party leadership driven process for party nomination of judicial candidates, including a qualified screening panel? Do you support a merit-based commission appointment system for judges?

See attached

5. What are your views on the current system for how judges finance their campaigns? Would you support public financing of judicial campaigns?

See attached

6. What is your position on simplifying and modernizing the state's court system by consolidating the nine trial courts into a two-tiered system?

See attached

11. What is your opinion as to the Surrogate’s relationship with the public administrator, and the counsel to the public administrator? Do you believe that it is a conflict of interest for Surrogate Judges to appoint public administrators and their counsel, as they will have matters before you? Do you believe that the public administrator should be appointed by the mayor or that the public administrator function should otherwise be managed by the city rather than the Surrogate, such as the Law Department serving as counsel to the public administrators?

See attached

12. Many lawyers with matters before the court make campaign contributions to candidates for Surrogate or the current presiding judge. What would be a responsible and effective way to limit appearances of conflict, if not outright conflicts, of lawyers making and judges accepting such contributions?

See attached

1. What qualifications and qualities do you possess that make you particularly well suited to handle the responsibilities of Surrogate?

My passion for the law and fairness has informed my achievements over my almost 30 years as a lawyer and judge. My experience trying matrimonial cases, my other judicial duties, bar association service, and community service demonstrate my active concern for all litigants and my ability to handle the kinds of matters that are presented in the Surrogate's Court.

My judicial service:

I was elected to serve as a judge in New York County over ten years ago. For the last two-and-a-half years, I have been designated a Supreme Court justice, assigned to try matrimonial cases and to preside over cases brought by and against the City of New York.

The matrimonial cases I try involve many of the attributes of the cases presented in the Surrogate's Court, such as the valuation and distribution of assets, tax issues, and the resolution of contentious family disputes. Resolution of these cases, whether by trial or settlement, requires sensitivity, compassion, and the capacity to understand the pain and discomfort experienced by litigants going through one of the most difficult parts of their lives. I call upon all of my life experience, in addition to my legal acumen, to help resolve these cases and permit litigants to move on.

I also regularly preside in hearings held pursuant to Mental Hygiene Law Article 9 which require many of the same considerations that go into making determinations under SCPA Article 17-A as to whether a guardian should be appointed for a person under a disability.

As a City Part judge, and one who also conducts all kinds of jury and bench trials, I handle complex issues, including trusteeships, business and real property valuations, insurance, land use, real estate, union disputes, municipal agency reviews, attorney and accountant malpractice, and complex contracts and leases. I thus have a great deal of experience, as a judge, handling the vast variety of matters that arise in the Surrogate's Court. I have also served in the local criminal and civil courts for eight years, and as a principal court attorney in Supreme Court for 16 years.

Office of Court Administration statistics reflect that I am one of the top producing judges in the Supreme Court, having resolved almost 800 cases and decided close to 1000 motions in 2011, with statistics to match for the first half of 2012. My record is consistent despite my enormous caseload and the care and analysis I use in deciding the complex and sensitive matters before me.

In Surrogate's Court, many matters are handled by surviving family members who cannot afford to hire an attorney. I have presided in hundreds of matters where one or both parties had no lawyer and I take great pains to explain the court procedures to the self-

represented and ensure that they are not unfairly disadvantaged. Given the stress of litigation, I make it my business to create a welcoming environment in my courtroom for litigants.

From 1997 to 2002, I served on the Unified Court System's Capital Cases Judicial Resource Committee, which was formed to educate judges throughout the State on how to try capital cases. I distinguished myself in creating a comprehensive research database which was distributed statewide and I lectured twice a year for many years on capital case issues to the judges. Although I knew nothing about capital litigation at the outset, I quickly absorbed and synthesized the law well enough to teach it to judges throughout the state.

My pre-law business experience:

I am well-qualified to assume the administrative functions of the Surrogate, as I helped run a small wholesale arts and antiques business here in Manhattan before I went to law school. Six days a week for seven years, I paid bills, prepared invoices, bought and sold goods from dealers and at auction, ensured compliance with municipal regulations, prepared US Customs documentation, supervised employees, and interfaced with the firm's accountant and lawyer. This experience left me with a "business head," which 26 years in the court system has not dulled and which provides me with the commercial and managerial know-how that is essential to efficiently run the Surrogate's Court. My knowledge of the antiques business will also be of value in handling estates with large art collections, and in understanding the issues involved in appraising small businesses.

My active bar association service:

Improving access to justice and advancing diversity have been major goals of my bar association service.

I lived in Italy for a year and am thus keenly aware of how difficult it is to have a less than perfect command of the official language of the country in which you reside. And to be arrested in such circumstances would be particularly frightening. I thus took on the responsibility of chairing the joint committee that produced the Criminal Justice Handbook, a guide to the state criminal justice system which I had translated into Spanish, French, Chinese, Korean, and Russian. I have worked tirelessly to see to its distribution throughout the state, including to prisons and jails, and to its posting on the court's website, www.courts.state.ny.us/litigants/crimjusticesyshandbk.shtml, and I intend to form a committee to prepare a similar handbook about the Surrogate's Court.

I was a small claims arbitrator for more than a decade and knew, first-hand, the importance of being able to bring a claim without having to hire a lawyer. As President of the Association of Arbitrators of the Small Claims Court, community outreach was thus a major goal of mine. Association members and I traveled all over the City to present programs on how to file small and commercial claims.

I also served on the New York City Bar's Community on Public Service and Education and as a volunteer arbitrator at night for over a decade. I am on the Board of Directors of JALBCA (Judges and Lawyers Breast Cancer Alert), which educates the public about new treatments for breast cancer. I serve on the New York County Lawyers' Association's Pro Bono Committee which identifies worthy pro bono projects. I have always sought to create pathways for New Yorkers to navigate the court system more easily and less expensively.

Recognizing the need to diversify the ranks of small claims arbitrators, as President of the Association of Arbitrators, I invited the participation in our recruitment and training programs of minority bar associations such as the Lesbian and Gay Law Association of Greater New York (LeGaL), Metropolitan Black Bar Association, and the Puerto Rican Bar Association. For over a decade, I have been a member of New York County Lawyers' Association's Committee on Lesbians, Gays, Bisexuals, and Transgendered Issues, and was instrumental in preparing the Committee's groundbreaking report "Making Progress: How New York's Top Twenty-Five Law Firms Address Issues of Concern to the LGBT Community." I was honored to have been endorsed by the Stonewall Democratic Club when I ran for Civil Court, and I was the only one of the four candidates in that race to receive LeGaL's highest rating. My history of strong support for the LGBT community began when I was in college in the 1970s, and I was honored to officiate at many same-sex marriages last year on July 24, and I continue to do so. I am also a member of LeGaL.

Leadership positions:

The Surrogate must be able to administer the court. In addition to my business experience, I have been assigned leadership positions throughout my career at state and local bar associations. At the New York City Bar Association, I sat on the Nominating Committee and served as one of its Delegates to the New York State Bar Association. At New York County Lawyers' Association, I sat on its Justice Center Advisory Board and co-chaired its Civil Court Practice Section. At the New York Women's Bar Association of New York, I co-chair the Committee on Professional Ethics and Discipline, and served on its Board of Directors. I also co-chaired the Legislative Committee and the Committee on Criminal Law at the Women's Bar Association of the State of New York. And again, I served as President of the Association of Small Claims Arbitrators. In each of these capacities, I demonstrated administrative skill, diligence, and concern about the major issues facing our State and City justice system.

As co-chair and long-time member of the New York Women's Bar's Committee on Professional Ethics and Discipline, I participated and/or chaired programs on ethics and gender bias, and also served on the Civil Court's Gender Fairness Committee. As Surrogate, I will continue to see that the Unified Court System's rules against gender bias are strictly enforced.

Other bar association service:

Bar association service permits lawyers to gain knowledge of the law in areas beyond one's own expertise. I have thus not confined myself to a single area of law and have become knowledgeable about many areas of law through my bar association service. I am a member of the New York City Bar Association's Committee on Capital Punishment and the Art Law Committee, and served in previous years on its Criminal Law Committee, Civil Court Committee, and Committee on Public Service and Education. I belong to the New York County Lawyers' Association's Supreme Court Committee, served on its Criminal Justice Section, and am a member of the Columbian Lawyers Association.

My long-term community service:

An effective Surrogate must also be involved in her community and be aware of the wide and varied issues concerning litigants. It has been a privilege to serve the community in various capacities over the years. Mentoring the first graduate of the Harlem Children's Zone to attend law school was particularly rewarding. I also served for two years as Treasurer of the Friends of Dag Hammarskjold Plaza, a non-profit organization formed to maintain and advance the interests of the park that serves the community around the United Nations, and I remain on its Board. For over a decade, I regularly served holiday meals at the Stanley M. Isaacs Neighborhood Association and am keenly aware of the problems of the elderly. I also belong to the NAACP, Midtown Manhattan Branch and the Turtle Bay Association.

I have also presented programs on art and law, some of which visually communicate the barbarity of capital punishment. Following a presentation of the acclaimed play "The Exonerated," I presented a lecture about depictions of public execution in 18th century London, and after another play about death row, "Coyote on a Fence," I conducted a "talk-back."

My scholarship:

A firm grounding in the liberal arts and a measure of sophistication promotes an understanding of all aspects of life and of all people, rich and poor, educated and ill-educated, immigrants and citizens, employed and unemployed, the disabled, and those of every race, sexual orientation, nationality, and political persuasion. In addition to my legal scholarship, my broad and comprehensive liberal arts education prepared me to meet the special demands of the Surrogate's Court, a Court that transcends race, class, and other classifications.

Moreover, the Surrogate's Court in Manhattan has been historically looked to by courts all over the country and must be presided over by a judge with broad judicial and life experience who can discharge her duties with the expertise and the wisdom accumulated over a lifetime. Close to 100 of my opinions have been published, six during my two years as a Criminal Court judge, and of the thousands of opinions I have written on serious civil matters, only one has been reversed. I am a judge who can ensure that the quality of justice now dispensed by the Surrogates in Manhattan remains undiminished.

My academic background in art history will also be essential to my service as Surrogate in Manhattan, the center of the art world. I am a founding faculty member of New York County Lawyers' Association's Art Litigation and Dispute Resolution Institute and a member of the New York City Bar Association's Art Law Committee and the New York State Bar Association's Entertainment, Art, and Sports Law Section's Executive Committee. I frequently lecture and publish articles on art and law topics. ("Visions of 'Justice,' Reviewing 'Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms' by Judith Resnik and Dennis Curtis," 15 The Green Bag 2d 205, Winter 2012 [book review]; "What's a Renoir Authenticity Case Doing in a Small Claims Court Like This?" Cultural Heritage & Arts Review, Vol. 2, Issue 1, Summer 2011; "Without Sanctuary: Lynching Photography in America," Mar. 14, 2000, at 2, col 3 [book review]).

Before joining the court system as a court attorney, I was Associate Appellate Counsel with The Legal Aid Society's Criminal Appeals Bureau, a position requiring a great deal of research and writing. While representing indigent criminal defendants was my first career goal, I went on to the judiciary as another way of defending the Constitution.

In short, my ability to grasp and synthesize new areas of law, my intellectual curiosity, and my willingness to decide difficult legal and factual issues will be an asset to a Court that addresses the most weighty of life's issues.

My judicial independence

While many lawyers who practice in the Surrogate's Court have attended or hosted events for my campaign, I knew very few of them before I became a candidate, and those I knew are acquaintances at best. Consequently, I am independent and beholden to none. Moreover, no politician has taken an active role in my campaign. I am endorsed by many retired judges, those who know what it takes to be a good and effective judge.

2. What are the biggest problems, if any, confronting New York County Surrogate's Court, and how would you address them? What are your views as to the adequacy of the resources the Surrogate's Court has to handle its caseload?

The biggest problems confronting the New York County Surrogate's Court are the delays in resolving and deciding cases, the lack of resources, the staff reductions, and a deeply rooted bureaucracy.

While resources are inadequate throughout the court system and staff has been reduced all over, careful management will alleviate the problems faced by families who are obliged by the system to wait too long for their loved ones' estates to pass to them, all the while having to pay a variety of expenses. Although I have been in the court system for 26 years, I was in business here in Manhattan for almost a decade before entering law school, and am not unduly restrained by a business-as-usual attitude. I am eager to assemble a committee of dedicated practitioners and personnel to take an honest look at some of the more cumbersome rules that plague the Surrogate's Court.

Astonishingly, New York, the center of world commerce, retains some of the most antiquated procedures for probating wills. It persists in requiring “solemn” probate, which brings needless and prolonged applications and service of process. With modern technology, much of the solemnity can be disposed of. Notice by publication simply results in no notice. Rather, filing of notices with the Department of State, like the filing of corporate resolutions, would be far more effective and less cumbersome. A serious effort at convincing the Legislature to bring our law into conformity with the Uniform Probate Code will permit faster and less costly estate administration.

Efficient management requires a uniformity of reporting, currently not the practice, from the various entities that report to the Surrogate. I propose fast-tracking less complex applications, smaller estates, and defaults which may reduce some of the delay. I will also rely on the statute that permits fee determinations incident to wrongful death actions to remain in Supreme Court.

Mediation is essential to not only alleviate delay but bring faster relief to families in pain. I am pleased to have assisted many divorcing spouses in settling their cases. I am open to all forms and methods of mediation and welcome new ideas. However, it has come to my attention that some of the delay in the Surrogate's Court arises from a perception that cases will sooner be adjourned than tried. As a trial judge for most of my decade on the bench, I am always ready to try a case. While sensitive family issues are sometimes best adjourned in the hopes of amicable settlement, when the case has long languished and the parties are tiring, the words “Call your first witness” may constitute a needed, and serious, impetus to settle.

3. Do you have recommendations for improving the operation of New York County Surrogate's Court? How would you make the Surrogate's Court more “user friendly” to members of the community, particularly those without legal representation?

I chaired a bar association committee that produced, with the assistance of volunteer lawyers, the Criminal Justice Handbook that I had translated at no cost into five foreign languages, three of which are posted on the court's website (see above, number 1). I will see to it that a Surrogate's Court Handbook is created in English and translated for non-English speaking communities. Such a Handbook will go far in demystifying the procedures for the self-represented. And, given the complexity of the procedures, greater effort must be made to reach out to all communities. I will actively recruit volunteer lawyers to join me in regularly meeting with community groups throughout Manhattan and presenting programs on how to navigate the Surrogate's Court. The presentations can be modeled on those I did for the Small Claims Court. This project provides an especially appropriate opportunity for new lawyers to fulfill their new pro bono requirements. Law schools could also team up with the court to staff an office of the self-represented at the Surrogate's Court with recent graduates to fulfill the pro bono requirements.

In order to assist Article 17-A guardians to appear with their wards without having to travel far, court attorneys can “ride circuit” and bring the court to them. I see no

reason why computer terminals like those set up in public libraries and at the Civil Court at 111 Centre Street cannot be made available in the Surrogate's courthouse for the use of litigants to enable them to access and complete court forms without having to purchase computers.

To root out any traces of insensitivity to litigants in the Surrogate's Court in Manhattan, greater efforts must be made to sensitize all Court employees to the needs of all parties, including those who do not speak English and non-traditional families. The Court must be a welcoming haven for all, as it is a court that touches all people, not just those seeking to litigate.

Greater outreach must also be made to diversify the list of qualified guardians and guardians ad litem, beyond that already provided by local and national bar associations. Support staff must be better trained to ensure that families are advised as of their right to obtain property from the estate pursuant to EPTL 5-3.1. Self-represented litigants are often unaware of it.

4. Do you favor a more open, transparent, and less party leadership driven process for party nomination of judicial candidates, including a qualified screening panel? Do you support a merit-based commission appointment system for judges?

I certainly favor a more open, transparent, and less party leadership driven process for party nomination of judicial candidates, along with a non-politicized and qualified screening panel. I would support a merit-based commission appointment system for judges if the process were carefully constructed whereby the screeners are also screened and regularly rotated, with strictly enforced conflict of interest rules. The same would hold true for the party screening panels. I welcome the opportunities that the elective process provides to me as a judicial candidate. The petitioning process offers ample opportunity to meet people from all over Manhattan and hear, first hand, of any difficulties they have had with the Court.

5. What are your views on the current system for how judges finance their campaigns?

Judges cannot and should not be forced to raise money for judicial campaigns because it is unseemly, places them in an uncomfortable position, and has a negative impact on the public's perception of the judiciary. Absent public financing, there should be strict and mandatory contribution restrictions and matching funds, as there are for other City offices. I enthusiastically support public financing.

6. What is your position on simplifying and modernizing the state's court system by consolidating the nine trial courts into a two-tiered system?

Although court merger has not worked in the Bronx, that does not mean that it cannot work. I think that the Office of Court Administration can learn from the Bronx and go forward on a larger scale. However, I fear that the Surrogate's Court, a court that touches all people, may suffer from what would be an almost certain reallocation of resources. And, with the relatively recent use of trusts to avoid court by those with sufficient money to hire lawyers

to create them, we must ensure that low income individuals who cannot afford to create trusts not suffer from the reduction of resources to Surrogate's Court attendant with consolidation.

7. What is your view on the guidelines approved earlier this year by the Administrative Board of the Offices of the Public Administrators regarding office procedures, record keeping, cash and property management, as well as the compensation and selection of outside vendors for the public administrators? Do you believe that additional controls or oversight is necessary? What mechanisms do you plan to use if elected to oversee the operations of the public administrator?

I applaud those who drafted the guidelines and believe in their efficacy. Given recent issues in other boroughs, additional controls, transparency, and oversight are apparently necessary, and the Court owes the public the duty of efficient management and the ability to root out and eliminate potential corruption. The guidelines will be useful in creating more uniform practices, and will promote greater security for funds held by the Office of the Public Administrator. Frequent reporting to the Surrogate is necessary. Oversight is difficult, however, where the different agencies that report to the Surrogate furnish varying information. A more uniform reporting system is thus required.

8. What is your view regarding the current appointment process for guardians? How, if at all, would you change the process?

I will confine myself to the court system's list of approved guardians and never appoint outside of it. I also approve of proposals for the creation of sublists according to specialty and experience in the event that a matter presents issues of particular complexity, although the appointment of seasoned guardians to less complex matters would certainly not be precluded. More importantly, given my experience in the Supreme Court, I perceive a need to increase the compensation of guardians, as their work is essential and undervalued. Qualified and able candidates must be attracted to serve.

9. What are your views on the electronic filing of court documents and the effects of this on the Surrogate's Court system?

I am in favor of electronic filing and believe that a well-trained staff will reduce delay and facilitate litigants' ready access to the Court. In expanding the program to the Surrogate's Court in New York County, I would set up training programs for self-represented litigants using court-provided terminals, such as the many terminals I have seen sitting idly in various courthouses. However, safeguards must be in place to avoid even a risk of identity theft.

10. What other legislative and administrative changes would you recommend, if any, to improve the functioning of the state's court system?

Mandatory e-filing throughout the court system, including the Surrogate's Court, with the requisite safeguards, is necessary to cut delay and waste.

The law requiring mandatory retirement for judges must be repealed. The resulting loss of highly qualified and able judges is unfortunate and harmful to the court system. While many retired judges had served as judicial hearing officers, their ranks have also been reduced by the budgetary cuts. Absent mandatory retirement, these fine public servants should again be enlisted to assist our overburdened court system.

11. What is your opinion as to the Surrogate's relationship with the public administrator, and the counsel to the public administrator? Do you believe that it is a conflict of interest for Surrogate Judges to appoint public administrators and their counsel, as they will have matters before you? Do you believe that the public administrator should be appointed by the mayor or that the public administrator function should otherwise be managed by the city rather than the Surrogate, such as the Law Department serving as counsel to the public administrators?

To the extent that there exists a conflict for the Surrogates in Manhattan to appoint the public administrator and counsel to the public administrator, I do not believe that the transfer of the power of appointment to the mayor will be any better. Rather, it may bring new problems, and may politicize the process. Moreover, the problems of other counties ought not force an unneeded change in Manhattan. I am also mindful that in upstate counties where the fiscal authority performs the functions of the public administrator, the Surrogate has no ability to monitor.

The real problem in New York County is that the office of the public administrator is seriously underfunded and understaffed. The mayor should be called upon to increase the funding to alleviate many of the problems, such as the need for personnel, storage facilities for auction goods, and more advanced technology. In any event, greater oversight by the Surrogate is apparently required and will be enhanced by the new guidelines.

12. Many lawyers with matters before the court make campaign contributions to candidates for Surrogate or the current presiding judge. What would be a responsible and effective way to limit appearances of conflict, if not outright conflicts, of lawyers making and judges accepting such contributions?

As a matter of ethics, judges are precluded from learning the identities of those who contribute to their campaigns. To advance the goal of avoiding even the appearance that a judge can learn that a lawyer contributed to her campaign, new court rule Part 151 ("Rules Governing The Assignment Of Cases Involving Contributors To Judicial Campaigns") limits contributions by lawyers. If a lawyer contributes to a judicial campaign beyond the limit and files a case with the court thereafter, the case will be assigned to a different judge, thereby eliminating even the need for recusal. The court system, however, retains the ability to assign a cases to the judge-donee an emergency or pursuant to the "rule of necessity," or where the interests of justice otherwise require. The parties would still be free to seek recusal. This rule appears to be a responsible and effective way to limit conflicts, although public financing would make it unnecessary.

ADDITIONAL COMMENTS: I am eager to serve as Surrogate in order to provide a fair forum for all of the people of New York County, each of whom is impacted by this most important of courts. I seek to offer my proven ability to eliminate the backlogs, my legal scholarship to resolve the most difficult and ultimate issues, and my business acumen to streamline procedures and make the Court more efficient, productive, and responsive to litigants. And, as I already exercise many of the functions of the Surrogate, and given the breadth and depth of my judicial and life experience, I am confident of my ability to maintain the quality of justice provided by the Surrogate's Court in Manhattan. I look forward to working with litigants and lawyers to resolve the difficult issues arising in the special court that is Surrogate's Court. I look forward to working cooperatively with the Bar, community, and other Surrogate to reach these goals.