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CLARIFICATION

A couple of points in the story on the interview with Supreme Court Justice Lawton R. Nuss require some clarification.

Candidates for a seat on the Kansas Supreme Court are vetted by the Supreme Court Nominating Commission, made up of four lawyer members elected by other lawyers representing each of the state's congressional districts; one lawyer chairperson elected by other lawyers in a state-

wide election; and four lay members – not lawyers – representing each congressional district who are appointed by the governor.

These nine people review nominations, interview candidates and narrow the pool to three names to the send to the governor.

One-quarter of the positions in the Kansas court system have starting salaries below the federal poverty level for a family of four.

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Nuss shares wants, story

By JUDITH ZACCARIA
CourierTraveler

The chief justice of the Supreme Court of Kansas had a couple of things on his mind when he stopped by the CourierTraveler office in Winfield on Thursday afternoon: an independent judiciary and adequate pay for Supreme Court employees.

Chief Justice Lawton R. Nuss — along with the other six members of the high court — was in Winfield to hear oral arguments in two cases at Southwestern College's Richardson Performing Arts Center Thursday night. It was the first time in the court's 156-year history that it has been in Winfield and the sixth time the court has met at night.

The court started going out to the public in January 2011, when they met in the old Supreme Court in the Capitol building. There they used a territorial theme — with participants in frock coats and hoop skirts

— because the event was held during Kansas' sesquicentennial. The event was so successful that they have taken the court to 12 other sites in the last six years.

An independent judiciary

Winfield Publishing chair Dave Seaton spoke of the two years he and his wife, Callie, spent in the Peace Corps in Brazil, where they saw "what it was like where a judiciary is not strong and independent."

Nuss said his time in the Marine Corps helped him "appreciate what we have in the United States, in Kansas."

He quoted George Washington who said, "The administration of justice is the firmest pillar of government."

Courts are not supposed to be political, he said. When justices vote, they should not be acting politically; they should be upholding the rule of law.

He also mentioned a survey in

which people who'd been in court were asked what was most important to them about the trial. The people replied it was more important to be treated fairly than to win the case.

Asked about the slowness of justice, Nuss said interpretation of laws takes a long time. He cited the slowness of death penalty law that several states have on the books.

However, Section 18 of the Kansas Bill of Rights requires that justice be administered without delay, Nuss said. That requirement goes back to the Wyandotte Constitutional Convention of 1859 and was adopted into the state constitution in 1861.

It is not a question of speed over all other requirements, Nuss said, but

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"the justice system strives for timeliness and accuracy."

The court has adopted timeliness standards: 25 percent of all decisions released to the public within 90 days of oral argument; 50 percent within 180 days; 95 percent within 270 days. The exception is death penalty cases.

In 2010, Nuss, newly serving as chief justice, had to order the Kansas courts closed four days because of lack of money.

That lack of funding spurred the judiciary to

form a commission to improve the working of the courts. "We decided we cannot just react; we need to do planning," Nuss said.

Out of that thinking came Project Pegasus, designed to look at the state's judicial system and come up with better ways of running it.

At that time, concerned with maintaining judicial independence, the judiciary looked at the Kansas Court of Appeals, "a traveling court," and decided it would be a good idea to take the Supreme Court on the road.

In fact, Nuss said, supreme courts in Iowa and Nebraska are also going out to the people.

Commentator Jeffrey Toobin, who spoke at Southwestern recently, stated that the U.S. Supreme Court is political. Asked about the Kansas Supreme Court, Nuss said he is a big supporter of the merit-based system, by which Kansas justices are chosen.

He recounted his own story: He applied for a seat on the Kansas Court of Appeals in 1995 and again in 2000 and was turned

down. Both times, he said, he decided he had to improve his credentials with more jury trials, briefs and practice areas.

Finally, in 2002, Gov. Bill Graves appointed him to the Supreme Court.

When a position comes up on the court, 10,000 notices go out to lawyers around the state looking for the best candidates, Nuss said. In Kansas, for every seat on the Supreme Court, there are 18 to 35 applicants. They are screened by the Kansas Bar Association and three names are sent to

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the governor for his or her choice.

This is not how justices are chosen for the U.S. Supreme Court. Nuss wouldn't discuss the process or second guess the choices or the justices' decisions.

"From my observation, all of them are very smart people, hard working," Nuss said. He said he agrees with some of their decisions and not with others.

The Kansas legislators' threats to the courts were answered by the November elections that returned all the Supreme Court justices to their seats.

The court's budget

Adequate pay for the court's 1,600 employees was also very high on Nuss' list of priorities in Thursday's conversation. The Kansas court system includes all

the levels of courts from the Supreme Court down to the local district courts.

Nuss said closing the courts for four days in 2010 and again for two days in 2012 was very hard. He said this year's Legislature is faced with many financial challenges, but one of them must be to keep the courts open.

"They must pay the judicial branch enough money to keep them," Nuss said.

A national study found that "our employees are way underpaid," he said.

Kansas trial judges, including the three in Cowley County — Nick St. Peter, LaDonna Lanning and Chris Smith — receive wages next to last nationally — 50th out of 50 states and the District of Columbia.

It has been nine years since the judges have had a

pay raise, Nuss said.

He gave some numbers: About 700 of the 1,600 Kansas court employees are paid 18 percent below market. A third of the job classifications statewide are below the federal poverty level of a family of four.

At least a third of the court employees work second jobs, some third jobs, to make ends meet. St. Peter confirmed this locally. In the last few years, as many as five court employees have been working second jobs; currently three are, St. Peter said.

The base pay for a trial court clerk here is \$11.51 an hour, he said.

He said generally people wanting to go into government make better pay working for the city or the county than for the state.

The poor pay is keep-

ing people from applying for jobs at all levels of the court. This takes a toll on justice, he said.

"In the future we will not have the good judges we used to have" if they can make a good living elsewhere, Nuss said.

"Kansans put their money and their time into what is meaningful to them."

He hopes that means they will show their support of the courts by giving the workers adequate pay.

Nuss, a Salina native who now lives in Topeka, is a graduate of the University of Kansas, both as an undergraduate and in law school, and served in the Marine Corps.

He and his wife, Barbara, have five grown children, two grown stepchildren and 10 grandchildren.

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Photo by DAVID A. SEATON

Kansas Supreme Court Chief Justice Lawton Nuss speaks during an interview Thursday afternoon at the Winfield office of the The Cowley CourierTraveler. Also pictured is Lisa Taylor, the court's public information director. Nuss and the other supreme court justices were in Cowley County as part the court's tradition to travel to Kansas communities to hear cases. The court heard two cases Thursday night at Southwestern College (see related story this page). In the interview, Nuss emphasized his desire to see increased compensation for judicial branch employees, who have received one 2-percent increase in the past eight years.