



ICJL 2008 Judicial Candidate Questionnaire

1. What steps do/would you, as an elected judge, take to maintain your independence from campaign contributors and special interest groups? Do you impose any limits beyond those required by law on contributions?

To maintain my independence from campaign contributors and special interest groups, I would decline to accept contributions in excess of \$100.00 from special interest groups and lawyers/law firms.

2. Illinois currently has a mixed system of selecting judges. Most are elected by voters, some are appointed to fill vacancies, and others (associates) are selected by other judges. Is this the best way to select judges and to ensure the highest quality judiciary? Are there specific reforms in the judicial selection process that you would like to see? What are the pros and cons of merit selection of judges vs. election? Should sitting judges run for re-election rather than retention?

There is always room for improvement. I believe most of our judges on the bench (whether by appointment or elected from the public or elected as associate judges) are qualified and competent. There are, however, some judges that have made it to the bench that are not qualified or competent. I believe there should be minimal requirements in place before someone can become a judge. Merit selection on its face seems to be the better way to have someone become a judge. As in any process, however, it too runs the risk of politics getting involved. I do not believe there would be a big difference in maintaining quality judges if judges had to run for re-election versus retention. Having all licensed attorneys vote for whether a judge should be retained may make a difference.

3. What would you say to a frustrated voter faced with a ballot with dozens of judicial candidates, almost all of whom are unknown to the voter, about how to cast an informed ballot?

I would instruct the voter not to vote for any person they are unfamiliar with. I would advise the voter to take steps prior to election day to become informed about the candidates who are running for judge in the different vacancies.

4. Has the recent Supreme Court decision on the First Amendment rights of judicial candidates altered your views on and/or approach to "campaigning" for judicial office?

No, the recent Supreme Court decision on the First Amendment rights of judicial candidates has not altered by view and/or approach to campaigning for judicial office. Discussing my views on disputed legal issues (if allowed to do so by law) would require me to give a response based on speculation. To be impartial, a judge should not speculate. Rather, a judge should render their decision based on the facts, issues and law that come before them on any given day.

5. In close cases, judges (particularly appellate judges) often have choices to make as to the direction in which they believe the law should go. In those circumstances, some of the greatest judges have been activists, others have practiced restraint, and others have followed no particular philosophy about the place of the judiciary in our system of separate branches sharing power. Which of these approaches/philosophies best captures your views of the proper role of judges in society?

My philosophy is that a Judge's role is to listen to the evidence and apply it to the current law. In my opinion, legislators should be the ones who adapt our laws to changes in circumstances in our society. If changes in our society warrant a change in our laws, our legislators should take the steps to effectuate the change in the law.

6. It is often said that because the judiciary neither commands the sword nor the purse, its power and legitimacy rest on the persuasiveness of its opinions. Yet a large number of cases -- even cases worth large sums of money and presenting significant and/or novel legal issues -- are resolved in the Circuit Courts of Illinois through the issuance of one line orders that fail to give even an inkling of the Court's reasoning. Do you see this as a problem for the judiciary? If so, do you have any ideas on how to remedy the problem? How should orders -- particularly those subject to appeal -- be written? As a prospective circuit judge, do you believe the parties are entitled to the basis of your ruling including the findings of fact and your application of the law to those findings of fact? If an appellate candidate, please offer your thoughts.

I think a judge is obligated to inform the litigants and/or their attorneys of his or her basis behind his or her ruling. It not only helps the parties understand why the judge ruled the way he or she did, it also would provide the appellate court judges with what the trial judge relied on in rendering his or her decision. As long as the reasoning is captured by a court reporter, I do not believe every ruling is required to be reduced to writing. However, if a court reporter is not present and a party wishes to appeal, a written ruling that details the judge's reasoning would be helpful to the parties and the appellate court. In cases that are appealed, a written order detailing findings of fact and application to the law would be very helpful to the parties and the appellate court. However, not every order needs to be written because most cases at the trial court level do not get appealed. Requiring every order entered at the trial court to be written would be an inefficient use of a trial judge's time.

7. Recently proponents of "Sunshine in Litigation" have sought legislation to eliminate or severely restrict the judicial entry of protective orders in litigation between private parties involving products that may be considered dangerous to the public. Opponents of these efforts argue that protective orders are necessary to ensure privacy, protect trade secrets and foster settlements. What is your view of the role which protective orders serve in the efficient resolution of private litigation? Do you agree that judges should have broad discretion to enter such orders when appropriate? How would you respond to each side of the debate?

In my opinion, protective orders are appropriate if they are permitted by law and if they are used effectively to resolve private litigation. I agree that judges should have broad discretion to enter such orders, if permitted by law and if appropriate. However, all factors should be considered when issuing these orders including, but not limited to, the public's health and safety concerns. I would briefly respond to both sides of the debate as follows: resolving private disputes in an efficient manner is essential to our judiciary system. If protective orders facilitate this process, then it makes sense to use them. However, if a protective order hides a health or safety concern to the public, significant consideration should be given before the order is issued. If it can be proven that the issuance of the order will be more harmful to the general public than the benefit gained from entering the order, it should not be entered. To help resolve one case when the effect might cause injury to many others is not appropriate.

8. Are there civil litigation reforms that you would like to see enacted to remedy particular problems that you have detected, either as a practicing lawyer or as a sitting judge? Are there reforms that would benefit the civil justice system? What needs to be changed? Should the enactment of any such changes be the province of the legislature, the Supreme Court or by Constitutional amendment?

Currently, in most cases, interest is added only after a judgment has been entered (post judgment). I believe pre-judgment interest, (i.e., adding interest to the judgment from the date the law suit was filed until the judgment is paid) would help resolve cases in a more timely manner. It may even help resolve claims before they turn into law suits. Adding pre-judgment interest to a judgment would provide an incentive to settle a matter where liability is undisputed and an amount of damage is fairly certain. Otherwise defendants, with no defense and where the damage amount is reasonably certain, are the only ones that benefit from not imposing pre-judgment interest. The legislature should be the body that changes the law.

9. Do you feel that our judicial system adequately deters and penalizes frivolous litigation? If not, what reforms would you like to see?

I believe our current system has the necessary laws in place to deter frivolous litigation. However, I am not sure of its effect and whether it is utilized in all appropriate cases.

10. Do you believe the Illinois Constitution precludes legislative establishment of limitations on civil damages? Are there or should there be distinctions among economic, non-economic and punitive damages?

Yes, I believe the Illinois Constitution precludes legislative establishment of limitations on civil damages (personal injury cases). I do not believe there should be a distinction on what type of damages. I believe our Illinois Constitution provides a separation of powers clause which in effect, declares that our legislature can not get in the way of the rights of judges and juries to set fair damages in personal injury matters. Our current system allows a judge to correct an excessive jury award (i.e., doctrine of remittur).

11. The so-called "English Rule," where the loser pays, seems to be a popular concept among Illinois citizens. Do you believe that a "loser pays" requirement in civil cases would help reduce the number of frivolous civil lawsuits filed in Illinois? Are there reasons why Illinois should/should not consider such a rule?

I believe the "loser pays" requirement in civil cases could help reduce the number of frivolous law suits filed in Illinois if the costs include legal costs. In my opinion, reimbursing someone for the cost of filing their answer is minimal compared to the time spent in defending a frivolous law suit. A party who files a frivolous law suit has already paid the cost to file a complaint and the cost for service. Therefore, it can be argued those costs did not dissuade that party from filing a frivolous law suit. Just like those costs, I do not believe imposing a defendant's cost to file an answer (if assessed against a plaintiff who filed a frivolous lawsuit) on a plaintiff who filed a frivolous complaint would be sufficient to discourage that person from filing a frivolous complaint. However, having the losing party who filed a frivolous complaint pay for an attorney to defend a frivolous claim may make a person filing a frivolous complaint think twice.

Yes, there are reasons why Illinois should not consider such a rule. In some cases a party may have a meritorious claim they are pursuing but in the end, for whatever reason, loses the case. In this instance, I do not think a hard fast rule for imposing costs on the losing party is appropriate.

Under either scenario, I believe the judge should have discretion to issue costs and/or fees upon the non-prevailing party, depending on the circumstances.

12. (For current sitting judges) What do you consider to be the most serious obstacle or detriment to you as a judge in fulfilling your duties? Has the problem been getting worse or has it been lessening in the past few years? How do you deal with this problem now, and what changes would you like to see to alleviate the problem in the future?

Not applicable.