



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?

The admonition contained in Canon 3 of the Illinois Code of Judicial conduct, which states, "A Judge should be unswayed by partisan interests, public clamor or fear of criticism," is the guide for all Judges to ensure an independent judiciary. As both a candidate and a Judge, I do and would closely monitor all campaign contributions, both financial and in-kind. I abide by all the limits imposed by law. Additionally, I would be sure to always review each case before me and recuse myself if I had a question that my independence might be swayed in any way. Each case must be handled in this way regardless of caseloads and time constraints.

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?

I believe that electing of judges is the best way to select the Judiciary in Illinois. However, this system is not without its problems. Candidates with powerful campaign contributors, uninformed and disinformed voters and the lack of stringent experience requirements for candidates all contribute to judicial elections which are less than optimal. I feel that more requirements must be met before an individual can aspire to run for the Judiciary. Currently, all that is necessary is a law license; this is insufficient. Potential candidates should be required to have substantial legal experience including, litigation, transactional and theoretical work. Potential candidates should practice law for some period of time before entering an election.

Throughout my legal career proponents of merit selection have persistently argued that voters should not elect judges. The potential for abuse is far greater in most of the proposed merit selection procedures than in an election. Unlike an election by voters, an appointed Judiciary based on merit selection can likely be more influenced by powerful political and special interest groups.

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 am asked at each and every election how should a layperson with no legal experience vote for judges? I respond that at the very least voters should review the recommendations completed by the various bar associations in Illinois and Chicago. I also suggest that the voter contact any attorneys that they know to get further information. Although this can be time consuming, I remind voters that local judges impact most of our lives in significant and direct ways that national candidates do not.

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?

Illinois judges and judicial candidates are in a unique situation that other political candidates are not. Due to Illinois Supreme Court Rule 67, judges and candidates are prohibiting from commenting on cases which may appear in front of them. The rule is sound in that it protects the independence of the judiciary. However, it has become a shield that prevents the electorate from ever getting any feel for the judiciary and judicial candidates. Although the recent Supreme Court opinion seems to overrule this prohibition based on the First Amendment, candidates and judges must proceed with caution. Fear of repercussions for not ruling as had previously been opined in a campaign statement could negatively affect the independence of the judiciary greatly. The risk to individual litigants that appear in court cannot be underestimated and must be protected.

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?

The proper role of judges in our society is neither activist nor automaton. Well reasoned decisions based upon the facts and law of individual cases are the only way to ensure that the judiciary maintains its independence and fulfills its role in our system of three separate but distinct branches of government. Judges must neither legislate from the bench nor act as an extension of law enforcement.

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.

All judges should make findings of fact and conclusions of law in all trials and motions which are subject to appeal. Opinions and findings can be written relatively easily in today's technologically advanced times. Rulings should also be read orally into the record so that adequate reasoning exists for any possible appeal.

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?

I can understand the "Sunshine in Litigation" proponents' wish to prohibit protective orders in cases involving products considered dangerous to the public. Not only is it important for the public to be made aware of dangerous or badly designed products, but also for other manufactures to avoid similar problems in the future.

Conversely, the need for public disclosure must be carefully weighed against the important desire to facilitate settlements in these types of cases. Costly trials can be stressful on litigants and taxing on an already overburdened civil justice system. Furthermore, trade secrets of manufacturers and the privacy of individual litigants are legitimate concerns.

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?

In the Circuit Court of Cook County, automation and greater use of technology would greatly impact the expense and efficiency of litigation. For example, many courts now allow for filing and the payment of fees and costs on the internet. A relatively simple conversion would greatly benefit this condition. Major changes in civil litigation of the type this question suggests fall within the province of the legislature.

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

Yes, frivolous litigation is adequately deterred by the penalties currently in place in Illinois.

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?

No.

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?

The so-called "English Rule" is not necessary as I feel that frivolous litigation is adequately deterred by the current system in place in Illinois.

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?