



Illinois Civil Justice League

Candidate: William J. Luby

Cook County Circuit Court, Ninth Subcircuit, A Vacancy

1. State the qualifications and experiences that make you qualified to serve on the bench in Illinois.

For fifteen years I have litigated criminal cases in Illinois courts. The wide variety of cases I've handled include murder cases, felony drug cases, hundreds of DUI cases, and hundreds of traffic cases. I have also extended the focus of my practice to include personal injury, real estate, and estate matters. Additionally, I've argued and briefed multiple cases at the appellate level, and even had occasion to assist indigent clients in the State Appellate Defender Program by writing appellate briefs on their behalves. Beyond my valuable experience as a trial lawyer, perhaps most telling of my capacity to serve on the bench is the fact that I regularly teach continuing legal education classes for various bar associations and legal education services.

2. One prominent Illinois judicial evaluation survey asks attorneys to evaluate candidates on Integrity, Impartiality, Legal Ability, and Temperament. Critique yourself in these four areas as to how they make you qualified to serve on the bench.

Integrity is the most critical of the four attributes. Ethics in the legal profession is very important, but critical for a judge. Integrity comes from experience testing ones ability to uphold high standards when faced with complex situations. A criminal lawyer must adhere to the Rules of Professional Conduct and Responsibility, as well as all other important ethical requirements—be they of common sense or prescribed by the practice of law. I have had great examples of what it is like to have integrity tested and that it cannot be compromised for any reason. Having watched my father practice during the "Greylord" scandal and the fallout from its uncovering, I have always been vigilant to err on the side of caution when anything seemed even remotely unethical.

As to impartiality, I recognize that while all lawyers must be zealous advocates on behalf of their clients, a lawyer must also be mindful and even considerate of opposing arguments and positions. I recognize this and

believe it is my ability to remain impartial and to identify both sides of a dispute that will benefit me on the bench.

As to legal ability, I have earned a reputation in my own practice as a vigilant and well-informed advocate. My legal ability is superb, and I strive for improvement by remaining knowledgeable and up-to-date on the most pressing, relevant, and recent legal precedent.

As to temperament, I'm known for always exhibiting a very controlled and confident disposition. I try my best to remain pleasant and approachable, and I do both very well.

3. Describe the case in which you are most proud of your work as a lawyer.

I represented a young man who was accused of leaving the scene of an accident. Our position was that he did not commit this crime, and in fact, there was evidence that his brother had stolen his car and fled the scene. The case was difficult because a victim had been seriously injured and another witness swore he could identify my client. The case was heard before a judge and the judge found my client guilty. The next four years were spent trying to undue this mistake. Ultimately, I convinced a judge to vacate the finding and grant a new trial. We then took the case to the appellate court and eventually tried the case to a jury. The defendant was acquitted by the jury in less than ten minutes. I learned a great deal from this experience and was proud to reaffirm the fact that the system does work, but when things go awry, an advocate must never stop fighting for what is right. I fully believe that the judicial system is effective and strives to get things right. However, sometimes, the only way the system reaches the appropriate conclusion is when a lawyer is persistent and continues fighting.

4. Name one change you would make in the Illinois court system.

I would like to see the court system increase its ability to go paperless, and allow some of the modern computer technology to enter the courtroom and make trial work smoother and more efficient. There are numerous technological developments that can allow the court to reach proper verdicts, while facilitating litigants' abilities to exchange discovery, and present their cases. I think the use of computers would reduce the costs of litigation, allow for the more efficient resolution of cases, and make it easier for the courts to serve more people.

5. 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?

I believe the move towards electronic discovery would allow for a quicker and more efficient court system, which can better handle backlogs of civil law suits.

Are there reforms that would benefit the civil justice system? What needs to be changed?

These electronic discovery reforms would be beneficial to any court system and are being used in other states and at the federal level. What absolutely must be changed are the discovery rules, insofar as they require the antiquated system of everything being printed and filed.

Should the enactment of any such changes be the province of the legislature, the Supreme Court, or by Constitutional amendment?

These changes could be implemented by the Supreme Court or the legislature. A constitutional amendment is unnecessary.

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

I think the cost of litigation has tempered the use of frivolous lawsuits. Consequently, the ability for litigants to seek sanctions for the use of frivolous suits is a proper tool for insuring that the cases that come to the court are meritorious.

7. 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?

I do believe that the Illinois Constitution precludes legislative establishment of limitations on civil damages. Ultimately, this questions boils down to whether we are to adhere to the constitutional principle that the right to trial by jury includes the right to have a jury determine all questions of fact, including the amount of damages a party is entitled to collect. While I recognize the argument made by advocates of tort reform that such a limitation would decrease the number of frivolous lawsuits, I believe that a statute that caps civil damages has the effect of allowing a judge to disregard the finding of damages made by the jury. If a jury's finding is ignored in this way, then a party is deprived of his or her right to trial by jury. That is unconstitutional.

I think that distinguishing between economic, non-economic, and punitive damages is prudent so long as what each class of damages denotes is made clear. Clarity would avoid confusion and misrepresentation.