



Candidate: Diann Marsalek

Cook County Circuit Court, Bronstein Vacancy

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

I have been a licensed attorney since May of 1990 and practicing law for over 19 years. I have worked for the State of Illinois for over 20 years. I worked for the Illinois Attorney General's Office for over 15 years where I was a Unit Supervisor and supervised a staff of 8-10 lawyers. I tried over 30 Federal Jury Trials and obtained trial experience. I also worked on civil matters and am familiar with the civil practice of discovery and motions. I then worked for the Illinois Department of Corrections as the Chief Legal Counsel where I oversaw the litigation for the second largest state agency and supervised staff. Now I serve as a Hearing Officer or agency representative at the Illinois Secretary of State's Office and work in the area of the Illinois Vehicle Code. I have been found qualified or recommended by many of the bar associations including the Chicago Bar Association and Illinois State Bar Association. My years of practice, trial experience and experience as an Administrative Law Judge would make me a qualified and experienced judge.

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.

I have been found qualified or recommended by many of the bar associations in these areas. I was the Ethics Officer for the Illinois Department of Corrections and would bring a strong ethical belief to the bench. I am fair to all those who appear at hearings in which I preside over in my current job. I have the legal ability to research the law and apply the law to the facts. I have demonstrated by legal ability in the 30 Federal trials in which I was the lead counsel. Many individuals have told me I have a great temperament and would make a great judge. I am very easy going and make a point to treat all individuals with dignity and respect that appear in front of me. When I

serve as a Hearing Officer I treat all individuals fairly and impartially. I base my decisions now and will do the same as a Circuit Court Judge, based upon the law and the evidence before me and the applicable law. I believe my work experience has prepared me to serve as a Judge as I act in a quasi-judicial role.

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

I have worked on many cases over the 19 years that I have practiced as a lawyer. I would say that I am proud of all my work on all of the cases that I handled. I tried over 30 Federal Jury Trials and only lost 1 or 2 cases. I worked many hours to prepare the case for trial and wanted to give my clients the best representation possible. I was always prepared and organized which I will also be as a Judge. I was an advocate for my clients while always treating the other side with respect which I will also do as a Judge. I had a good reputation with all the Judges I appeared in front of and now have a good reputation as a Hearing Officer.

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

I would support changes to allow for more access to the courts by more individuals, while ensuring legal representation. One issue that needs to be addressed is that, generally, many litigants are not able to afford an attorney and try to represent themselves. There needs to be more pro bono lawyers in the court houses to serve the litigants or offer some advice on how to proceed in court. More outreach needs to be done with the communities by lawyers or bar associations to inform individuals on the mechanics of the court system. The court system and the rules of procedure are complex and confusing and we need to ensure fairness at this level in the system. Another area to be addressed for reform would be in how judges are elected and the financing of judicial campaigns. It is very difficult to educate the voters on who is running for judge and the credentials of the candidate. The cost to reach voters is often prohibitive to all but wealthy individuals or well funded campaigns. Many of the judges elected have had their campaigns funded by special interest groups or have been elected based upon their name instead of their credentials. These are concerns given the important role that judges play in our system of government.

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? 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?

There needs to be a panel that can explore the civil system and make recommendations to the Illinois General Assembly for reform. There needs to be more communication and cooperation among lawyers especially in discovery related matters. Some lawyers abuse the process by seeking motions to compel without trying to resolve matters with the opposing counsel. Perhaps there needs to be more guidance on discovery related issues to prevent abuses. In addition, as I mentioned earlier, there needs to be more pro bono representation for individuals who can not afford legal representation in civil matters, particularly small business defendants and those of limited economic means.

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

Many individuals are able to file action as pro-se litigants and usually have the fees waived based upon their economic status. Many frivolous cases were being filed by pro-se inmates. One solution is to follow the example established by the Prison Litigation Reform Act which required inmates to pay a portion of the filing fee which resulted in a decline in the number of frivolous cases being filed. All individuals should have access to the courts but there needs to be in place a system to monitor the filings and have Judges indicate if the matters are frivolous so a fee can be charged for future filings. Also, the Cannon of Ethics prohibits an attorney from filing a frivolous lawsuit and the bar associations need to review the process for monitoring attorney actions in this area and how to enforce ethics upon lawyers who do not follow the rules regarding filing frivolous lawsuits. All too often individuals are filing suit knowing that the plaintiff will settle rather than go to the expense of defending the lawsuit. This calls for legal reforms from within the system of lawyers.

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?

The Illinois Constitution does not preclude limitations on awards for civil damages. There should not be a distinction for an award of punitive damages based upon someone's economic status. The jury should take all relevant factors and the law into consideration when awarding punitive damages. If an improper action or course was taken with malicious intent then the litigant should be subject to the appropriate damages as provided by the law.