



Illinois Civil Justice League

Candidate: Raymond W. Mitchell

Cook County Circuit Court, Hayes Vacancy

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

Since the Illinois Supreme Court appointed me to the bench in October 2008, I have presided over 1000s of cases and 100s of trials. Based in part on my service as a judge, the Illinois State Bar Association has found me *Highly Qualified*. I am the *only* candidate in my race with judicial experience.

Prior to becoming a judge, I was a partner at Winston & Strawn, where I specialized in appellate and complex litigation. I represented both individual and corporate clients in a variety of significant cases in both trial and appellate courts. Before that, I served as a judicial clerk to judges on the United States Court of Appeals and the Illinois Supreme Court. As a practicing lawyer for over 15 years, I had the good fortune to work closely with some of the finest attorneys in America and to practice at the very highest level of the profession.

Based on integrity, professional experience, bar association ratings, and endorsements, I am the most qualified candidate in my race.

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.

There are, in my estimation, four critical attributes that we seek in a good judge: (1) integrity; (2) impartiality; (3) legal ability and (4) temperament.

***Integrity.* Public confidence in our court system necessarily depends upon having judges who conduct themselves in a manner that is honest and truthful. That word "integrity" encompasses not only qualifications, but personal honesty, transparency, and a genuineness of character. The Chicago Bar Association notes that I receive "high marks" for my integrity.**

***Impartiality.* The concept of judicial impartiality extends to both a judge's decision and decision-making process. Judicial decisions have to be made without bias and prejudice, and the decision-making process must appear as such. In part based on my record as a judge, the Illinois State Bar Association has found me "Highly Qualified."**

Legal Ability. The decisions that we entrust to our judges are potentially life-altering decisions that can affect our families, personal freedom and economic well-being. These decisions are too important to leave to the inexperienced or ill-trained. The Chicago Council of Lawyers notes that I “was well-respected as an attorney in private practice” and both the Council and the CBA have commented favorably on my legal ability and experience handling complex cases.

Temperament. A judge’s demeanor is critical in promoting integrity, independence and impartiality. Prudence, courtesy, personal decency, and respect for differing points of view are critical to building public confidence in our courts. The Chicago Council of Lawyers notes that lawyers appearing before me report that I have “a very good temperament.”

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

I was one of the attorneys that represented the defendant in *Price v. Philip Morris, Inc.*, that resulted in the reversal of the largest judgment in Illinois history (\$10 billion) and judgment for our client. That case was argued in the Illinois Supreme Court by my former law partner, Gov. James R. Thompson. In connection with that case, I assisted in the briefing on the merits, the oral argument preparation, and the extensive motion practice that secured a direct appeal to the Illinois Supreme Court. I also authored the successful petition to amend Illinois Supreme Court Rule 305, which now vests courts with greater discretion in setting appeal bonds.

The Illinois Supreme Court’s opinion in *Price* is of nationwide significance. It offers a definitive interpretation of a state consumer fraud statute when a class action claim is brought against a regulated industry.

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

One area where the Circuit Court of Cook County lags behind other court systems is in the area of technology. Numerous courts — state and federal — now accept both civil and criminal pleadings for filing through web-based electronic filing. These systems allow litigants to file documents 24-hours a day, seven days a week, and they generate automatic electronic notices to other parties when documents are filed. They also permit attorneys to pay filing fees and to view and print electronic copies of filings as well as docket sheets.

E-filing systems provide greater service and convenience to lawyers and litigants: pleadings no longer have to be hand-delivered or shipped to the court or opposing counsel. The risk of lost or mislaid court files is eliminated because electronic dockets are readily reproduced. This use of technology should save time and money for attorneys and their clients.

For judges and the court system as a whole, there is a real benefit in the increased use of technology. Electronic filings are received and considered by judges more rapidly. Court operations are more efficient, and significantly, public access to court records is enhanced. Greater transparency, reduced costs to lawyers and litigants, and prompt judicial

decision-making: these are all institutional values promoted by the greater use of technology.

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?

As an attorney in private practice, I worked to reform the civil justice system in connection with appeal bonds. In a civil case, an appeal bond is required to stay the enforcement of a money judgment pending review by an appellate court. I drafted the petition to amend Illinois Supreme Court Rule 305 (as I explained at question 3 above), and the Supreme Court did amend that rule.

This was a significant reform. Prior to the amendment, a defendant had to post a bond in the full amount of the money judgment (plus interest and costs). With the increasing size of civil judgments, this imposed a hardship on defendants and often forced a defendant to settle a case before it could be reviewed on appeal. To bond the \$10 billion judgment in the *Price* case would have exhausted the entire North American surety market. The amended Rule 305 now permits a trial court to exercise discretion in setting an appeal bond.

There may well be other civil litigation reforms that are similarly prudent and desirable. Whether that reform is achieved by legislation, judicial decision, rule-change or constitutional amendment necessarily depends on the particular legal practice or procedure at issue.

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

Frivolous litigation is plainly undesirable both from an institutional perspective given the scarcity of judicial resources and as a matter of public policy given the costs such litigation imposes on society as a whole. Having said that, any reform has to be balanced against the principle of open and full access to our courts.

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?

As a sitting judge, it is not proper for me to comment on or advocate a particular position relative to actual or proposed legislation and civil damages. This is particularly so given that the constitutionality of the Medical Malpractice Reform Act is pending before the Illinois Supreme Court.