



Candidate: Russell William Hartigan

Cook County Circuit, Riley Vacancy

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

I have been a practicing attorney for over thirty (30) years and have received the "highly qualified" ratings of both the Chicago Bar Association and the Illinois State Bar Association. I have tried well over fifty (50) Jury Trials in very complex litigation. The majority of these are Defense, but I have also done some Plaintiff work.

I have also argued in the Illinois Appellate Court where there have been significant changes in the law, including *Smith v. Evanston* (i.e. aggravation of pre-existing injury); *Herzog v. Wilmette* (better definition of use-of-force); *Williams v. Evanston* (better definition of willful and wanton conduct); *Buenz v. Frontline* (Illinois Supreme Court) (contractual interpretation on an indemnification clause where two (2) Appellate Districts were in conflict with one another); *Graehling v. Lombard* (one of the first A.D.A. cases).

I am also a certified Circuit Court Arbitrator wherein Judges will refer cases to me for settlement. I am a AAA Arbitrator, as well as a Neutral Arbitrator on many Uninsured Motorist cases.

I have also taught law courses extensively at DePaul University, Northwestern University, and more recently, John Marshall Law School.

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.

As far as Integrity, my integrity has never been questioned. I have never been held in contempt and I have no actions ever against me where there has been any finding by the Attorney Registration Disciplinary Committee. I have been an elected official and my integrity there has never been questioned as a Village or Township Trustee, as well as Township Supervisor. My son is a lawyer and I want to be a good role model for him.

As far as Impartiality is concerned, the sole fact that I have been chosen by many Defense and Plaintiff Firms to sit as an Arbitrator on cases attests to my impartiality. As mentioned, I have handled both Plaintiff and Defense cases my entire life. I try to remain objective and not play any favorites when making Arbitration Awards.

As far as Legal Ability, I have handled rather serious claims whereby the City of Evanston, City of Chicago, City of Berwyn, I.R.M.A. Risk Pool, and other significant

clients have bestowed upon me the trust in handling their cases. I have tried many cases where the Demand has been over One Million (\$1,000,000.00) Dollars. I have never been hit with a large verdict as a Defense attorney against my client. Many of my clients have been with me for twenty to twenty five (20-25) years. I have been able to run my own Law Firm with these clients.

As far as Temperament, I have a good disposition and try to inject some Irish humor into whatever is presented before me. I have attended and been a speaker at seminars where Civility is stressed.

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

***Smith v. Evanston* is probably one (1) of the more leading cases I was involved in which led to a clearer definition of aggravation of a pre-existing injury. *Graehling v. Lombard* was one (1) of the first cases argued in the U.S. Court of Appeals on the issue of A.D.A. compliance. *Williams v. Evanston* gave a much clearer definition of willful and wanton conduct and I argued it in the Illinois Appellate Court.**

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

There is still much crony-ism in the appointment of Judges. There have also been some less than qualified candidates that have been put up by both major parties, and the screening process there is flawed. Also, Case Management Orders should be enforced and not ignored by a Judge.

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?

In Arbitration matters, it seems that the standard Defendants bide their time until it goes through the process and then it goes back over to the Municipal District. There should be some penalty if the verdict in the Civil matter is less than the Arbitrator's Award. It is just a delay and abuse of the system by certain companies that want to hold onto their money and will only pay after Trial. Possibly more cases should be directed to outside Court Mediators in an attempt to settle them. Some Judges do it, but others ignore it. I am a Circuit Court approved Mediator and would welcome that opportunity to handle even more cases to ease the backlog. That could be a change enacted by the Supreme Court of Illinois.

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

Our State Court system does not penalize frivolous litigation. We do not have "loser pays" nor is that in the foreseeable future, given the political dynamics of the legislature. There are certainly some claims that deserve a look, in terms of applying some form of sanction, given their frivolous nature. I understand that everyone does have a constitutional right to file a claim and also a right to a Jury, but some cases are rather bizarre.

It seems that the Federal Court will apply sanctions and State Court Judges are totally against those forms of sanctions. I personally have never seen or heard of sanctions being applied in the State Court in more than thirty (30) years of practice.

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 believe that limitations on many damages should be the province of the Illinois Supreme Court. I have not read anything in the Illinois Constitution which would establish a limitation on damages. Obviously, economic damages are easy to prove. It is the non-economic damages where Juries sometimes are flustered and lack guidance, other than attorneys mentioning amounts in closing arguments. Nonetheless, our Jury Instructions do allow for non-economic damages and there seem to be even more elements being added to allow for additional recovery by the Illinois Supreme Court.

As far as punitive damages are concerned, I believe there should be some form of lid on them where they do not exceed three (3) times the compensatory damages awarded. You should also ask the Court for punitive damages before allowing them to be pled. People look at punitive damages as a windfall. However, I do understand that punitive damages are a deterrent for abhorrent conduct.