

What makes a good judge?

By Hon. Mel Dickstein

I was recently asked to speak at a forum on the topic "What Makes a Good Judge?" It was a timely subject, because ongoing were the confirmation hearings for Justice Sonia Sotomajor and in Minnesota we're asking the very same question as we consider a successor for U.S. District Court Judge James Rosenbaum. Judge Rosenbaum is a tough act to follow.

To prepare for the forum, I read a number of articles all of which were helpful, but none more so than the writings of Maimonides, a 12th century Jewish scholar, commenting on the Book of Judges.

The requisite for any judge, Maimonides observed, is a sophisticated understanding of the law. Maimonides didn't minimize the importance of judges being wise and humble, disdaining personal gain, loving the truth and deserving a good reputation. Nor did he ignore the importance of a judge exhibiting the temperament necessary to earn the respect of the community. But to Maimonides, it wasn't who you know but what you know that was central to what makes a good judge.

A lot has changed since Maimonides' time, and some of his observations are outmoded. But it's still important to make judicial selections based on a candidate's legal ability and temperament. A person's legal ability is important because judges must deal effectively with myriad issues. Civil cases present some of the most intellectually challenging issues faced by our court — they involve decisions that define our rights, privileges and responsibilities in our business and personal lives. These cases are rarely referenced in newspapers or on the TV news. They don't involve murder and mayhem, or rape and robbery which grab the headlines. But civil case decisions often affect how we do business, define our personal and corporate obligations, and control our interactions with one another.

The size and complexity of some civil cases also demand skills necessary to efficiently handle sophisticated, multiparty litigation. I have a picture on my

desk of a stack of briefs and exhibits I received for summary judgment issues in a multiparty case. The briefs were cumulatively several hundred pages in length, and the exhibits, stacked high, were almost as tall as my 11-year-old son. Federal judges see these types of complex, multiparty cases more frequently than we in state court.

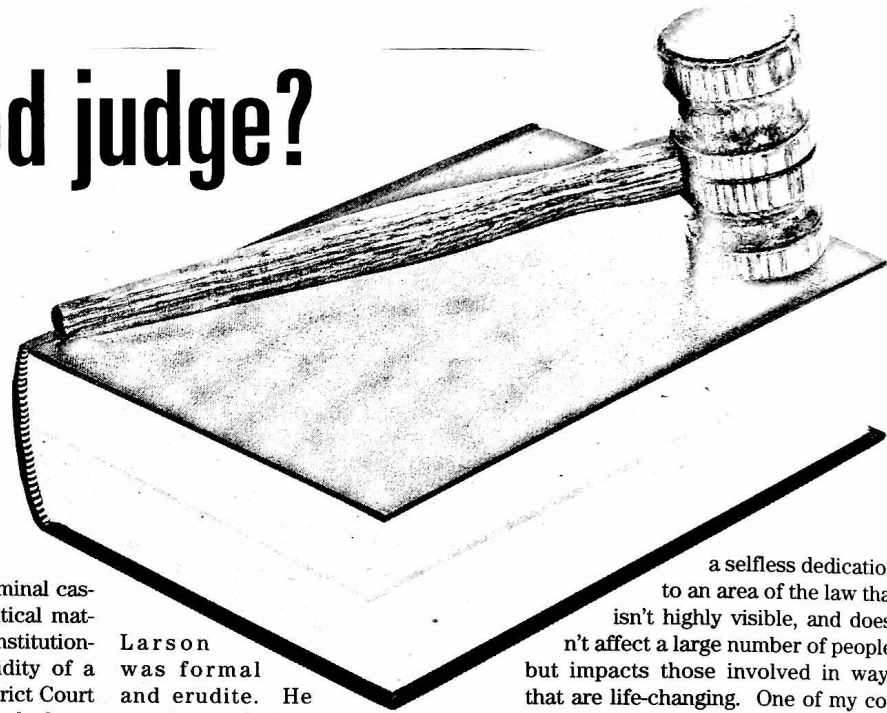


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Judges handling criminal cases also deal with critical matters including the constitutional issues involving the validity of a search or an arrest. U.S. District Court Judge Robert Renner was fond of saying that it takes a brave person to defend the Constitution — an observation particularly applicable to judges who are sometimes required to make unpopular decisions to uphold constitutional principles. Just about every candidate for judicial office says it's important that judges assure the fairness of the criminal process. But in determining if someone will make a good judge, we have to look beyond what candidates say, and determine how they will act when difficult challenges are thrust upon them. The fairness of the procedures we follow in court is critical to the community's respect for the decisions rendered by judges and juries alike. We need to be sure that the judges we appoint are people who are truly committed to the rule of law, in public and private, in theory and practice, when it involves an easy decision, and when it's a hard one.

Determining what makes a good judge isn't an exercise in theory. We have models of what makes a good judge because we've been blessed in Minnesota with many of the finest jurists. We look to them for examples because they've been highly skilled, hard working and sometimes colorful. When they leave the bench we remember them with respect, and often fondness.

As a young lawyer, I began my career in the U.S. Attorney's Office, where I had the good fortune to appear before some wonderful judges. Judge Earl



Larson was formal and erudite. He was known for his work ethic and the high quality of his work — two important characteristics of a good judge.

Then there was Judge Edward Devitt, a scholarly jurist who ruled his courtroom with a strong hand. He was patriotic in his looks and demeanor. You were efficient in Judge Devitt's courtroom, and you certainly were never late. It wasn't fear that you felt when you entered Judge Devitt's courtroom so much as a respect for the process that Judge Devitt insisted upon.

Almost everyone had a colorful story about Judge Lord, but no one ever doubted his intellect or commitment, or his big heart. Judge Alsop was a new judge who came to the bench while I was still a young lawyer. He was from southern Minnesota, and brought with him the ease and informality you'd expect from someone with an outstate background. He also brought with him tremendous ability.


They were all wonderful judges. We may not have agreed with all of their decisions, but we always respected them, and never doubted their ability, dedication and hard work. They are models for what makes a good judge.

In state courts, where jurisdiction ranges from speeding tickets to murder cases and from petitions for a name change to complex multiparty litigation, the factors to consider in determining if a candidate may make a good judge are broader than in federal court. Sometimes being a good judge requires

a selfless dedication to an area of the law that isn't highly visible, and doesn't affect a large number of people, but impacts those involved in ways that are life-changing. One of my colleagues has dedicated himself to helping those with severe drinking problems who appear in court on DWI offenses. A mother recently wrote to thank him for giving her daughter back to her because under his watchful eye she was now overcoming her drinking problem, one day at a time.

Another colleague addresses cases involving the down and out of our society — the homeless, the mentally ill, the poor and uneducated, the downtrodden. He gets to know these low-level offenders, tries to obtain for them mental health services when he can, and in the process saves lives and helps the community.

Other colleagues confront issues of dysfunction in Family Court and Juvenile Court. These judges work hard to make the system work as efficiently as it can, and in the process help to diminish harmful, expensive litigation.

In the end, there's no well-defined list we can point to and say, here's what makes a good judge. As a result we give our politicians a great deal of power when they consider a new judicial appointment. But we also place upon them a great responsibility because their legacy will be determined, in part, by the conduct of those they appoint. We ask that our politicians act wisely beyond measure for the public good, because in their judicial appointments nothing less will suffice. 

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