

"JUDGEMAKER'S" EXPERTISE MOLDS COUNTY JUDICIARY

ANALYSIS & OPINION BY RUSS STEWART

<http://www.russstewart.com/4-7-10.htm>

Every lawyer dreams of being a judge. The robes, prestige, power and pension: It's the profession's pinnacle.

In Cook County there are 40,000 attorneys and 445 judges, of whom three sit on the Illinois Supreme Court, 24 on the Appellate Court and 418 on the Circuit Court. That means one of every 90 lawyers is on the bench.

The qualifications are not onerous: Have a pulse. Be a registered voter and a licensed attorney. In theory, any undead lawyer can be a judge and earn \$169,555 annually.

But in reality, most would-be judges are utterly clueless about the process: Start early, a year prior to the February primary. Get 500-plus signatures on multiple nominating petitions. Run as a Democrat. Get "qualified" ratings from bar associations. Get endorsed by unions and newspapers. Get slated by the Democratic Party. Have an Irish surname. Be a woman with an Irish surname. Don't have a weird surname. Attend political functions and get warm and fuzzy with Democratic committeemen. Spend \$50,000 for ads and political donations. Win the primary.

And, most importantly, hire Mike Tierney, the "Judge Maker."

While obscure to the public, Tierney, who works as a city plumber, has developed his own cottage industry. In the past 11 election cycles, since 1990, Tierney has handled the campaigns of 45 judicial aspirants, and 40 have been nominated in the Democratic primary and thereafter elected. That's an astounding 89 percent success rate. Among judges, Tierney's reputation is legendary.

Tierney's secret: Institutional knowledge. He knows the process. He knows the players. Lawyers don't. "They're busy people," Tierney said of his clients. "My job is to initiate them, mentor them, direct them and accompany them to key functions." Tierney already is besieged with potential clients for 2012.

Here's the "Tierney Method":

First, make the decision. Of the 445 judges, 294 are elected, to the Supreme Court for 10-year terms and to the Appellate and Circuit Courts for 6-year terms. At the end of their term, the incumbents stand for retention and need a 60 percent "yes" vote. They rarely lose.

There are 151 associate Circuit Court judges, who are appointed to 4-year terms by the chief judge, following an election by the 267 full Circuit Court judges. A committee of judges screens applicants, with two choices submitted for each vacancy.

Of the elected Circuit Court judges, 120 are chosen countywide and 147 are chosen in the county's 15 judicial subcircuits, a process initiated by law in 1992 in order to create more diversity on the bench. As a result, blacks, Hispanics and even a few Republicans have won judgeships.

However, an election occurs only when a judge retires or resigns. In 2010, for example, eight vacancies were on the ballot countywide, consisting of judges previously elected countywide, and 14 vacancies were on the ballot in subcircuits, consisting of judges previously elected in those subcircuits. The numbers were nine and 17, respectively, in 2008, six and 14 in 2006, five and 14 in 2004 and eight and 14 in 2002.

Thus, through normal attrition, there usually are 20 judgeships and two or three Appellate Court justice seats available in any given election year. The new pension law passed by the state legislature may clog the pipeline. A judge with 20 years of service previously could retire with a pension equal to 85 percent of his or her salary. The maximum pension now is 60 percent. "For these new judges, there is a disincentive to retire," said one observer.

Second, "fix" the name or forget it. If possible, "Irish-ize" it. Hence, James G. Smith ran as James Fitzgerald Smith, Margaret Frossard as Margaret O'Mara Frossard, and Susan Lorraine Kennedy as Susan Kennedy Sullivan. They won. As for surnames such as Haddad, Greiman, Patti, Marsalek, Pael or Leavitt, it's DOA. They lost. For uninformed voters, a name that is odd, non-Irish ethnic, or Arab- or Jewish-sounding is a turnoff. Seven of the nine women on the Appellate Court have Irish surnames.

Third, get "qualified." There are 11 bar associations that rate aspirants, the most important being the Chicago Bar Association and Illinois State Bar Association. Ratings are "qualified" or "recommended," or "not qualified." "I cannot market a candidate who is not held in high esteem by his or her peers," Tierney said. Bar committees issue ratings at any time, so Tierney requires his clients to be "qualified" before he takes their business.

Judicial candidates campaign only on their credentials, and they are barred by legal canons from commenting on issues. About a quarter of voters use the bar ratings as a guide. That is critical in a tight contest.

Fourth, run as a Democrat. No Republican has been elected countywide since the 1960s, and only three subcircuits are hospitable to the Republicans. "Show some respect" for the party leadership, said Tierney, who squires the candidate to party functions, schedules meetings with key committeemen and has them appear at slatemaking. Once the campaign begins, Tierney's contacts give him necessary information, and he is out every night with his candidates. Each candidate also must start donating to local Democratic organizations.

Fifth, get endorsements, especially from the unions. Tierney's contacts are critical.

Sixth, get party backing in subcircuit races. Slating is of dubious value countywide. On Feb. 2, slated Democrats lost two of three Appellate Court races and two of eight countywide Circuit Court races. "Precinct captains can't elect judges anymore," concedes Tierney, who has roots in the 36th Ward dating back to the 1970s. "But more vote the Democrats' sample ballot than the bar associations' sample ballot. It helps." Of the slated winners, four were Irish-surnamed men.

Seventh, be alert and flexible and spend some time on the streets. The typical modus operandi of a successful judicial aspirant is to circulate multiple petitions, one for each vacancy, getting 1,000 signatures each, and file them all. Then, after assessing the competition, withdraw within a week from all but one. The trick is to be the only Irish-surnamed candidate. Getting on the ballot is work, not a lark.

However, the party insiders also have tricks. If a judge resigns just prior to the end of the filing period, the county clerk can certify the vacancy. That happened in October, when Judge James O'Malley conveniently decided to retire and the party expeditiously slated Thomas Lyons, the son of the late 45th Ward Democratic committeeman and county party chairman Tom Lyons. Few knew of the vacancy, and the party organization got the signatures quickly and quietly. Lyons ran unopposed.

And eighth, being a woman is still an edge. Of Cook County's 445 judges, 164, or 36.8 percent, are women. In 1993, just after the "Year of the Woman" election, there were 51 women, or 11.4 percent.

Women have romped in some past primaries. Women won 24 of 50 judicial contests in 1992, eight of 27 in 1998, 10 of 22 in 2000, 13 of 25 in 2002, 10 of 16 in 2004, nine of 22 in 2006 and 19 of 29 in 2008, but just seven of 25 in 2010. In the past seven primaries, involving 166 races, a woman won 76 and a man won 90.

Why the sudden downturn? Two reasons: In high-turnout years with presidential contests on the ballot, such as 1992, 2000, 2004 and 2008, many new voters picked the woman over the man in judicial races. In February, with turnout at 587,366 (compared to 1,091,008 in 2008), the voter base was less liberal and less female. Second, there was a "New Girls' Network" in the 1990s; the women coordinated with each other, and only one filed per vacancy. Now, more than one woman often run, giving Irish-surnamed men an advantage.

As always, the Democratic slatemakers' bane is Irish-surnamed insurgents. For the Appellate Court in 2010, the Democrats slated Sebastian Patti, who lost to Mary Rochford. In Circuit Court races, of the three women who were slated (Diann Marsalek, Linda Pael and Sandy Ramos), the first two lost to Terry McCarthy and Susan Kennedy Sullivan, and Ramos barely beat Russ Hartigan.

However, two aspirants with "magical" names didn't need the "Judge Maker."

Neil Hartigan, who was the state attorney general from 1983 to 1990 and who lost a race for governor in 1990, ran unopposed for the Appellate Court in 2002 and quit in 2006. State pension is based on earnings in 4 of the last 10 years on the job, and Hartigan ran to boost his pension.

Aurie Pucinski, who was the clerk of the Circuit Court from 1988 to 2000 and who is the daughter of Roman Pucinski, ran as a Republican for the Appellate Court in 2002, switched to run as a Democrat for subcircuit judge in 2004, ran countywide in 2006 (enabling her to move out of her Northwest Side subcircuit to the Loop), and ran for the Appellate Court in 2010, beating the slated Pamela Hill-Veal.

Most would-be judges lack "magical" names. They're not running to augment their pension or move elsewhere. They need the "Judge Maker."