

Why Do We Trust Judges?

"The price of greatness is responsibility." — Winston Churchill

Bedrock to our democracy is the expectation that in an American court, one will receive a fair trial.

While there are limited examples of possible imbalance, the norm by far is fairness to all. Hence the widely held belief that, regardless of money, political affiliation, race, or social status, one will have a fair and impartial judge in America.

This expectation is key to public confidence in our judiciary. If there was fear that judges made decisions based on personal bias or factors like money, politics, vengeance, race, and social status, then there would be little confidence in our system of justice and our judges. Fortunately, as we celebrate Law Day on May 1, we know this is not the case.

Historical Effort to De-politicize the Courts

In 1976, Floridians took steps to insulate our system of justice from politics. Floridians voted to amend the Florida Constitution to implement the current system of selecting Florida's judges on the basis of merit and to eliminate the old system of selecting judges on the basis of politics. Against a backdrop of scandal in the Florida Supreme Court (at a time when candidates for the Supreme Court campaigned and raised political contributions like candidates for representative office), Floridians chose to amend the constitution to institute a new system. As a result, judges were taken out of elective politics in favor of a system where judicial applicants are nominated and submitted to the governor after being screened by non-partisan commissions. Importantly, the new merit system gave voters an opportunity to assess a sitting judge *on the basis of merit* through a nonpartisan judicial merit retention vote.



In short, through this constitutional amendment, Florida's voters sought to de-politicize the courts — to remove judges from politics. Importantly, this system has worked uniformly under seven governors, both Republican and Democratic.

Historical Test of Our System Is Upon Us

In November 2012, Florida's citizens will have an historic opportunity to vote on whether to retain — on the basis of judicial merit — three sitting Supreme Court justices and 15 state court appellate judges. Given national scrutiny and the number of judges at issue, this vote will be of historical import. Significant funds are likely to be invested by various interests opposing various judges and justices. In part, opposition has been galvanized by the defeat of three sitting justices in Iowa in 2010 and the sense that Florida's judicial merit system is vulnerable to political attack.

Confidence in the Courts and The Florida Bar

A core mission of The Florida Bar is to promote the administration of justice

and to promote confidence in our courts. Central to this mission is to ensure that Florida's voters have an opportunity 1) to learn about the history of the judicial merit system, 2) to learn about how the merit system has worked for nearly 40 years, 3) to learn about the critical roles judges fulfill in our constitutional democracy, and 4) to learn how vitally important it is that fair and impartial judges oversee Florida's courts to ensure confidence in our judiciary.

With its responsibility to *promote the administration of justice*, The Florida Bar is launching an educational program to address these issues in the context of this historic merit retention vote. Effective May 1, to coincide with Law Day, the Bar will launch its educational effort: "The Vote's in YOUR Court — Judicial Merit Retention. Know the Facts."

This comprehensive communication project aims to educate Florida voters on the merit retention process, encourage voters to learn more about the justices and judges up for merit retention, and to urge voters to make informed votes in the November 2012 election. Through collateral development, public relations, advertising, media relations, social media, and grassroots advocacy, these communication efforts will reach voters across Florida and heighten voter awareness and engagement in this historic vote. The program will also involve various educational opportunities, including a presentation featuring retired U.S. Supreme Court Justice Sandra Day O'Connor (at The Florida Bar Convention in Orlando in June), speeches by Bar leaders, and the broad dissemination of education materials to the public.

The emphasis in the Bar's effort will be about facts. Voters will be urged to learn the facts about judicial merit,

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about how the system has functioned, about the voters' decision in 1976 to remove judges from elective politics, and about the importance of evaluating the facts of a judge's record based on a body of work and not a particular ruling. Further, voters will be urged to learn about the role judges fulfill in our democracy, the constrained roles they fulfill in the trial and appellate courts (the subject of my March column), and the limitations on judicial office and judicial campaigning (the subject of my April column).

The goal is to promote public understanding of the facts underlying the merit retention vote in the hopes that confidence in Florida's judiciary will grow. This educational effort is sponsored by the Board of Governors of The Florida Bar, and the leader-

ship team includes Sandra Diamond, board member from St. Petersburg; Sean Desmond, board member and current president of the Young Lawyers Division; President-elect Gwynne Young; and President-elect Designate Eugene Pettis.

It is with a deep sense of responsibility that the Bar has undertaken this educational effort. I urge each of you to embrace this public education campaign and to take responsibility in your own spheres to enhance voter understanding. Such efforts are key to maintaining confidence in our courts. □

Errata

In the article "CERCLA's Rock and Hard Place: A Look at the Interpretive Conundrum Created by the 'Innocent Landowner' Provision" (April 2012), an older version of the author's biography was mistakenly used. The biography should have read: Jeffery C. Close is an associate with the Jacksonville firm of

Milton, Leach, Whitman, D'Andrea & Eslinger, P.A. Prior to joining Milton Leach Whitman in February 2011, he worked as a senior assistant general counsel with the Florida Department of Environmental Protection, where he litigated enforcement cases primarily in the hazardous waste and waste cleanup programs.

OATH OF ADMISSION TO THE FLORIDA BAR

The general principles which should ever control the lawyer in the practice of the legal profession are clearly set forth in the following oath of admission to the Bar, which the lawyer is sworn on admission to obey and for the willful violation to which disbarment may be had.

"I do solemnly swear:

"I will support the Constitution of the United States and the Constitution of the State of Florida;

"I will maintain the respect due to courts of justice and judicial officers;

"I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

"I will employ, for the purpose of maintaining the causes confided in me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

"I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

"To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications;

"I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

"I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God."