

MBA Judicial candidate questions

Answers by Judge Dan Gabler

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1. What judicial philosophy will you bring to the court and what in your life led you to that philosophy?

My Judicial Philosophy is rooted both in the law and in common sense. I manage my courtroom everyday based upon THREE fundamental principles:

1. Responsibility to the Constitution, Wisconsin State Statutes as well as to the litigants who appear in my court by being timely and prepared. I am committed to following the law as it is written, as the legislature intended. It is not my job to create law from the bench.
2. Civility toward law enforcement, victims, witnesses, defendants, jurors, lawyers and litigants who appear in my courtroom. I am well aware of the fact that when passions are inflamed is when fairness and justice are most in jeopardy. Every person, regardless of social or economic background, who walks into my courtroom are treated the same; they are treated with dignity and respect.
3. Maturity by drawing upon my over 30 years of professional and volunteer work in Milwaukee County as I fulfill my duties as a Milwaukee County Circuit Court Judge. My entire work effort has been to build-up Milwaukee County by empowering people to be the best they can be. My legal career further demonstrates a proven track record of protecting the rights and interests of families and children; private clients, business owners and non-profit organizations; and defending the rights of victims of crimes and defendants alike.

Having lived and worked in Milwaukee County for over 30 years, including raising a family with my wife, my primary focus has been the protection and safety of the community so that we all can live, work, worship and raise our families in tranquility. I bring this same philosophy of work, service and life to the courthouse everyday as a Milwaukee County Circuit Court Judge.

2. What special or unique quality would you bring to the Circuit Court bench?

I am the ONLY judge ever to have the unique experience of ordering criminals to serve incarceration time, prosecuting criminals resulting in prison sentences AND as Chair of the Parole Commission releasing criminals from prison after serving sufficient prison time. Having drawn upon my more than TWO decades of experience in the criminal justice system, I have made the difficult decision of whether someone should be incarcerated and whether a person poses an unreasonable risk to the community and should (or should not) be released from Wisconsin State Prison.

With years of experience as a litigator in private practice, I have advocated for clients in the realms of commercial litigation / jury trials and as well as in personal injury litigation / jury trials. As a result, I've argued Summary Judgement Motions and have fought paper-discovery battles. I am keenly aware that "time is money" and thus, as a Judge, I do not waist the valuable time of lawyers nor their client's money. Furthermore I am aware of a judge's role in the courtroom; I let the lawyers be lawyers – as Judge, I recognize that I am not on the "playing field."

As a Judge and/or lawyer, I have participated in over 200 jury trials and more than twice that number of evidentiary hearings. As Judicial Law Clerk for Hon. Michael T. Sullivan, Wisconsin Court of Appeals – District I, Milwaukee, WI 1991 to 1992, I conducted extensive research of Wisconsin law and court records in the drafting of more than 50 appellate court opinions regarding business law, real estate, insurance law, criminal law and evidentiary issues with 6 draft opinions published in the Wisconsin Reports.

As a Marquette University Law student, I was Executive Editor, *Marquette Law Review*, 1990-91; and Student Editor, *Federation of Insurance & Corporate Counsel Quarterly*, 1990-91. In addition, my legal Comment was published: Conscious Pain and Suffering is Not a Matter of Degree, 74 *Marq. L. Rev.* 289 (1991).

3. Describe your legal practice during your career (volume, area of law) and how has it prepared you for the Circuit Court bench?

Civil Law

- Defended clients in civil litigation wherein client's exposure exceeded \$100,000 dollars, trying several matters to a jury and resolving others short of trial, saving client thousands of dollars in legal fees and potential liability.
- Negotiated and resolved litigated disputes between principles and distributor / clients over distributor contract, (Wisconsin Fair Dealership Law) preserving \$250,000.00 in gross sales for client.
- Researched and formulated solutions to complex municipal law issues as an Assistant City Attorney for the City of Mequon.
- As an Assistant District Attorney, advocated for the protection of neglected and abused youth in Children's Court by terminating the parental rights of neglectful parents so that those who are most vulnerable in society would be adopted by nurturing families.

Criminal Law

- Lawfully prosecuted and convicted 1000's of criminals, those who are most violent and dangerous to our community, including armed robbers, drug dealers, drunk drivers, identity thieves, burglars and auto thieves wherein one juror wrote: "Daniel Gabler did a fantastic job of not only representing the State of Wisconsin but also his profession."
- Litigated scores of Domestic Violence and child support cases in an effort to break the cycle of violence and redirect both perpetrator and victim to normalize relations wherein one victim wrote: "Just felt very overwhelmed with gratitude that you worked on my case."

Administrative Law

- Provided legal interpretations and oversight of a \$119 million contract with the State of Wisconsin for welfare-to-work services as Compliance Officer for Goodwill Industries.
- Negotiated and drafted eight cable television franchise contracts, securing company rights for 15 years, and commenced 19 additional franchise negotiations as Public Affairs Manager for Time Warner Cable – Milwaukee Division.

Please also see answers to Questions 2, 5 and 6.

4. Share a significant case you argued before the court. What did you learn from it?

State v. Artic, 2010 WI 83, 316 Wis.2d 133, 762 N.W. 2d 436; affirming State v. Artic, 2009 WI App 12, 316 Wis. 2d 133, 762 N.W.2d 436. In this case, I prosecuted Mr. Robert Artic Sr. for Conspiracy to Commit the Crime of Possession with Intent to Deliver Controlled Substance-Cocaine and Keeper of a Drug Place in February 2006 (06CF0685 – Milwaukee County).

It was a particularly challenging case for the evidence against the defendant was circumstantial. In addition, it was tried before a jury over the course of five days in front of a judge who had just been rotated to the criminal division, having virtually no prior criminal jury trial experience. After presenting numerous police testimony evidence and over 25 exhibits, the jury found Defendant Artic guilty of both counts.

My effort in building the trial court record afforded the Wisconsin Supreme Court to find that there was a lawful basis for police to enter Mr. Artic's residence. The essence of the decision states: "While the officers here did break down the front doors to the building, there is nothing in the record to suggest that their actions were calculated to surprise, frighten, or confuse Artic, whom they did not realize was an occupant of the house. The officers were furthering a legitimate law enforcement purpose, see Scheets, 188 F.3d at 840, acting on a reasonable belief that evidence might be destroyed, and not specifically targeting Artic. In sum, the record simply does not suggest 'bad faith' exploitation of the situation on the part

of the officer[s].” Richter, 235 Wis. 2d 524, ¶53. Therefore, their actions were neither purposeful nor flagrant, and this factor weighs in favor of attenuation.

As a result of this case, it reinforced for me the fundamental principle of courtroom litigation: Make A Record!

5. What demeanor will you bring to the bench?

Having conducted and/or participated in 1,000’s of court hearings during the course of my legal career, I am well aware of the fact that whoever is a party to the case, it is the most significant, most trying event in their life at that moment in time. In short, litigation is stress!

It is with this in mind that I afford every litigant who comes into my courtroom the utmost patience and understanding of the immediate challenges they face.

When I became a judge over 14 months ago I took an oath; I swore to apply the law evenly and fairly as written, without regard to a person’s social, economic, ethnic or religious background. Moreover, every person who appears in my court is afforded dignity and respect by both me and each respective litigant. This is what I do every day as a Milwaukee County Circuit Court Judge.

6. Describe your involvement in the legal community and the greater Milwaukee community. How will that assist in your interactions with those who appear before you?

At present I am one of several judges presiding over a general crimes calendar at the Milwaukee County Courthouse. In fulfilling my Constitutional duties as judge I draw upon my over 30 years in the working world – both my legal and non-legal experiences.

As a front-line criminal prosecutor for over 17 years, I prosecuted some of the most dangerous criminals in Milwaukee County. As Chairperson of the Wisconsin Parole Commission for 2 years I was entrusted to assess and decide who should be released from prison to parole supervision. As Compliance Officer for Goodwill

Industries' Welfare-To-Work (W-2) contract, I was required to ensure the proper implementation of a \$119 Million Dollar contract with the State of Wisconsin.

These professional experiences, together with my volunteer experience, provide me with a unique perspective of the challenges people face in navigating the various trials of life. My volunteer work in legal community and community at-large includes:

- Pro Bono Attorney, Milwaukee BAR Association Landlord-Tenant Hotline
- Arbitrator, Milwaukee Better Business Bureau
- Assistant Scout Master, Boy Scout Troop 397
- Graduate, Future Milwaukee, Inc. Leadership Program
- Volunteer Instructor, Milwaukee Rescue Mission – Joy House
- Volunteer Tutor, Sara Scott Middle School, Milwaukee Public School System
 - Advisor, Junior Achievement of Southeastern Wisconsin

In short, I have served hundreds of families, youth, victims, witnesses, and offenders of all races and ethnicities, from all socioeconomic backgrounds, in an effort to move them toward tranquility and success.

7. What is the most difficult decision you ever made in your life? Describe the decision-making process you used and how would you describe your decision making style.

At the core of this question is whether, as Judge, do I insert my own opinions and preferences in my decision making process from the bench? As Judge, do I follow the statutory and constitutional law as duly established by the legislature and governor of the State of Wisconsin? The answers to these questions are “No” and “Yes!”

“Yes” I do follow the conscripts of the law as established by the legislative process and interpreted by case law. And “No,” I never place my thumb on the scales of justice to direct the outcome of a case to match my personal preferences. It is not my job, nor is it in any way appropriate, to bypass the legislative process by either ignoring or manipulating the law. For me to decide cases based upon a desired outcome or based upon whether I personally like the litigants or lawyers that

appear before me, would negate the work and will of the legislature. Equally significant is for any Judge to contort the law would in essence disenfranchise every Wisconsin resident who voted for the governor and respective legislator.