

Q & A with Judge JoAnne Kloppenburg, candidate for Wisconsin Supreme Court; answers provided 1/27/16

1. Identify what you believe to be your single most important qualification for serving on the Wisconsin Supreme Court.

I am going to answer your question assuming you want me to leave aside my legal qualifications; I am the most qualified candidate in this race in terms of the depth and breadth of my judicial and legal experience. But I understand your question as trying to get at a quality that voters look for in a Supreme Court Justice, beyond what makes a candidate “qualified” to serve on the Court. To that question, I would answer “courage and integrity.” In addition to my ability to analyze the law and reach the correct legal decision, I have the courage and integrity to remain steadfast in my commitment to the Court’s fundamental obligations to law, justice and the people of Wisconsin.

2. Please point to a decision you have written that reveals something relevant about your judicial philosophy, and highlight what that is.

The following two decisions illustrate my approach to judicial decision-making: focusing in on the question asked by the parties, hearing their arguments and conducting thorough research on the question presented, applying a disciplined and principled analysis to the question presented, and writing a clear, thoughtful, and fair decision that is readily understandable to judges, lawyers, and the public. Both decisions were published, and neither was taken up by the Wisconsin Supreme Court.

In [*Riley v. Extencicare*](#), issued on December 27, 2012, I wrote the decision for the court affirming a circuit court decision denying a motion to compel arbitration against a widow who was suing the owner of a nursing home where her husband had died. In other words, the court preserved her right to bring her claims in state court. The nursing home sought to enforce an arbitration agreement that required arbitration using rules set forth by an arbitrator that been barred by a consent judgment with the Minnesota Attorney General from being involved in any consumer arbitration proceeding like this one. The court invalidated the arbitration agreement based on Wisconsin statutes and case law, and a comprehensive review of case law around the country.

In [*State v. Crute*](#), issued on January 29, 2015, I wrote the decision for the court affirming a circuit court decision dismissing a citation for participating in an unpermitted event in the State Capitol rotunda. The constitutional problem with the rule that formed the basis for the citation was that the rule prohibited unpermitted events undertaken by as few as one person. The parties agreed that the rule must have a numerical floor that exempts small groups from the permit requirement, and the State asked the court to read into the rule such a numerical floor. The court

explained why the State provided no authority for the court to legislate from the bench in that way.

3. Wisconsin's Supreme Court has drawn negative attention for various indicators of discord among its members. Please explain what you would do to reduce tensions and promote collegiality on the court.

I was chosen by my colleagues as the Presiding Judge on the Court of Appeals District 4 because they respect my ability to encourage the best from everyone, efficiently conduct the court's business, and respectfully handle issues that arise. But I think your question misses the point: The Justices on the Wisconsin Supreme Court have said they are working to be more collegial and I take them at their word. More important than personalities or "discord among the court's members" is the work of the Court and the people's confidence in that work. As I travel the State, Wisconsinites tell me they are concerned that the outcome of some cases the Court has decided – including Voter ID, the John Doe investigation and Act 10 – were forgone conclusions. People don't want partisan politics on the Court, and the huge amounts of unregulated special interest money spent on judicial elections can lead to the perception that justice is for sale. The remedy for that ebbing of confidence is to elect Justices who have the background and the backbone, as I do, to stand up to partisan politics and to be an independent voice on the Court.

4. Name a single Wisconsin Supreme Court justice, past or present, whom you admire, and tell why.

Justice Shirley Abrahamson. I was an intern for Justice Abrahamson while in law school. I admire her for her intellect, her work ethic, her vision for making the court system more accessible and transparent and her ability to create initiatives that further transparency and accessibility. She is also a trailblazer, the first woman to serve on the Wisconsin Supreme Court and the only woman on the Court from 1976-1993.

5. Do you believe that Wisconsin's Supreme Court is, as a matter of law, subject to the state's public records and open meetings laws?

The legal question raises a separation of powers issue that implicates all judges and the entire court system, and may come before the Court. While I cannot opine on that legal issue, I can say that I am a strong advocate for open and transparent government, and I have complied with the public records requests I have received since I've been on the Court of Appeals.