

The Judicial Races: Know Before You Vote

Contributed by John Browning
Sat, May 26, 2012, 08:15 AM

Here in Rockwall County, there are a number of judicial races guaranteed to have an impact for years to come. Traditionally, “down ballot” races like these for judicial office tend to attract less voter attention than more highly-publicized races. Yet, in many ways, the outcome of a judicial election can have a more direct and far-reaching effect on the lives of local voters. All too frequently, such races receive scant media attention and everyday voters lack sufficient information to make an informed choice. Lawyers have somewhat more information to go on, based on professional experience in front of a judge or judicial candidate, but even attorneys often have to seek out additional facts before deciding.

Starting locally, Judge Brett Hall, the incumbent presiding judge of Rockwall County’s 382nd Judicial District Court, is unopposed in the May 29 Republican primary and will not face a Democratic candidate in the general election. Judge David Rakow, judge of the new 439th Judicial District Court, and Judge J. Brian Williams of the Rockwall County Court at Law, are similarly unopposed. All have done fine jobs of administering justice and managing steadily growing dockets as Rockwall’s population and commercial development continues to expand.

On the 5th District Court of Appeals, Rockwall County voters have a more difficult task. In the race for Chief Justice of the appellate court (which handles civil and criminal appeals for Dallas, Collin, Hunt, Grayson, Kaufman, and Rockwall counties), incumbent Chief Justice Carolyn Wright—who hails from Rockwall County—is unopposed in both the primary and the general elections. Likewise, incumbents Justice Jim Moseley in Place 5, Justice Molly Francis in Place 10, and Justice Elizabeth Lang-Miers in Place 13 all have no opposition in the primary. Penny Phillips has filed for the Place 5 Democratic primary and will go up against Justice Moseley in November. For incumbent Justice Robert Fillmore in Place 12, it is a case of déjà vu. Unopposed in the Republican primary, Justice Fillmore has drawn a familiar general election opponent, a Dallas solo practitioner named Lawrence Praeger, running in the Democratic primary. In 2010, Justice Fillmore dispatched Mr. Praeger handily, and the 2012 Judicial Poll conducted by the State Bar of Texas gives a sense of why: Fillmore is a respected jurist who garnered a plurality of the vote in that poll. In the Place 11 race, Justice Douglas Lang is the Republican incumbent who has served 10 years on the appellate bench. Justice Lang has personally authored over 1100 judicial opinions, and served on panels deciding more than 4700 cases. He is unopposed in the May 29th primary but looming ahead in the November general election is a showdown with Democratic challenger Tonya Holt, a former Assistant Attorney General and in-house counsel with over 17 years of experience.

Place 9’s Republican primary race pits incumbent Justice Martin Richter, who is seeking his third term on the Court of Appeals, against challenger David Lewis. Justice Richter came to the appellate bench after a distinguished career serving as first a Dallas county court at law judge and then a civil district court judge. The 64 year-old Richter has had 21 years of judicial experience, unlike his 61 year-old opponent, who has no judicial experience and has already made 2 previous unsuccessful runs for office. It hardly comes as a surprise that Justice Richter gained both the Dallas Morning News’ endorsement and a dominating finish in the State Bar Judicial Poll, scoring more than both his primary opponent and the Democratic challenger combined. The winner of the Richter/Lewis primary will face Democratic challenger David Hanschen in November. Hanschen, a controversial former Dallas family court judge, made a losing bid for the Dallas Court of Appeals in 2008.

But it’s the race for the Place 2 spot on the Dallas Court of Appeals being vacated by retiring Justice Joe Morris that has attracted the most crowded field. Five candidates are vying for the Republican slot: former Dallas county-court-at-law and civil district court Judge David Evans; former criminal court judge Jennifer Balido; former family court judge Jeff Coen; experienced appellate specialist Bill Whitehill; and another seasoned appellate lawyer, Kevin Keith. This race offers an abundance of well-qualified candidates and is likely to result in a runoff election. Both the 54 year-old Whitehill and 57 year-old Keith bring a wealth of appellate experience as practitioners, while Coen and Balido tout their respective family court and criminal court experience. In what it termed a “very close call,” the Dallas Morning News gave its endorsement to David Evans, who claimed a narrow victory as well in the State Bar of Texas Judicial Poll (a 99 vote edge over his closest challenger, Bill Whitehill). Evans points to his 12 year judicial record, his leadership on the bench (where his peers chose him to be the presiding judge as well as the administrative district judge), his record of cost-cutting measures, and his acknowledgement by members of the bar (who voted him Judge of the Year in 2005). But he’s also quick to point out his bona fides as a conservative Republican, distinguishing himself in his campaign literature from opponents like Kevin Keith and Bill Whitehill (according to the Evans campaign, Dallas County voting records reflect that Keith voted in 4 Democratic primaries, including 2008, and that Whitehill voted in the 2008 Democratic primary). Democrat Dan Wood awaits the eventual winner of the Republican primary.

On the state’s highest court, the Supreme Court of Texas, there are equally vigorous contests. Longtime Justice Nathan Hecht, in the Place 6 slot, may have no Republican primary challenger, but an unheralded Democratic candidate has filed a lawsuit to take him off the ballot, claiming procedural deficiencies in Justice Hecht’s nominating petitions. In the Place 2 race, incumbent Justice Don Willett faces a familiar foe from his inaugural 2006 term, attorney Steve Smith. The 50 year-old Smith is perhaps best known for successfully suing the University of Texas in the Hopwood reverse discrimination case, and riding that notoriety into a winning bid to fill an unexpired term on the Texas Supreme

Court from 2002–2004. However, Willett has gained respect for his scholarship and independence during his term, while Smith is looking more and more like a perennial candidate; this marks the fifth time he has run for the Supreme Court. In the race for Place 4, embattled incumbent David Medina has struggled to raise money for his primary battle against two challengers: 53 year-old John Devine, a former civil court judge in Houston perhaps best known for his refusal to remove the Ten Commandments from his courtroom during the 1990s; and attorney Joe Pool, Jr. from Dripping Springs. Medina is no stranger to controversy or to “Legally Speaking” readers. Since his 2006 election, Justice Medina was indicted by a Harris County grand jury after a suspicious fire at his home. Charges that he fabricated evidence were later dismissed by the Harris County D.A.’s office, a move that attracted controversy and the ire of members of the grand jury that had indicted him. Earlier “Legally Speaking” columns chronicled this troubling episode.

Take the time to inform yourself about the judicial races. And regardless of how you vote, please vote on May 29.