



THE VILLAGE REFORM DEMOCRATIC CLUB

Dear 2022 Civil Court Judge Candidate:

The Village Reform Democratic Club is interested in your qualifications and plans for the office you're seeking. We have prepared these questions to help us know you better as we decide on our Club's endorsements.

Please provide your name, website and/or social media if any, and contact information in case any of our members wish additional information or clarification.

Eric C. Flores

<https://scahillpc.com/eric-flores/>

Facebook handle: Eric Flores

Instagram handle: ecflores5

Twitter handle: ecflores22

Cell: (989) 529-0911

Email: eflores@scahillpc.com

- 1) What are your qualifications for the position of Civil Court Judge?
For my firm, I've spent that past 11 years as the Team Leader for New York County. I've become familiar with the inner workings of the Civil and Supreme Court as I am in those courtrooms daily (pre-COVID). Specifically, I believe my experience inside the courtroom, not necessarily trying cases, but being involved in the day-to-day operations of the Court and learning from a variety of judges is quite beneficial. I'm able to see how one judge operates a courtroom over another judge, how they make decisions from the bench or fully submit the papers, and how they trust their staff handle particular issues.
- 2) If elected, what reforms, if any, would you make in civil court rules and/or procedures?
Regarding a specific Court Part or courtroom, this will depend on which Part I'm assigned. I think New York County judges have done a good job at keeping attorneys informed when it comes to specific Part rules. I would review my predecessor's rules to determine if I would adopt the same or make edits.

Regarding the Civil Court system as a whole, I think I would push to embrace a virtual system. Civil Courts in Queens and Kings Counties have had a decent virtual Court calendar that I think New York County can learn from. Specifically, Queens County has a virtual calendar call each Monday for the motions returnable for the upcoming week. No matter if the motion is returnable on Friday or Tuesday, it will

be called on Monday. I think the issue with that is confusion. Parties don't seem to understand that their motion isn't on the return date listed in eCourts or eLaw. This confusion ultimately leads to unnecessary long adjournments. By opening up the virtual system to more days during the week, there would be less confusion and lead to less adjournments. Few motions are argued virtually. I would like to study how the Court could better that system of virtual arguments, maybe instituting a clock that is available on Webex virtual systems.

- 3) In certain circumstances the law gives judges:
- a. the discretion to act in the interest of justice to achieve an outcome which would otherwise not happen
 - b. the power to sanction parties for frivolous conduct
 - c. the discretion to correct technical defects

Do you believe that these powers should be exercised often or sparingly, and can you give examples of some circumstances in which you anticipate using any or all of these powers?

The C.P.L.R. and Uniform Rules provide the Courts with broad discretion on a variety of issues. Decisions by judges are generally not overturned by higher Courts unless clear abuse of that discretion is shown. Should discretionary powers be used often or sparingly? The correct answer is "it depends". I think judges have to evaluate each case to understand the issues presented to the Court by the attorneys. I believe these powers must be used in the interest of justice and to advance cases throughout the course of litigation. The end result of each case should be resolution of the matter, either by dismissal, settlement, or Trial. Will my decision promote fairness and push this specific case to that goal?

Examples:

Regarding subpart (a), an example would be overturning a judgment obtained by plaintiff against a defendant. C.P.L.R. §5105(a) allows the Court who rendered the judgment power to relieve the party based upon (1) excusable default; (2) newly-discovered evidence; (3) fraud, misrepresentation, or other misconduct; (4) lack of jurisdiction to render the judgment; or (5) reversal, modification, or vacatur of a prior judgment. An on-point case would be *Star Credit Corp. v. Ingram*, 71 Misc2d 787, (New York County, 1972), which was decided by Judge Budd G. Goodman. In that case, a judgment on default had been entered against defendants, who moved to vacate the Order based upon lack of jurisdiction. Judge Goodman denied that portion of the Order to Show Cause because defendants had made payments for 3 years in accordance with the judgment. So their awareness and delay in making an application to the Court concerning lack of jurisdiction nullified that argument. However, "in the interest of substantial justice", the Court exercised its discretionary powers and vacated the default to allow defendants to establish if they were victims of a fraudulent consumer sales scheme. This is a good example where the Court exercised its powers to achieve an outcome that would not otherwise occur.

For subpart (b), an example would be disclosure. C.P.L.R. §3126 allows parties to make an application to the Court where a party has disobeyed a prior Court Order. These motions can be made, in my opinion, prematurely. A party wants a piece of discovery and it was objected to or not disclosed. Be that as it may, the failure to comply with a number of Court Orders could rise to frivolous conduct. Hiding discovery, destroying discovery, inappropriate conduct during depositions could all warrant frivolous conduct that require judicial intervention.

Finally, as to subpart (c), an example would be an error in an Order. I have had instances where a sentence in the Order had one word that changed the meaning of the decision. Based on the argument before the specific judge, who told all parties how he would decide during oral argument, it was clear that an error was made. So long as all parties are made aware of the Order and given an opportunity to discuss any issue to the judge, I think it is appropriate for the error to be corrected.

- 4) Some judges are more lenient than others when it comes to granting adjournments. What do you expect your policy to be with respect to granting adjournments?
This will depend on the issue. If it's discovery, I tend to believe that a three-strikes-and-you're-out philosophy is best suited. It allows for emergencies, it gives parties the time to conduct proper searches for discovery, and sets the tone for the courtroom. For motions, I would be stricter. One adjournment with an excuse is satisfactory. But likely I would deny parties further time without good cause shown. With regard to Trials, I may not have the power to adjourn the case. My administrative judge would give me direction that I would have to adhere to.