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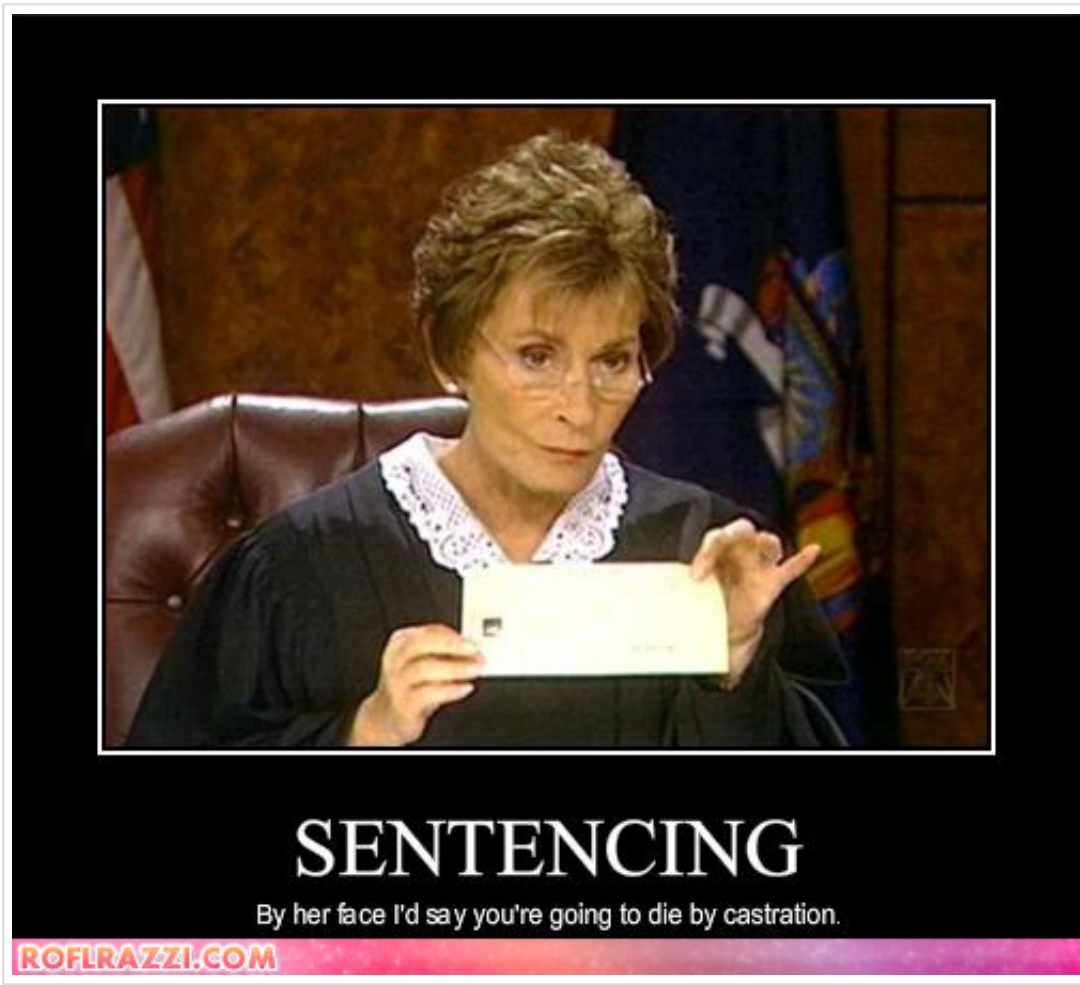
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By [Michael Helfand](#), October 26, 2011 at 9:02 am

Lawsuits can be contentious and you can feel like everyone is against you. The judge that is hearing your case, though, is (supposed to be) the one impartial participant, and is only on the side seeing that justice is served. But judges are only human, and therefore sometimes some bias for or against one of the parties may creep into your case. Under the law in Illinois, you may be allowed to remove the judge in some circumstances, and get a new one.



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First, if a judge has been assigned to a case that he or she has some involvement in, then the judge should step down from hearing the case, and the parties can request the same. These situations are limited to the judge's being a party, or a significant witness, or having a stake in the case, or having been the attorney or being related to one of the parties.

Next, there's also the relatively easy way for a party to request a new judge. In each lawsuit, you have one opportunity to switch the judge that has been assigned to your case. It is generally an automatic substitution-- no questions

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Michael Helfand

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asked, and no reason needed. But here's the catch: this request has to be made before the trial starts, and before the judge has made any substantive ruling on your case. You can't exercise this option in response to a judge's decision that you didn't like.

On the other hand, once your case is ongoing, and after there has been a substantive ruling made by the judge, there is still another way you can switch, if it is necessary. You can petition the court for a substitution of judge "for cause." But this means that if you want the judge removed from your case at this point, you'll have to prove that the judge is not impartial, and is actually prejudiced against you in handling your case.

Removing a judge "for cause," is not easy, and it's not meant to be. If every party to a lawsuit could make a charge of unfairness against a judge and demand a change, then there would be a constant parade of judges in and out of cases. After all, in each ruling a judge makes, one side is happy, and one side is not. And the party on the losing side generally greets the decision with a feeling of being short-changed.

But judges are presumed to be impartial, and able to put personal feelings and experiences aside when presiding over a case. So to remove a judge for cause, you will have to point to more than just some facts that could possibly lead to bias and unfairness. You have to make the case that this judge is in fact biased against you and you are unable to have a fair trial without removing him or her.

Recently the Illinois Supreme Court looked at the issue of what the burden was on the party looking to remove the judge after the case was underway. The husband in a family law case believed that judge was biased against him



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because of past experience, and had too friendly of a relationship with his ex wife. He wanted to remove the judge, and pointed to facts that could make the judge unable to be neutral.

But the Supreme Court clarified that the husband in this case, and other parties to lawsuits, would have to show more than a likelihood of unfairness. You would need to prove that the judge was actually biased against you in a way that you could not possibly receive a fair trial. If the judge, for example, made comments that showed the rulings were based on something other than the case and the law, or that showed that the favoritism towards the other side was so intense that it could not be overcome, you might have a chance.

When you ask the court to remove the judge for cause, a different judge actually hears your request and makes the decision. This procedure helps to protect the system and give you a fair shot at succeeding. But it's still a long-shot to be able to overcome the correct presumption that judges are able to put aside their personal feelings and opinions once they put on their robe and preside over a case.

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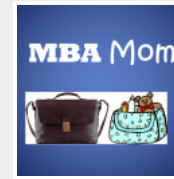
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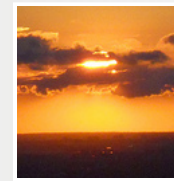
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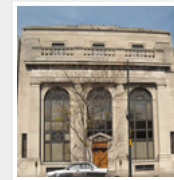
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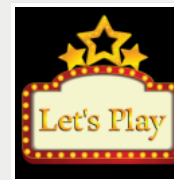
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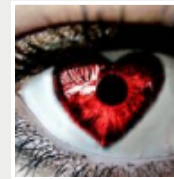
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