

June 14, 2016



Myra C. Selby
Nominee to the United States Court of Appeals for the Seventh Circuit

President Obama nominated Myra Consetta Selby to the United States Court of Appeals for the Seventh Circuit on January 12, 2016. If confirmed, Selby will be the second African American woman to serve on the Seventh Circuit.¹ Currently a litigator at the law firm Ice Miller LLP, Selby was both the first African American and the first woman justice to serve on the Indiana Supreme Court.² Upon her nomination, President Barack Obama praised Selby and said she would be a “diligent, judicious, and esteemed addition[] to the bench.”³

Biography

A Midwest-native, Selby was born and raised in Saginaw, Michigan in 1955. She received her B.A. from Kalamazoo College in 1977 and her J.D. from University of Michigan Law School in 1980.

Selby has spent the majority of her career as an attorney at the Indianapolis office of Ice Miller LLP where she is currently a partner. Selby left the firm from 1993 to 1994 to serve as the Director of Health Care Policy for the Governor of Indiana. From 1995 to 1999 she served as both the first African American and the first woman justice on the Indiana Supreme Court.⁴ Since returning to private practice, Selby has served as Chair of the Indiana Supreme Court Commission on Race and Gender Fairness, which investigates ways to improve fairness for all people within the legal system.

Legal Experience and Expertise

Myra Selby is at home in the courtroom having spent much of her career litigating in state and federal court at both the trial and appellate level, and serving on the highest court of Indiana. Most of Selby’s career has been focused on developing an expertise in health care law. As a result, her practice primarily involves medical malpractice, contract disputes, and statutory compliance. More recently, Selby has shifted her practice to focus on alternative dispute resolution, serving as a mediator and arbitrator primarily in commercial disputes and health care cases.

¹ Women and Justice, *Hon. Ann Claire Williams*, available at <http://www.lawschool.cornell.edu/womenandjustice/About-Us/Williams.cfm>.

² *People*, Ice Miller, <http://www.icemiller.com/people/myra-c-selby/> (last visited June 6, 2016).

³ *President Obama Nominates Two to Serve on The United States Court of Appeals for the Seventh Circuit*, The White House, <https://www.whitehouse.gov/the-press-office/2016/01/13/president-obama-nominates-two-serve-united-states-court-appeals> (Last visited June 6, 2016).

⁴ *People*, Ice Miller, <http://www.icemiller.com/people/myra-c-selby/> (last visited June 6, 2016).

As a state supreme court justice, Selby protected patients' rights to access court against rigid procedural rules. In *Martin v. Richey*, Selby authored the majority opinion holding that Indiana's medical malpractice statute of limitations violated the state constitution as applied to the plaintiff.⁵ The plaintiff had brought a medical malpractice suit against her doctor for failing to diagnose and treat her cancer in a timely manner. The long latency period of the cancer prevented her from discovering the malpractice until after the two-year statute of limitations had expired, and the trial judge granted the defendant's motion for summary judgment on that ground. The court of appeals reversed and found that the statute of limitations was unconstitutional "on its face"—meaning it could not constitutionally apply to anyone, regardless of individual circumstance. The Indiana Supreme Court reversed the court of appeals on the facial challenge, but held that the limitations period could not be applied to the plaintiff's claims because, given the latency of her condition, it made it impossible for the plaintiff to pursue her tort claim in court.

Selby also had opportunity to decide First Amendment issues and ruled in favor of freedom of the press. After a local newspaper reported that a restaurant closed because the health inspector found rats, the restaurant owner filed suit against the paper for defamation. On appeal in the Indiana Supreme Court, Justice Selby joined the majority opinion that affirmed the court of appeals, and held that the paper was not liable because the restaurant owner failed to prove "actual malice"—i.e., that the paper has acted with reckless disregard toward the true reason for the restaurant's closure.⁶

As a litigator, Selby successfully defended a board-certified neurosurgeon against malpractice claims in front of the Indiana Medical Licensing Board.⁷ Selby defeated the state's malpractice claims by showing that the doctor's medical decisions were the result of a reasonable difference in medical opinion. The Board found that any difference in professional opinion regarding necessary procedures between the defendant-doctor and another neurosurgeon was merely due to a difference in the location of medical training.

Selby also advocated for the integrity of the medical profession while representing hospitals against doctors offering substandard care. In one such case, Selby successfully defended a hospital from a breach of contract claim from a surgeon-employee.⁸ The surgeon sued for breach of contract after the hospital suspended his medical privileges in response to evidence that he was providing substandard patient care. The hospital was cleared of any wrongdoing and the surgeon remained suspended.

Selby also spent two years as an adjunct professor at Indiana University Robert H. McKinney School of Law,⁹ where she taught food and drug law and health care reimbursement.¹⁰

⁵ *Martin v. Richey*, 711 N.E.2d 1273, 1285 (Ind. 1999).

⁶ *Journal Gazette Co., Inc v. Bandido's*, 712 N.E.2d 446, 469 (Ind. 1999).

⁷ *State of Indiana v. Cacdac, MD.*, No. 85 MLB 0030 (Ind. Med. Licensing Bd. Feb. 10, 1988), available at [<http://www.in.gov/apps/pla/litigation/viewer.aspx?id=15870>]

⁸ *Islami, M.D. v. Covenant Med. Ctr., Inc.*, 822 F. Supp. 1361 (N.D. Iowa 1992).

⁹ United States Senate Committee on the Judiciary Questionnaire for Judicial Nominees, Myra Consetta Selby, *available at* <http://www.judiciary.senate.gov/download/selby-senate-questionnaire-final>.

Professional and Community Activities

Selby is active in her community through legal and non-legal work, emphasizing aid to children and the poor. Selby is on the volunteer lawyer panel for the Neighborhood Christian Legal Clinic (NCLC).¹¹ Through the NCLC she has served as counsel in a domestic violence proceeding. More informally, Selby has provided free legal advice to her church and many church members.¹² Selby served as Parliamentarian for Jack and Jill of America, Inc., an organization “dedicated to nurturing future African-American leaders by strengthening children through leadership development, volunteer service, philanthropic giving and civic duty.”¹³ Selby also volunteers as a moot court jurist for various law school moot court competitions.¹⁴

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Jack and Jill of America, Inc., *About Us*, <http://jackandjillinc.org/test-page/>

¹⁴ United States Senate Committee on the Judiciary Questionnaire for Judicial Nominees, Myra Consetta Selby, *available at* <http://www.judiciary.senate.gov/download/selby-senate-questionnaire-final>.