

Revered Chandler Leaving Chancery Court

The News Journal

By Maureen Milford

April 25, 2011

In a significant development for the state's lucrative incorporation business, the chief judge of the Delaware Court of Chancery will leave the bench in June.

Chancellor William B. Chandler III, 60, a self-effacing jurist known for his thoughtful and reasoned opinions, has been considered the ideal ambassador for the court that serves as the foundation of Delaware's corporate engine.

"He's been the epitome of what we all want the head of our Chancery Court to be -- extremely intelligent, fair, reliable and respected around the world," said Secretary of State Jeffrey Bullock.

Chandler, who primarily sits at the new Chancery courthouse in Georgetown, said that after 22 years on the court it's time to pursue other opportunities. He also served as a resident judge of the Delaware Superior Court from 1985 to 1989.

"It is now time for the next chapter to begin," he said. "I also believe now is the time for me to seek greater financial rewards in the interest of my family."

Gov. Jack Markell through his spokesman thanked Chandler for his service and his contribution to the court's international reputation for judicial excellence. In a statement, Markell said Chandler's corporate law decisions will be studied in law schools and corporate board rooms for decades.

"But here in Delaware, what we will remember about the Chancellor is how he treated everyone, whether a high-priced lawyer in his courtroom or a stranger at the coffee shop, with that same Delaware courtesy and respect," Markell said in the statement.

Charles Elson, director of the Weinberg Center for Corporate Governance at the University of Delaware, called Chandler's decision an enormous loss for the state. Not only were Chandler's opinions intelligent and scholarly, he served as the distinguished face of the court throughout the world, Elson said. Chandler won over people with his courteous and unpretentious judicial manner, lawyers said.

"It will be very, very hard to replace him and find someone as respected, effective and farsighted," Elson said.

Chandler said future opportunities will likely involve advising corporations and corporate directors on corporate governance or other legal issues, as well as providing strategic advice on mergers and acquisitions. He also expects to be speaking, teaching and writing on legal matters.

Some in the legal community say privately that Chandler is being aggressively wooed by several major international law firms and top-tier law schools.

The court has long been the esteemed forum for resolving national corporate disputes. Its judges have written most of the judge-made law in modern corporation jurisprudence. Over the years, it has achieved such standing in the legal world that the court has been widely praised by scholars and jurists. In 1992, William H. Rehnquist, chief justice of the United States, said it was the state's judicial expertise that led so many companies to incorporate in the state.

Today, Delaware is home to 63 percent of Fortune 500 companies. In 2010, more than three-quarters of all new initial public offerings were done by companies incorporated in Delaware. Since the early 20th century, incorporation revenues have accounted for up to a third of state revenue. In fiscal 2010, the incorporation business contributed 26 percent of the state's general fund revenue.

But because of its dominance, Delaware has long been criticized for being pro-business. William Cary, a former chairman of the U.S. Securities and Exchange Commission, famously said in 1974 that the state was in a "race to the bottom" in corporate standards.

Elson said Chandler's rulings went a long way toward changing that perception.

"Bill is viewed as being extraordinarily balanced," Elson said.

During his tenure, Chandler presided over cases involving The Walt Disney Co., Yahoo Inc., Microsoft Corp., News Corp., Hewlett-Packard Co. and Dow Chemical, to name just a few. His most recent case, involving a failed \$5.9 billion takeover of Airgas Inc. by Air Products & Chemicals Inc., was considered a significant decision in that it upheld the poison-pill defense used to fend off hostile takeovers.

Elizabeth Nowicki, associate professor at Tulane Law School in New Orleans, said in the Disney case -- a dispute that had the potential to change the governance landscape -- Chandler showed he was a statesman. Though he found in favor of the Disney directors, Chandler went out of his way to chastise the board in fairly strong language.

"He knew that everybody was watching," Nowicki said. "He's politically savvy."

Chandler also frequently spoke and lectured on corporate law and corporate governance issues internationally at such places as director's colleges, law schools and international corporate law events, legal experts said.

"He's respected on all sides -- by managers, investors and directors," Elson said.

Once it became public Monday that Chandler was leaving, his phone didn't stop ringing and his email inbox exploded with congratulations from scholars, lawyers and others in the corporate world.

Many in the community said they fully understand why Chandler would want to leave the bench. Michael Parkowski, a Dover lawyer and former chairman of the state Judicial Nominating Commission, said once judges are entitled to full retirement benefits, they essentially work for 25 cents on the dollar.

"Although some people believe judges make a lot of money, for someone of Bill Chandler's talent, it's genuinely a sacrifice in terms of the public service he has provided," Parkowski said. "He's going to be much sought after by both domestic and international firms. And the compensation level will dwarf what he was making as chancellor."

The chancellor's position pays \$185,750, but some corporate lawyers can make more than 10 times that amount.

Mark Roe, a corporate law professor at Harvard Law School, said given the court's contribution to the state coffers, it may be necessary to increase their compensation. One of the court's great strengths is its continuity of judges.

"It's not a good trend if too many judges leave too quickly because they find better financial opportunities off the bench," Roe said. "That would risk having stable, high-quality judges."

The appointment of a replacement for Chandler will easily be one of Markell's most important appointments, Bullock said.

"Delaware has a big brand, and Bill Chandler has been a big part of that," Bullock said.

The position of chancellor will be posted this week, according to Andre Bouchard, chairman of the Judicial Nominating Commission. Because the court must be politically balanced, an applicant must be a member of the Republican Party (including a judicial officer who is a Republican) or a current vice chancellor or Supreme Court justice who is a Democrat.

The nominating commission will review the applicants and send at least three names to the governor. The governor's choice will be submitted to the state Senate for confirmation.

If the candidate is from outside the court, the bench will be at full strength. But if an existing vice chancellor is chosen, a position of vice chancellor will open and the state will go through another nominating process.

"I think Bill Chandler is one of a kind and he will be very difficult to replace," Bullock said.