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Clint Bolick: The Libertarian on the Court Bench

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It's not often that a conservative governor, like Republican Doug Ducey of Arizona, would appoint an advocate of judicial activism to his state's highest court. But Clint Bolick, Ducey's first pick to sit on the five-member Arizona Supreme Court, is no run-of-the-mill judge: He is one of the nation's most prominent libertarian legal activists.

Although Bolick is registered as an independent, his conservative -- or at least libertarian -- credentials are long. He co-wrote a book on immigration with Jeb Bush, the presidential candidate and former Florida governor. U.S. Supreme Court Justice Clarence Thomas is a godfather to one of Bolick's children. More important, Bolick co-founded the Institute for Justice, a Washington-area organization that brings court cases to contest what it sees as overreaches of big government. Most recently, Bolick worked at the Goldwater Institute, an Arizona-based group that advocates for limited government.

Bolick is perhaps best known for his work defending school voucher programs that allow public school students to attend private schools with government subsidies. But he also led efforts to scrap state affirmative action laws, fight state regulations that he viewed as overly burdensome on small businesses

The governor called Bolick a "champion of liberty" when announcing the appointment in January. "He brings extensive experience and expertise, an unwavering regard for the rule of law and a firm commitment to the state and citizens of Arizona. I'm confident Clint will serve impartially and honorably in this important role," Ducey said.

Although Bolick is new to the bench, he previously shared his thoughts on the proper role of jurists. He wrote a book for the libertarian Cato Institute in 2007 called *David's Hammer: The Case for an Activist Judiciary*. He defines "activist" a bit differently from what one usually hears in political conversations. Bolick distinguishes "judicial activism" from "judicial lawlessness," which, in his view, includes usurping the executive branch by taking over prison systems or school districts, or usurping legislative duties by legalizing abortion or requiring that police read criminal suspects their rights.

But he doesn't want judges sitting on their hands, either. "When a court finds another branch of government has exceeded its permissible boundaries or has violated individual rights in the

constitution in accord with original meaning, and it strikes down that exercise of illegitimate activism, that is judicial activism,” he said when the book was released. “And thank God for it.”

Bolick sees the courts as the rare venue where everyday people can be on the same footing as large companies and governments. But courts, he says, need to protect individual liberties: “A court that is not sufficiently robust in protecting individual rights will mean that those rights are utterly and totally unprotected.”