

Race to Represent: An Interview with Reform Party NY Attorney General Candidate Mike Diederich

Aired: August 22nd 2018

Moderator: Ben Max

DISCLAIMER: Please be advised that this transcription was done from a audio recording by an out of house service; therefore the accuracy of the transcript may be impacted. If there is an issue please contact MNN info@mnn.org.

Ben Max: Manhattan Neighborhood Network in partnership with the League of Women Voters of New York State and Gotham presents Race to Represent a MNN election initiative.

Ben Max: Hello, I'm Ben Max, Executive Editor of Gotham Gazette. It's state election year, including for the statewide positions of governor, lieutenant governor, controller and attorney general. Today we are pleased to bring you a conversation with one of the candidates running for the Reform Party nomination for New York State Attorney General. The Attorney General is the state's top lawyer and Chief Legal Officer tasked with defending the state in legal proceedings, upholding state law, and protecting the rights of all New Yorkers. The Attorney General is often referred to as the people's lawyer. The Attorney General's vast office protect individuals, consumers, investors, tenants, workers, and others.

Ben Max: It investigates financial firms, nonprofit compliance, Medicaid fraud, and much more. Of late, there has been a lot of attention on the role of the attorney general of New York as it relates to pushing back against the Trump administration and federal laws and practices, though like with other parts of the job, that work is largely dependent upon the views and legal interpretations of the attorney general. The office has also been looked to of late to take a stronger role in rooting out corruption in New York State Government, though its powers in that regard are fairly limited. We'll discuss that and much more during this conversation.

Ben Max: This year's race for attorney general of New York is wide open thanks to the resignation of former attorney general, Eric Schneiderman. His replacement, Barbara Underwood, who is the state's Solicitor General, is not seeking election to the office. The New York primary is on Thursday September 13th. The winner of this Reform Party primary will be that party's nominee in the general election facing competitors from several other parties. That vote will be November 6th. The Reform Party Attorney General candidate joining us today is Michael Diederich. The other two Reform Party candidates who will be on the ballot in September, Chris Garvey and Nancy Sliwa are not here today.

Ben Max: So, Michael Diederich, thank you for being here, you're running for Attorney General in the Reform Party primary for September 13th. There are other candidates on the ballot,

but you're here with me today. Tell voters a little bit about who you are, what you've done, your career and what you believe in.

Michael D.: Hey, Ben, thank you for inviting me. I'm a practical idealist and I also view myself as a patriot. My father flew 35 missions in a B24 Bomber over Germany during the Second World War. I was very interested in history and how we saved democracy in World War II. The reason I'm running is I feel like democracy in peril today. My background, I'm from the metropolitan area, I'm a lawyer, I have an environmental science background, I practice civil rights and employment law for individuals, and I saw this time around I thought we need somebody to give a voice to the people. There's too much right now polarizing politics, and I'm running to try to put it in a pitch for let's reduce the polarization, and the tribalism, let's get a dialogue between democrats, republicans, liberals, and conservatives for the sake of the people. The deadlock we see in Washington these days, I think the New York State Attorney General can do something about.

Ben Max: Okay. We'll talk a little bit more about what you think those things are. Say a little bit more about your resume, your work, your career. What have you done and what prepares you to be the attorney general of the state of New York?

Michael D.: Well, believe it or not, I'm a democrat, but I'm running as a reform party candidate. Of the democratic candidates, I'm the only practicing lawyer, the other candidates don't practice law, at least really for the people. I've done trials, and appeals, I've done civil rights litigation to the second circuit, I've influenced the US Supreme Court in a number of cases, and I've seen how the courts can help and also how they can fail the people, and I think the attorney general can play a vital role in allowing the people's right to petition government, including the courts, in order to have individual rights and liberties protected by our government.

Ben Max: What types of specific things have you fought for? What have you influenced that you mentioned there? What types of liberties and protections would you be pushing for as attorney general?

Michael D.: My field is employment law and civil rights. Employment discrimination, I represent people Afro-Americans, women, men, you name the group. And of the small number of cases I take, I take maybe one in 100 cases of people who contact me, I try to fight for their rights because I view them as having been aggrieved by some violation of law. I've also done environmental law, I've influenced the US Supreme Court in a case involving what's called solid waste flow control, which involves how you manage garbage and where it goes, and the issue there was whether people, local communities, can have control over their waste as opposed to the waste industry, I fought on behalf of people and I convinced the US Supreme Court with amicus briefs that the people, not the waste industry, should be in charge of trash.

Ben Max: You're running now to be attorney general of the state of New York, describe that role. How do you see the New York State Attorney General? What are the most important

responsibilities? What does the office look like? How do you describe to voters your view of the Attorney General's office?

Michael D.: A standard view of the office is that it represents the government of the state of New York. A more expansive view of it is that it's the people's lawyer. I believe with that office, and all the attorneys involved, they can do a lot better job of representing interest of the average new yorker in many different ways. One major way, maybe the most important way that the Attorney General can represent the people of the State of New York in this age of Donald Trump, and the polarization going on in Washington, is for the attorney general, particularly in conjunction with other attorneys general, and my goal would be to convince attorneys general in both red and blue states to ally on issues where there's common ground, which in my view are most issues.

Michael D.: On most issues most Americans share, 95% of the common belief. My view would be get attorneys general to act in concert in for example submitting amicus briefs to the US Support on important issues of the day in order that the Supreme Court can see there's a massive legal authority that favors the people. I think that would be a significant way of countering what many people fear is going to be a too polarized and conservative court, that's not reflective of America. America is generally speaking moderate, not conservative.

Ben Max: Only certain issues go to the Supreme Court, but what might be examples of those types of issues, cases that the court might be hearing, or you'd want to rally those attorneys general to push the court? What are you worried about, it seems like, the court doing that you would need to move the court?

Michael D.: All issues deal with democracy. In my view, what's essential to democracy is an informed, educated public. On every issue that goes to the court, we should have educated dialogue. Gerrymandering, huge issue, and I do believe that most attorney generals could agree on standards whereby the Supreme Court could rule. It seems to want to, but it's afraid for political reasons. It should be ruling in favor of the people. And the idea-

Ben Max: To strike down gerrymandered districts that are being opposed-

Michael D.: Gerrymandered districts mean the elected officials are selecting their voters as opposed to the voters selecting their elected officials. It sabotages democracy, and it's a real [inaudible 00:08:56], a major reason why we have gridlock in Washington, and it's a major reason for the polarization of the parties where both parties, if you're an incumbent, you're going to get reelected. That's a product of gerrymandering for the most part.

Ben Max: The idea that there's fewer and fewer districts that are really in play for both parties, that both parties in many cases have worked to shift districts so that incumbents of whichever party are safe?

Michael D.: Correct. If you have a state, which is basically 50% democratic, and 50% republican, if you gerrymander so that if you have ... just pick 20 districts, so that you have a slight republican majority in all of them, or a slight democratic majority in all of them, but one. Put all the democrats or republicans in one district, you can essentially take over 19 of 20 districts, that's how gerrymandering works, and how it sabotages democracy.

Ben Max: Let's connect that to New York, because you're talking a bit about the Supreme Court, about the Trump Administration, but in New York we've obviously seen a lot of criticism about gerrymandered districts, both in the state senate and the state assembly. Is that something you would try to take on as state Attorney General? Would you look here at home?

Michael D.: Yes. I have personal experience. I ran in a legislative race for my county, for legislature. I lost by nine votes, and I won by a good margin every district in my town. But because the county legislature had gerrymandered the district to include a very different party village far away from me, I lost. That was a product of gerrymandering to protect that particular incumbent, that seat for one party. Both parties do it, which is why part of my view is that the attorney general, being the lawyer for all the people, needs to be talking to the other political party, other people to get people onboard, because this polarization, where it's a zero sum game, either win or I lose, that doesn't work for democracy. Democracy requires a dialogue and compromise.

Ben Max: I should note of course that there are going to be changes to redistricting for the next cycle, after the next census, there was a ballot amendment passed a few years ago in New York, so there will be a different process this time around, although it's not completely clear how that's going to play out, and that might mean the next attorney general of the State of New York has to have a significant role in keeping an eye on that. We'll see how that goes down the line, there's obviously concerns about the census in the first place. Talk a little bit more about what you want to see done in New York as Attorney General. Are there reforms that you would push? Are there changes to the way that you'd run the office from how current Attorney General Barbara Underwood is running it from how former Attorney General Eric Schneiderman was running it and predecessors perhaps before him?

Ben Max: Are there different focuses that you would bring to the role? I mean, you mentioned obviously the federal government, but that has been a major focus of both Underwood and Schneiderman. What about in New York? Are there different things you would focus on? Are there things that you would continue but ramp up?

Michael D.: Yes, I think for example. For example, Preet Bharara, the Reform Party was trying to get him to run and as were the Democrats.

Ben Max: For US Attorney.

Michael D.: He's a corruption fighter, he's an immigrant. I met the man, amazing story, coming with pennies in their family pocket to him becoming one of the most powerful people in the country. He's a story of how America should work, opportunity for all. I think right now

the attorney general of the state needs to expand his or her role to include addressing what's going on nationally. I also think the attorney general within New York can direct the assistant attorney generals, which is a large number of very qualified lawyers, but get them examining local issues, get them involved in communities, which has not been happening.

Michael D.: Basically, they defend the state, and I think they should be defending the people and the people's rights, and hearing what's concerning the people, so that the people's right to petition government, the First Amendment right, is effectuated.

Ben Max: There are nearly, I believe, 1800 employees of the state Attorney General's Office, there are satellite offices, it's not just one office in New York City.

Michael D.: Throughout the state, yes.

Ben Max: Yes, throughout the state. You're saying those offices are not being properly used, that the assistant attorneys general are not properly looking into communities and finding issues that are affecting New Yorkers?

Michael D.: No, no. I'm not saying that. I've been a government workers, I think I failed to mention, I'm a retired army JAG, I spent a year in Iraq and nine months in Afghanistan as an army lawyer. I've been a government lawyer, and government lawyers generally speaking are diligent, hardworking. I think the assistant attorney generals in the state are diligent and hardworking. But I think if they're directed and rewarded for doing some additional work at getting involved in their local community, being eyes and ears of the attorney general, and seeing what's concerning people upstate, downstate, east state, west state, the whole state, that will assist in the attorney general helping the people to have a better government for them. There's a big problem in the state regarding corruption.

Ben Max: I thought that's maybe where you were going when you mentioned Preet Bharara.

Michael D.: Well. I mean, it's a joke about the corruption in New York, but it's a tragic joke.

Ben Max: What would you do as attorney general?

Michael D.: I ran for District Attorney in my county on this platform of fighting corruption with the idea that even if you prosecute a difficult case and lose, it's better than only prosecuting cases that you know you can win. Because if people know they're going to be subject to a prosecution, they're going to be less willing to engage in fraud and corruption. The state, the whole pay to play at every level, it's a disgrace. We're big enough, we're basically a small country. New York is a huge state, and we need to have better checks and balances. One of the big roles of an attorney general is to be a check on the other branches of government, including the governor.

Ben Max: Now, the Attorney General in most instances doesn't have criminal prosecutorial discretion to that extent, how do you go about as attorney general doing those investigations, trying to find or investigate corrupt public officials?

Michael D.: Just like to the credit of many of the public officials in Washington in the FBI, where they are holding the ground and not giving it to Donald Trump. They're allowing the institutions to work. Same thing with the Attorney General, the Attorney General can cooperate with the US Attorney's office, and with local district attorneys, and he or she has a bully pulpit. So if there's corruption that's being left unaddressed, the bully pulpit will allow the Attorney General to pressure either a district attorney, or the US Attorney into prosecuting a case that should be prosecuted.

Ben Max: I want to come back to something you said, which is this notion of you prosecute cases that might be difficult, not just the easy cases, you try to make sure that people know somebody is watching. It sounds a little bit to me like a slippery-slope towards potentially prosecutorial overreach, how do you draw that line of what a difficult case is?

Michael D.: I mean, James Comey, when he was in the Justice Department, he critiqued subordinates in a meeting just in general. If you are only looking for wins, and it's professional pride, you love to have 100% track record on winning cases. However, if that's what you're striving for, you're not going to take good cases that might be lost. Certain types of cases are hard to win, especially with the Supreme Court's rulings on corruption. The US Supreme Court has made it very difficult to prove a corruption case. But that doesn't mean the case shouldn't be brought and there's also the possibility of bringing civil cases, which also, where there's a lesser threshold of standard of proof, can maybe achieve some similar results of deterring corruption if wrong-doers are found civilly responsible.

Ben Max: We're on our last minute or so here, you mentioned pushing the assistant attorneys general across the state more, you didn't really mention what types of things you would hope that they would look into, and there's quite a few things, different bureaus within the attorney general's office, consumer protection, environmental issues, these types of things. Are there certain areas that you think are under address right now in New York?

Michael D.: I don't want to say push them, because attorneys have big egos. People that go into government service usually don't do it for the money. They're good public servants. What I would like to do is encourage them to see what the issues are, for example, if you're in Western New York, to look at the people's concerns regarding fracking. If you're in the city, look at consumer protection and housing issues. Also, another big issue I've brought up in my campaign is the need in my view for sound secular education for Hasidic children in Brooklyn, Rockland County, Orange County. I think the rights of the children are being violated if they don't get a sound secular education, so that when they're 17 years old, they can't be contributing citizens in this country.

Ben Max: Interesting. In our final 30 seconds here, your closing statement, what separates you from your competition? We're in the primary season, you want to become the Reform

Party nominee for governor, what separates you from your competition? Your pitch to those voters who might turn out.

Michael D.: The Reform Party this year uniquely is allowing open ballot to the primary meaning if you're not a registered Democrat or Republican, you can vote in the Reform Party primary, I ask for all unaffiliated voters to please vote for em with the idea that I'm standing for getting politics out of the Attorney General's job, and trying to seek solutions that work for Democrats, Republicans, Conservatives, and Liberals.

Ben Max: Michael Diederich, thank you for being here.

Michael D.: Thank you so much for having me.

Ben Max: Thank you for watching. Please, remember that for the Reform Party primary for Attorney General and other offices, you can vote if you're registered with the Reform Party, or if you're registered to vote but not with any other party, otherwise known as being unaffiliated or independent voter. That vote will be held on Thursday September 13th and the general election will be held on Tuesday November 6th.

Ben Max: For more information on voting, locating your poll site, and all of the candidates you can visit the website at Race to Represent GothamGazette.com or the League of Women Voters Website at LWVNY.org. Thank you for watching Race to Represent, a Manhattan Neighborhood Network, goodbye.