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**ORANGE COUNTY BAR ASSOCIATION**

**APPELLATE LAW  
SECTION WEBINAR**

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Pathway to the Bench:  
A Conversation with California Judges



Friday, September 11, 2020

**STATE OF CALIFORNIA**

**OFFICE OF THE GOVERNOR**

**APPLICATION FOR APPOINTMENT AS  
JUDGE OF THE SUPERIOR COURT**

1. Name of Applicant:
2. Prior names used by Applicant (include the dates each name was used):
3. Preferred Judicial Position (you are not required to live in the county):

Judge of the Superior Court of the State of California, County of:

4. If you would like to be considered for an appointment as a Superior Court Judge in another jurisdiction, please identify the county or counties in order of preference and describe your ties and connections to, and activities in, each county.

5. Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_  
Driver's License Number \_\_\_\_\_  
Social Security Number \_\_\_\_\_  
California Bar Number \_\_\_\_\_  
Admission Date (month/day/year) \_\_\_\_\_

Please indicate, by answering yes or no below, whether you meet the mandatory eligibility requirement to serve as a judge on a California court. ("A person is ineligible to be a judge of a court of record unless for 10 years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State." (Cal. Const, Art. VI))

Yes \_\_\_\_\_ No \_\_\_\_\_

If you meet the eligibility requirement for judicial service, please answer the remaining questions set forth in this questionnaire.

**INFORMATION FOR REPORTING PURPOSES**

6. State law requires the Governor's Office to collect, on an aggregate statewide basis, demographic data relative to ethnicity, race, disability, veteran status, gender, gender identity and sexual orientation (Gov. Code, §12011.5, subdivision (n)). To assist the

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Governor's Office with these reporting obligations, applicants are asked to voluntarily

provide the information below. **YOUR ANSWERS TO THESE QUESTIONS ARE PURELY VOLUNTARY AND YOU MAY FREELY SKIP ANY OR ALL OF THESE QUESTIONS AND GO DIRECTLY TO QUESTION 7.** If you choose to respond, use the categories below to choose the one(s) with which you most closely identify.

Please identify your gender:    Male \_\_\_\_\_    Female \_\_\_\_\_

- ☐ American Indian or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- ☐ Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent. The category includes, but is not limited to people that identify themselves as Cambodian, Chinese, East Indian, Filipino, Japanese, Korean, Malaysian, Pakistani, Thai, or Vietnamese.
- ☐ Black or African American: A person having origins in any of the original peoples of Sub-Saharan Africa.
- ☐ Hispanic: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- ☐ Native Hawaiian or Other Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- ☐ White or Caucasian: A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- ☐ Other: Self-identify your race or ethnicity here \_\_\_\_\_

Please identify your sexual orientation/gender identity:

- ☐ Heterosexual
- ☐ Lesbian
- ☐ Gay
- ☐ Bisexual
- ☐ Transgender

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Please identify if you are a veteran as that term is defined in Section 101(2) of Title 38 of the United States Code:

☐ Yes

☐ No

Please identify if you are person with a mental or physical disability as that term is defined in subdivisions (j), (l), and (m) of California Government Code Section 12926:

☐ Yes

☐ No

### **PERSONAL INFORMATION**

**You are expected to respond fully and honestly to all requests and questions below. Interpret the questions broadly rather than narrowly, and when in doubt, err on the side of disclosure.**

7. Provide your current residence address and county.

\_\_\_\_\_  
Street  
\_\_\_\_\_  
City County State Zip

8. Provide your previous residence addresses for the past ten years, and provide the approximate dates you resided at each.

9. Provide your preferred mailing address.

\_\_\_\_\_  
Street  
\_\_\_\_\_  
City State Zip

10. Provide your current cell phone, residential telephone number and e-mail address.

Phone: (\_\_\_\_) \_\_\_\_\_ Cell: (\_\_\_\_) \_\_\_\_\_

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Home e-mail: \_\_\_\_\_

11. Are you a citizen of the United States? Yes \_\_\_\_\_ No \_\_\_\_\_

If you are a naturalized citizen, set forth the date and place of your naturalization.

Date: \_\_\_\_\_ Place: \_\_\_\_\_

12. Provide the full name, occupation and business address of your spouse, if married, or your domestic partner, if registered, and the names and birth dates of your children, if applicable.

13. Are you a registered voter? Yes \_\_\_\_\_ No \_\_\_\_\_

a. Identify the county in which you are registered to vote. \_\_\_\_\_ County

14. List all current and past political party affiliations, with dates of affiliation.

15. Identify your State Senator \_\_\_\_\_ and Assembly Member \_\_\_\_\_

16. Identify any languages other than English that you either understand proficiently or speak fluently.

### **EDUCATIONAL INFORMATION**

17. Set forth your educational history, in chronological order, beginning with high school. For each school or other institution attended, provide the name of the institution, the dates you attended the institution, the degrees you received (if any), and the dates you received the degrees.

<u>Schools Attended</u>	<u>From</u>	<u>To</u>	<u>Degree Received</u>	<u>Date Received</u>
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a. Set forth your undergraduate major.

b. Set forth any significant extracurricular activities (e.g., student groups, law review, volunteer activities, etc.) in which you participated while in college or law school.

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### PROFESSIONAL / CAREER INFORMATION

18. Set forth your professional title, and the name of your business, firm or office. Provide your current business or professional address, and the phone number, fax number, and e-mail address.

\_\_\_\_\_  
Professional Title

\_\_\_\_\_  
Business/Firm/Office

\_\_\_\_\_  
Street

\_\_\_\_\_  
City County State Zip

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

19. Describe with specificity the nature of your current employment.
20. If you currently practice law, identify your subject-matter areas of emphasis or specialization, if any, including but not limited to, areas of specialization certified by the State Bar of California, and a description of your typical clients.
21. List the approximate month and year in which you passed the Bar exam in this state and in any other jurisdiction in which you are admitted.
22. List all courts in which you are presently admitted to practice, including the date of admission for each court. Provide the same information for administrative agencies that have special admission requirements.
23. If you previously applied for a judicial appointment, specify the year(s) and the position(s) sought. If you interviewed with the Commission on Judicial Nominees Evaluation, please provide the approximate date of your interview.
24. Have you ever been a candidate for judicial office? If so, identify the date(s) of candidacy, the position(s) you sought, the court(s) involved, and whether you were elected.
25. Indicate the periods of your military service, if applicable, including the dates, the branch in which you served, your rank or rate, your serial number, and type of discharge.

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26. Set forth your professional work history, including your current job, in inverse chronological order. For each job, provide:
- the name and address (including county) of the employer,
  - the position held,
  - a brief summary of the job duties and a description of your typical clients,
  - the name and current phone and/or or cell number, and email address of your supervisor,
  - the dates you held the position, and
  - your reason for leaving.

### **QUALIFICATION / SUITABILITY FOR JUDICIAL APPOINTMENT**

27. Describe your personal background, character, personality traits, professional and life experiences, education, training, and/or skills which make you qualified and suitable for a judicial appointment and which you believe enrich your ability to serve as a judge.
28. What role can an attorney or judge play in making our society a better place? Relate any personal or professional efforts you have made in this regard.
29. Why do you want to be a judge? What would you seek to accomplish if appointed?
30. What professional accomplishment are you most proud of?
31. How would you describe your personality?
32. Are you able to perform, with or without reasonable accommodation, the essential requirements of a superior court judge? These requirements include, among other things:
- Attentively receiving, analyzing and concentrating on information for a total of eight or more hours within a work day of reasonable duration;
  - Perceiving a courtroom clearly, reviewing all types of evidence, including exhibits;
  - Reviewing and processing substantial volumes of information, originally presented in written form (e.g., legal briefs, cases, jury instructions, transcripts);
  - Comprehending attorneys and others;
  - Absorbing, analyzing and weighing complex issues quickly and accurately; and,
  - Responding to situations with discretion, judgment, emotional and mental discipline, and restraint while under pressure.

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### **SPECIFIC LEGAL EXPERIENCE**

33. Describe in detail your experience, if any, in the following areas of law-related work:
- a. Civil law.
  - b. Criminal law.
  - c. Juvenile, family or probate law.
  - d. Corporate and/or transactional law.
  - e. Litigation (trial and/or appellate).
  - f. Administrative.
  - g. House or staff counsel.
  - h. Legislative.
  - i. Other law-related work (specify).
34. Within the past five years, approximately what percentage of your law-related work has been devoted to the following:
- a. Litigation.
  - b. Administrative.
  - c. Legislation.
  - d. Alternate dispute resolution, including arbitration or mediation.
  - e. Teaching.
  - f. Other law-related work (specify).
35. In the past five years, describe how frequently you have done the following on behalf of a client (approximate times per month, on average):
- a. Appeared in federal trial and/or appellate court.
  - b. Appeared in state trial and/or appellate court.

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- c. Appeared before an administrative law judge, or other tribunal.
  - d. Appeared before a board, commission, panel, legislative committee, or other body.
  - e. Participated in an alternative dispute resolution proceeding.
  - f. Participated in any other judicial or quasi-judicial proceeding.
36. For your entire career, state the number of cases you have tried to verdict or judgment in federal or state trial courts.
37. For the trials identified in the preceding answer that occurred in the last five years, provide the following additional detail (if more than five trials in the last five years, limit your response to the five most recent trials): (1) case name, (2) case number, (3) court, (4) trial date, (5) type and brief description of the case, (6) the party that you represented, (7) the judge, (8) the names, current addresses and phone numbers of counsel for the other parties, (9) the names, current addresses and telephone numbers of co-counsel, if applicable, and (10) whether it was a jury or non jury trial.
38. For the past five years, list the five most significant matters you have resolved without trial (e.g., by dispositive motion, settlement, negotiation). For each matter, provide the name of the entity or tribunal involved, case name, type and description of case, dates involved, party you represented, name of the judge or other decision maker, resolution or disposition, names, current addresses and telephone numbers of counsel for the other parties, and the names, current addresses and telephone numbers of co-counsel, if applicable.
39. For your entire career, list the ten most significant matters you have handled as counsel (which may include one or more of the matters listed in your response to the preceding questions and may include trials, arbitrations, mediations, or cases that were resolved before trial). For each matter, provide the name of the entity or tribunal involved, case name, type and description of case, dates involved, party you represented, name of the judge or other decision maker, resolution or disposition, names, current addresses and telephone numbers of counsel for the other parties, and the names, current addresses and telephone numbers of co-counsel, if applicable. *In a sentence or two, please explain why you believe each case is significant.*
40. Provide legal citations to all reported cases or decisions identifying you as a counsel of record.
41. For your entire career, estimate the number of depositions you have either taken or defended.
42. For your entire career, estimate the number of oral arguments you have conducted related to a dispositive motion.

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43. To the extent not listed above, provide one or two examples of the most significant law-related activities on which you have worked in the last five years that did not involve an actual “case or controversy” (e.g., policy work, legal research and/or writing, committee or task-force work, public speaking, mentoring, a corporate transaction, bar activities, etc.).
44. If you have taught at a college, university or law school, identify the school and the dates that you taught, and describe the nature of your appointment and the course(s) you taught.

### **JUDICIAL OR QUASI-JUDICIAL EXPERIENCE**

45. Are you currently serving as a judicial officer or quasi-judicial officer:
- a. Identify your judicial or quasi-judicial position: \_\_\_\_\_
- i. Were you appointed? Yes \_\_\_\_\_ No \_\_\_\_\_
- Date of appointment: \_\_\_\_\_
- ii. Were you elected? Yes \_\_\_\_\_ No \_\_\_\_\_
- Date of your election: \_\_\_\_\_
46. If you have served as a judicial officer, or quasi-judicial officer, provide the following information:
- a. The dates you served as a judicial or quasi-judicial officer.
- b. Your duties.
- c. List ten significant cases in which you presided as the judicial officer or quasi-judicial officer. For each case, provide the case name and number, a brief description of the case, the dates involved, and the names, current addresses and telephone numbers of counsel for the parties. Furnish a copy of any opinions, orders or decisions that you rendered in those cases that included substantial discussion of legal issues.  
*Written materials submitted in response to this question must not exceed a total of 25 pages.*
47. Describe the nature and extent of your service, if any, as a judge pro tem, arbitrator, mediator or neutral. Describe the more significant cases and identify the counsel involved, including names, current addresses and phone numbers, and dates of your service.

### **BUSINESS INTERESTS OR OTHER PROFESSIONAL EXPERIENCE**

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48. If you are now an owner, officer, director, manager or supervisor of any business enterprise (whether for-profit or non-profit), identify the name of the enterprise, nature of the business, title of your position, nature of your duties, term of your service, and whether you intend to resign the position immediately upon your appointment to judicial office. If you do not intend to resign, please provide the reasons.
49. During the past five years, have you received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization or association? If so, identify the source of the compensation, nature of the business enterprise, institution, organization or association, dates the compensation was paid, and the nature of any services rendered by you.
50. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? If so, provide the details, including the office(s) involved, whether you were elected or appointed, the county and state in which you held office, and the dates of your service.
51. Have you ever held or applied for a commission, certificate, credential or license which required proof of good character, other than admission to practice law? If so, identify the date(s) of application, the issuing authority, the disposition of any such application, and, if granted, your number and present status.

### **WRITING**

52. Describe your significant legal writing. In addition, if you have written, edited or published any legal or non-legal books, articles, letters to the editor or reports, please list them, giving full citations, dates, and a general description of the subject matter. Please attach a copy of any letters to the editor or op-ed articles you have authored. *Letters to the editor and/or op-ed articles submitted in response to this question must not exceed a total of 25 pages.*

### **HONORS AND AWARDS**

53. List any honors, prizes, awards, scholarships, fellowships or other forms of recognition with dates you have received.

### **ORGANIZATIONS, MEMBERSHIPS AND COMMUNITY ACTIVITIES**

54. List all bar associations, committees, and legal professional societies in which you are, or have been, a member. In addition, give the titles and dates of any offices you held or subcommittees on which you served.
55. List all organizations, boards, clubs, associations or other groups (other than the bar associations and professional societies identified above) in which you have been a member. Regarding those organizations, identify the titles and dates of any offices you have held or committees on which you served.

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- 56. Are you a member of any club, organization, association or group that by policy or practice prohibits or limits its membership on the basis of race, color, religion, sexual orientation, gender, disability or national origin? Have you ever been? If so, identify the organization and provide details.
- 57. Describe the nature and extent of any free legal services you have provided to non-profit organizations, indigent individuals or others, including the names and addresses of the organizations and/or individuals and dates of service.
- 58. Describe the nature and extent of your involvement in community activities or community affairs other than those associated with the legal profession.
- 59. Describe your hobbies and/or personal interests.

### **ADDITIONAL QUESTIONS**

- 60. Have you ever been:
  - a. Summoned, cited, arrested, taken into custody, indicted, convicted or tried for, or charged with, or pleaded guilty or no contest to, the violation of any felony, misdemeanor, or infraction violation (excluding traffic infractions)?
  - b. Ordered to appear before any prosecuting attorney, investigative agency, or administrative tribunal, in any matter, military or civil?
  - c. Ordered to appear as a party to any grand jury investigation in which you were identified as a subject, or in which you appeared as a witness. If so, provide the details, including the date, description of the alleged offense, locality and disposition.
- 61. Have you ever been a party to, or claimed an interest in, any civil proceedings (including dissolution of marriage, bankruptcy, damage suits, etc.)? Include all legal proceedings in which you were a party in interest, a material witness, or named as a co-conspirator or co-respondent. Do not list proceedings in which you were merely a guardian ad litem or stakeholder. Provide the names, current addresses and telephone numbers of counsel for the parties in each case.
- 62. As an attorney or judicial officer, have you ever been:
  - a. Disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee or other professional group?
  - b. Sanctioned in excess of \$1,000 by any court or for contempt in any court or tribunal having the power of contempt? If so, give the details, including the relevant dates and the names, current addresses and telephone numbers of the judges involved

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and the counsel for the adverse parties. (Identify every complaint even if it was dismissed, did not result in disciplinary action or a finding of contempt.)

63. Have you ever been charged in any civil, criminal or administrative action with conduct alleged to involve moral turpitude, dishonesty and/or unethical conduct? If so, provide the particulars, including the applicable dates and the names, current addresses and telephone numbers of the counsel for the adverse parties.
64. As a member of any organization, or as a holder of any office or license (including a driver's license), have you ever:
  - a. Been suspended, or otherwise disqualified, or had such license suspended or revoked?
  - b. Been reprimanded, censured or otherwise disciplined?
  - c. Had any charges, formal or informal, been made or filed against you? If so, state the complete facts and identify the dates, the disposition, and the organization in possession of the relevant records.
65. Have you ever held a bonded position? If so, specify the nature of the position(s), the date(s), and the amount of bond.
  - a. Has anyone ever sought to recover upon your bond or to cancel your bond? If yes, provide the details.
  - b. Have you ever been refused bond? If yes, provide the details.
66. Have you ever been sued by a client? If so, provide the particulars, including the case name and number, court, resolution, and name, current address and telephone number of counsel for the plaintiff.
67. Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, provide the particulars, including the amounts involved and the name, current address and telephone number of the claimant and claimant's counsel.
68. Are there any unsatisfied judgments against you, or are you in default in any way in the performance or discharge of any duty or obligation imposed upon you by decree or order of any court (including any orders for child and spousal support)? If so, state the full details.
69. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? If so, provide the particulars, including the amount at issue, the applicable dates, and the status of the matter.
70. Have you always filed appropriate tax returns as required by federal, state, local and other government agencies? If not, provide an explanation, including the amount at

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issue, date and resolution.

71. If any articles or allegations have ever been printed or broadcast or otherwise made public concerning you or your activities, views or statements (irrespective of factual accuracy) which may reflect adversely on your character or job performance, identify the material, explain fully the nature of the assertions involved, and attach a copy of each publication to this application. (If the volume is extensive, attach representative samples of the publications and, if not self-identifying, provide the title, publication, broadcast date and or google description where articles or broadcast can be viewed.) *Written materials submitted in response to this question must not exceed a total of 25 pages.*
72. Are you aware of any individual(s) or group(s) who might oppose your appointment? If so, identify the potential opponents and provide any needed explanation.
73. Describe any aspects of your personal, business, educational, professional conduct or background, which might reflect adversely on you or the Governor or might embarrass you or the Governor or which you believe should be disclosed to the Governor in connection with your application for appointment to judicial office.

### **FURTHER INFORMATION**

74. Please list five references (name, current address, telephone and/or cell number, email address, and a short one- sentence description of your relationship to the reference).

### **NOTE:**

**In addition to submitting your electronic application, in order to be considered for appointment by Governor Newsom, you must scan and email the following materials to [judappts@GOV.CA.GOV](mailto:judappts@GOV.CA.GOV)**

- a) Your photograph and a current resume,**
- b) All written materials submitted in response to any of the above questions. Your submission must identify the specific question to which your written materials correspond,**
- c) Your signed authorization, certification and release form.**

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### **CERTIFICATION, AUTHORIZATION AND RELEASE**

I hereby acknowledge and agree that my application may be given to the Commission on Judicial Nominees Evaluation of the State Bar of California ("JNE Commission") in the event my name is submitted for evaluation by that agency; and that all or portions of my application or the information contained therein may be given to or shared with the judicial evaluation committee of my local bar association (if that association is providing such assistance to the Governor's Office) and other committees and/or individuals who have been asked by the Governor to assist him in the evaluation of applicants for judicial appointment. I further acknowledge and agree that for the purpose of aiding the Governor in evaluating my background and qualifications, the foregoing organizations and individuals will be entitled to seek and obtain information and documents concerning me from firms, companies, corporations, law schools and other educational institutions, attorneys, judges and other third parties, including those mentioned in my application.

I hereby authorize any governmental, licensing or law enforcement agency, including but not limited to the State Bar of California and the Commission on Judicial Performance, and major national credit reporting organizations (collectively referred to as "agencies") to release to the Governor of the State of California and to the JNE Commission any and all information which those agencies may have about me (whether public, personal or confidential) for the purpose of aiding the Governor in evaluating my background and qualifications for appointment to the trial or appellate court. I understand that I will not receive and am not entitled to know the contents of confidential reports received from these agencies and I further understand that these reports are privileged, except that I am entitled to receive a copy of reports from major national credit reporting agencies and the Commission on Judicial Performance.

I hereby release and discharge the Governor and his representatives, the JNE Commission, all agencies, their agents and representatives, and any person furnishing information from any and all liability of every nature and kind arising out of the furnishing, use and inspection of documents, records and other information and the investigation of my background and qualifications, and this release shall be binding on my legal representatives, heirs and assignees.

**I hereby declare under penalty of perjury under the laws of the State of California that the answers and statements provided by me in the foregoing application are true and correct.**

Type or \_\_\_\_\_ Signature \_\_\_\_\_ Print  
Name

Executed at \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_

**◆◆◆◆◆ TRIAL JUDGES ◆◆◆◆◆**  
**CONFIDENTIAL COMMENT FORM**

Please Return By \_\_\_\_\_

**UNK**—Unknown

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**Professional Reputation***(Includes honesty, integrity, community respect)*Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**O****VG****S****BA****U****UNK****Work Ethic***(Includes industry)*Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**O****VG****S****BA****U****UNK****Bias**☐ **No**☐ **Yes***(Includes cultural sensitivity and commitment to equal access to justice; does candidate exhibit, or to your knowledge has candidate exhibited, any bias which may be perceived as based on race, sex, sexual orientation, religion, political affiliation, etc.?)*Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Overall Rating**

- ☐ **Exceptionally Well Qualified** — Possessing qualities and attributes of remarkable or extraordinary superiority that enable the candidate to perform the judicial function with distinction.
- ☐ **Well Qualified** — Possessing qualities and attributes indicative of a superior fitness to perform the judicial function with a high degree of skill and effectiveness.
- ☐ **Qualified** — Possessing qualities and attributes sufficient to perform the judicial function adequately and satisfactorily.
- ☐ **Not Qualified** — Possessing less than the minimum qualities and attributes listed above.

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**Your identity will be strictly protected and not disclosed to the full JNE Commission without your consent. Please mark one.**

- ☐ I understand that my identity can be disclosed to the investigating JNE Commissioners, to the Chair, and to the Vice Chair. I do not consent to disclosure of my identity to the full JNE Commission.
- ☐ I consent to disclosure of my identity to the full JNE Commission.

\_\_\_\_\_  
Print Name\_\_\_\_\_  
Signature

(\_\_\_\_\_) \_\_\_\_\_

Phone

(\_\_\_\_\_) \_\_\_\_\_

Phone After Hours

**Please check appropriate boxes****Judge**

- ☐ Magistrate/Commissioner  
☐ Federal  
☐ Appellate  
☐ Superior  
☐ Retired

**Attorney**

- ☐ Public Defender  
☐ District Attorney  
☐ Other Public Office  
☐ Private Practice  
☐ Other \_\_\_\_\_

**Other** \_\_\_\_\_

## Confidential Evaluation of Judicial Nominees

### APPELLATE JUSTICES CONFIDENTIAL COMMENT FORM

\_\_\_\_\_ has asked this Commission to evaluate for judicial appointment the person whose **name appears in the box below**. If you know the candidate, please complete the questionnaire, rating the candidate individually, not as compared to other candidates. Please attach an extra page if you wish to supply additional information.

The confidential information you provide will be available to the full JNE Commission, but disclosure of your identity will be limited to the investigating commissioners, unless you authorize release of your identity to the full Commission. Thank you for your assistance.

Send the completed form, a.s.a.p., marked “**PERSONAL & CONFIDENTIAL**” to:

Please Return By \_\_\_\_\_

<b>Candidate:</b>	
<b>Court:</b>	
Your relationship with candidate: <input type="checkbox"/> Professional <input type="checkbox"/> Social <input type="checkbox"/> Reputation only	Years known _____
Your evaluation based on: <input type="checkbox"/> Worked with <input type="checkbox"/> Opposed <input type="checkbox"/> Appeared before <input type="checkbox"/> Other	

**Instructions:**    \* \* \* \* **DISCARD FORM IF YOU DO NOT KNOW THE CANDIDATE.** \* \* \* \*

Circle the performance level most applicable for the factor being rated.

**O**—Outstanding

**VG**—Very Good;

**S**—Satisfactory;

**BA**—Below Average

**U**—Unsatisfactory ;

**UNK**—Unknown

#### Professional Ability

**O      VG      S      BA      U      UNK**

(Includes intellectual capacity, **scholarship**, written and oral communication skills)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Legal Experience

**O      VG      S      BA      U      UNK**

(Includes litigation and non-litigation experience, legal work for a business or nonprofit entity, experience as a law professor or other academic position, legal work in any of the three branches of government, legal work before administrative agencies, and legal work in dispute resolution; case complexity; length of practice)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Judicial Temperament

**O      VG      S      BA      U      UNK**

(Includes impartiality, objectivity, judgment, collegiality)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Professional Reputation***(Includes honesty, integrity, community respect)*

Comments: \_\_\_\_\_

**O      VG      S      BA      U      UNK****Work Ethic***(Includes industry)*

Comments: \_\_\_\_\_

**O      VG      S      BA      U      UNK****Bias**☐ **No**☐ **Yes***(Includes cultural sensitivity and commitment to equal access to justice; does candidate exhibit, or to your knowledge has candidate exhibited, any bias which may be perceived as based on race, sex, sexual orientation, religion, political affiliation, etc.?)*

Comments: \_\_\_\_\_

**Overall Rating**

- ☐ **Exceptionally Well Qualified** — Possessing qualities and attributes of remarkable or extraordinary superiority that enable the candidate to perform the **appellate** judicial function with distinction.
- ☐ **Well Qualified** — Possessing qualities and attributes indicative of a superior fitness to perform the **appellate** judicial function with a high degree of skill, effectiveness **and distinction.**
- ☐ **Qualified** — Possessing qualities and attributes sufficient to perform the **appellate** judicial function **with a high degree of skill and effectiveness.**
- ☐ **Not Qualified** — Possessing less than the minimum qualities and attributes listed above.

**Your identity will be strictly protected and not disclosed to the full JNE Commission without your consent. Please mark one.**

- ☐ I understand that my identity can be disclosed to the investigating JNE Commissioners, to the Chair, and to the Vice Chair. I do not consent to disclosure of my identity to the full JNE Commission.
- ☐ I consent to disclosure of my identity to the full JNE Commission.

**Please check appropriate boxes**

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_

Phone \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_

Phone After Hours \_\_\_\_\_

**Judge**

- ☐ Magistrate/Commissioner  
☐ Federal  
☐ Appellate  
☐ Superior  
☐ Retired

**Attorney**

- ☐ Public Defender  
☐ District Attorney  
☐ Other Public Office  
☐ Private Practice  
☐ Other \_\_\_\_\_

**Other** \_\_\_\_\_

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 2. Government of the State of California  
Division 3. Executive Department (Refs & Annos)  
Part 2. Constitutional Officers (Refs & Annos)  
Chapter 1. Governor (Refs & Annos)  
Article 2. Powers and Duties (Refs & Annos)

West's Ann.Cal.Gov.Code § 12011.5

§ 12011.5. Judicial vacancies; State Bar evaluation of candidates and appointees; demographic data of applicants; collection and release

Effective: January 1, 2015

[Currentness](#)

(a) In the event of a vacancy in a judicial office to be filled by appointment of the Governor, or in the event that a declaration of candidacy is not filed by a judge and the Governor is required under [subdivision \(d\) of Section 16 of Article VI of the California Constitution](#) to nominate a candidate, the Governor shall first submit to a designated agency of the State Bar of California the names of all potential appointees or nominees for the judicial office for evaluation of their judicial qualifications.

(b) The membership of the designated agency of the State Bar responsible for evaluation of judicial candidates shall consist of attorney members and public members with the ratio of public members to attorney members determined, to the extent practical, by the ratio established in [Section 6013.5 of the Business and Professions Code](#). It is the intent of this subdivision that the designated agency of the State Bar responsible for evaluation of judicial candidates shall be broadly representative of the ethnic, gender, and racial diversity of the population of California and composed in accordance with [Sections 11140 and 11141](#). The further intent of this subdivision is to establish a selection process for membership on the designated agency of the State Bar responsible for evaluation of judicial candidates under which no member of that agency shall provide inappropriate, multiple representation for purposes of this subdivision. Each member of the designated agency of the State Bar responsible for evaluation of judicial candidates shall complete a minimum of 60 minutes of training in the areas of fairness and bias in the judicial appointments process at an orientation for new members. If the member serves more than one term, the member shall complete an additional 60 minutes of that training during the member's service on the designated agency of the State Bar responsible for evaluation of judicial candidates.

(c) Upon receipt from the Governor of the names of candidates for judicial office and their completed personal data questionnaires, the State Bar shall use appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the judicial duties of the office to which the appointment or nomination shall be made. Within 90 days of submission by the Governor of the name of a potential appointee for judicial office, the State Bar shall report, in confidence, to the Governor its recommendation whether the candidate is exceptionally well qualified, well qualified, qualified, or not qualified and the reasons therefor, and may report, in confidence, other information as the State Bar deems pertinent to the qualifications of the candidate.

(d) In determining the qualifications of a candidate for judicial office, the State Bar shall consider, among other appropriate factors, his or her industry, judicial temperament, honesty, objectivity, community respect, integrity, health, ability, and legal experience. The State Bar shall consider legal experience broadly, including, but not limited to, litigation and nonlitigation

experience, legal work for a business or nonprofit entity, experience as a law professor or other academic position, legal work in any of the three branches of government, and legal work in dispute resolution.

(e) The State Bar shall establish and promulgate rules and procedures regarding the investigation of the qualifications of candidates for judicial office by the designated agency. These rules and procedures shall establish appropriate, confidential methods for disclosing to the candidate the subject matter of substantial and credible adverse allegations received regarding the candidate's health, physical or mental condition, or moral turpitude that, unless rebutted, would be determinative of the candidate's unsuitability for judicial office. No provision of this section shall be construed as requiring that a rule or procedure be adopted that permits the disclosure to the candidate of information from which the candidate may infer the source, and no information shall either be disclosed to the candidate nor be obtainable by any process that would jeopardize the confidentiality of communications from persons whose opinion has been sought on the candidate's qualifications.

(f) All communications, written, verbal, or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs Secretary and Appointments Secretary, or of and to the State Bar in furtherance of the purposes of this section are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the State Bar with a candidate or person providing information in furtherance of the purposes of this section shall not constitute a waiver of the privilege or a breach of confidentiality.

(g) If the Governor has appointed a person to a trial court who has been found not qualified by the designated agency, the State Bar may make public this fact after due notice to the appointee of its intention to do so, but that notice or disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the State Bar concerning the qualifications of the appointee.

(h) If the Governor has nominated or appointed a person to the Supreme Court or court of appeal in accordance with [subdivision \(d\) of Section 16 of Article VI of the California Constitution](#), the Commission on Judicial Appointments may invite, or the State Bar's governing board or its designated agency may submit to the commission, its recommendation, and the reasons therefor, but that disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the State Bar concerning the qualifications of the nominee or appointee.

(i) A person or entity shall not be liable for an injury caused by an act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving information, making recommendations, and giving reasons therefor. As used in this section, the term "State Bar" means its governing board and members thereof, the designated agency of the State Bar and members thereof, and employees and agents of the State Bar.

(j) At any time prior to the receipt of the report from the State Bar specified in subdivision (c) the Governor may withdraw the name of a person submitted to the State Bar for evaluation pursuant to this section.

(k) A candidate for judicial office shall not be appointed until the State Bar has reported to the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate's name to the State Bar, whichever occurs earlier. The requirement of this subdivision shall not apply to a vacancy in judicial office occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies and with respect to nominations pursuant to [subdivision \(d\) of Section 16 of Article VI of the California Constitution](#), the Governor shall be required to submit any candidate's name to the State Bar in order to provide an opportunity, if time permits, to make an evaluation.

(l) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to judicial office, nor shall anything in this section be construed as adding additional qualifications for the office of a judge.

(m) The Board of Governors of the State Bar shall not conduct or participate in, or authorize a committee, agency, employee, or commission of the State Bar to conduct or participate in, an evaluation, review, or report on the qualifications, integrity, diligence, or judicial ability of any specific justice of a court provided for in [Section 2 or 3 of Article VI of the California Constitution](#) without prior review and statutory authorization by the Legislature, except an evaluation, review, or report on potential judicial appointees or nominees as authorized by this section.

The provisions of this subdivision shall not be construed to prohibit a member of the State Bar from conducting or participating in an evaluation, review, or report in his or her individual capacity.

(n)(1) Notwithstanding any other provision of this section, but subject to paragraph (2), on or before March 1 of each year for the prior calendar year, all of the following shall occur:

(A) The Governor shall collect and release, on an aggregate statewide basis, all of the following:

(i) Demographic data provided by all judicial applicants relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation.

(ii) Demographic data relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation as provided by all judicial applicants, both as to those judicial applicants who have been and those who have not been submitted to the State Bar for evaluation.

(iii) Demographic data relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation of all judicial appointments or nominations as provided by the judicial appointee or nominee.

(B) The designated agency of the State Bar responsible for evaluation of judicial candidates shall collect and release both of the following on an aggregate statewide basis:

(i) Statewide demographic data provided by all judicial applicants reviewed relative to ethnicity, race, disability, veteran status, gender, gender identity, sexual orientation, and areas of legal practice and employment.

(ii) The statewide summary of the recommendations of the designated agency of the State Bar by ethnicity, race, disability, veteran status, gender, gender identity, sexual orientation, and areas of legal practice and employment.

(C) The Administrative Office of the Courts shall collect and release the demographic data provided by justices and judges described in Article VI of the California Constitution relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation by specific jurisdiction.

(2) For purposes of subparagraph (A) of paragraph (1), in the year following a general election or recall election that will result in a new Governor taking office prior to March 1, the departing Governor shall provide all of the demographic data collected for the year by that Governor pursuant to this subdivision to the incoming Governor. The incoming Governor shall then be responsible for releasing the provided demographic data, and the demographic data collected by that incoming Governor, if any, prior to the March 1 deadline imposed pursuant to this subdivision.

(3) Demographic data disclosed or released pursuant to this subdivision shall disclose only aggregated statistical data and shall not identify any individual applicant, justice, or judge.

(4) The State Bar and the Administrative Office of the Courts shall use the following ethnic and racial categories: American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, White, some other race, and more than one race, as those categories are defined by the United States Census Bureau for the 2010 Census for reporting purposes.

(5) Demographic data disclosed or released pursuant to this subdivision shall also indicate the percentage of respondents who declined to respond.

(6) For purposes of this subdivision, the collection of demographic data relative to disability and veteran status shall be required only for judicial applicants, candidates, appointees, nominees, justices, and judges who apply, or are reviewed, appointed, nominated, or elected, on or after January 1, 2014. The release of this demographic data shall begin in 2015.

(7) For purposes of this subdivision, the following terms have the following meanings:

(A) “Disability” includes mental disability and physical disability, as defined in subdivisions (j) and (m) of [Section 12926](#).

(B) “Veteran status” has the same meaning as specified in [Section 101\(2\) of Title 38 of the United States Code](#).

(o) The Governor and members of judicial selection advisory committees are encouraged to give particular consideration to candidates from diverse backgrounds and cultures reflecting the demographics of California, including candidates with demographic characteristics underrepresented among existing judges and justices.

(p) If any provision of this section other than a provision relating to or providing for confidentiality or privilege from disclosure of any communication or matter, or the application of the provision to any person or circumstances, is held invalid, the remainder of this section, to the extent it can be given effect, or the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this section are severable. If any other act of the Legislature conflicts with the provisions of this section, this section shall prevail.

#### **Credits**

(Added by Stats.1979, c. 534, § 2. Amended by Stats.1984, c. 16, § 3; [Stats.2006, c. 390 \(S.B.56\), § 2](#); [Stats.2007, c. 130 \(A.B.299\), § 115](#); [Stats.2007, c. 722 \(A.B.159\), § 1](#); [Stats.2011, c. 667 \(A.B.126\), § 1](#); [Stats.2011, c. 720 \(S.B.182\), § 1.5](#); [Stats.2012, c. 162 \(S.B.1171\), § 60](#); [Stats.2013, c. 113 \(A.B.1005\), § 1](#); [Stats.2014, c. 71 \(S.B.1304\), § 71, eff. Jan. 1, 2015](#).)

[Notes of Decisions \(1\)](#)

West's Ann. Cal. Gov. Code § 12011.5, CA GOVT § 12011.5

Current with urgency legislation through Ch. 33 of 2020 Reg. Sess. Some statute sections may be more current, see credits for details.

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## **Justice Richard D. Fybel**

Justice Fybel was born and grew up in Southern California. He is a graduate of the University of California at Los Angeles (A.B. 1968) and the University of California at Los Angeles School of Law (J.D. 1971; Law Review; Order of the Coif).

In February 2002, his appointment as an Associate Justice of the Court of Appeal, Fourth District, Division Three (Santa Ana) was confirmed by the Commission on Judicial Appointments. At the time of his appointment, Justice Fybel had been a judge of the Orange County Superior Court since April 2000. His assignments included criminal and civil cases.

Since 2004, Justice Fybel has been the Chair of the California Supreme Court's Advisory Committee on the Code of Judicial Ethics. He is a co-author of the Fourth Edition of the *California Judicial Conduct Handbook* (2017). Justice Fybel was an Advisor to the Commission for the Revision of the Rules of Professional Conduct of the State Bar of California. He was the Chair of the California Supreme Court committee responsible for recommending the structure and rules for the Supreme Court Committee on Judicial Ethics Opinions.

Justice Fybel received the President's Award from the California Judges Association, the Franklin G. West Award presented by the Orange County Bar Association (OCBA), and the Sills Award for Appellate Excellence from the Appellate Section of the OCBA, the highest honors of those organizations. Justice Fybel was the 2005 UCLA Law School Alumnus of the Year for Public and Community Service. He received the Award for Achievement in Public Service from the Public Interest Law Foundation of Chapman University School of Law. He also received the President's Award from the Ferguson American Inn of Court and the Lifetime Achievement Award from his undergraduate fraternity at UCLA.

From 2005 through 2018, Justice Fybel was an Adjunct Professor at the Fowler School of Law at Chapman University, co-teaching a seminar on The Holocaust, Genocide and the Law. He is a founder of the Ruth and Ernest Fybel Endowed Fund for Literature on Children of the Holocaust, established at the Chapman University Samueli Holocaust Memorial Library.

Justice Fybel co-edited with Professor M. Katherine B. Darmer the book entitled *National Security, Civil Liberties, and the War on Terror* published by Prometheus Books. He is the author of a chapter in the book entitled "The Absence of Judicial Ethics: The German Legal System, 1933-1945." An adaptation of the chapter was published in *California Litigation* (the Journal of the Litigation Section of the State Bar of California) and in the *Riverside Lawyer* magazine.

Justice Fybel spoke on this subject to the State Bar of California; the California Judges Association; the OCBA; the Unity Bar of Sacramento; the Court-Clergy Conference; the San Diego Appellate Inn of Court; The League of Women Voters—Orange County; UCI School of Law; McGeorge School of Law; Appellate Defenders, Inc.; the Chancery Club of Los Angeles; law students organized by the Public Law Center; the OCBA's Jewish Bar Association; the American Jewish Committee; the BYU Management Society (Sacramento Chapter), the St. Thomas More Catholic Legal Society, and the J. Reuben Clark Law Society; University

Synagogue; the Office of Medicare Hearings and Appeals; the Cardozo Society; a symposium at Chapman University; the Ferguson Inn of Court; Soka University; and the California Academy of Attorneys for Health Care Professionals.

Justice Fybel was a member of the Holocaust Program Planning Committee for “How the Courts Failed Germany,” cosponsored by the United States Holocaust Memorial Museum, the University of California and the Judicial Council, and was a panel member in the program at UCI. Justice Fybel spoke at the opening of the exhibit created by the German Federal Bar entitled “Lawyers Without Rights—Jewish Lawyers in Germany Under the Third Reich” at both Southwestern and Chapman Law Schools. Justice Fybel gave a keynote speech in Nuremberg Courtroom 600 in observance of the 70th Anniversary of the Nuremberg Trials.

Justice Fybel is the author of *A Fond Remembrance of M. Katherine B. Darmer* published in volume 16, Chapman Law Review 249 (Winter 2013). He is also the author of *Assassins In Judicial Robes* published in Gavel to Gavel, the Los Angeles Superior Court Judicial Magazine (Spring 2013). On the 75th Anniversary of *Kristallnacht*, Justice Fybel commemorated the anniversary with a speech at an Interfaith Service of Remembrance at Chapman University. He spoke at the observance of the 80th Anniversary of *Kristallnacht*, at the event sponsored by the Central Valley Holocaust Educators’ Network in Sacramento.

Justice Fybel is a member of the Boards of Advisors of the Fowler School of Law and The Rodgers Center for Holocaust Education at Chapman University. He is also a member of the Board of Visitors of UCI School of Law. He is a member of the Jewish Law Institute Advisory Board of the Touro Law Center (New York). Justice Fybel was the President of the Board of Directors of University Synagogue in Irvine from July 2010 through June 2012. He is a member of the JSerra Catholic High School Pre-Law Magnet Advisory Board. Justice Fybel gave keynote speeches on civility and ethics to Orange County high school students participating in a mock trial program at JSerra.

Justice Fybel was a member of the Judicial Candidate Conduct Task Force of the California Commission for Impartial Courts. He addressed the subject of judicial ethics in campaigns at a symposium on “Judicial Ethics and Accountability: At Home and Abroad” at McGeorge Law School and is a co-author of an article on the subject published in volume 42 University of the Pacific McGeorge Law Review 135 (2010).

Justice Fybel is the author of *Honest Lawyers Make Good Lawyers—Thoughts on Ethics and Civility in the Legal Profession* (Nov./Dec. 2006) 19 Utah Bar J. 11. He was the commencement speaker at the graduation of the Class of 2010 at Chapman Law School. In 2017, he co-chaired the committee that drafted the “Civility Guidelines” for the OCBA.

Justice Fybel was the President of the UCLA Law Alumni Association and an officer of the Board of Trustees of the Orange County Public Law Library. He was a member of the Boards of Directors of the OCBA Masters Division. He is a member of the Judicial Advisory Board of the Association of Business Trial Lawyers, Orange County Chapter (ABTL). Justice Fybel has also served as a member of the Kleps Award Committee, honoring contributions made by California courts to the administration of justice; the UCLA Foundation Board of Councillors; a judge for the Constitutional Rights Foundation, UCLA School of Law, UCI School of Law, Chapman Law School, the statewide Traynor Moot Court Competition, the regional finals of the Jessup International Law Moot Court Competition, and the New York City Bar Association National

Moot Court Competition; and a speaker in school programs sponsored by the Judicial Council, Orange County Education Department and the OCBA.

Justice Fybel has taught classes and spoken at events sponsored by the Judicial College of the California Courts (Making an Effective Record for Appeal; 2010-2017); the Center for Judicial Education and Research of the Administrative Office of the Courts (The California Code of Judicial Ethics; Legal Ethics for Appellate Court Employees and Attorneys; Legal Ethics for Trial Court Research Attorneys; Legal Ethics for Court Management; Recovery of Attorney Fees; and Use of Financial Documents in the Courtroom); the California Judges Association; the State Bar of California; the Orange County Superior Court (the Code of Judicial Ethics); the National Association for Presiding Judges and Court Executive Officers; the State Bar of Utah; the OCBA and the Los Angeles County Bar Association; the ABTL; the Los Angeles Superior Court; the Rutter Group; the Business Litigation, Appellate, and Labor and Employment Law Sections of the OCBA; the Orange County Trial Lawyers Association; the Ferguson Inn of Court; and the Constitutional Rights Foundation. Justice Fybel moderated a panel at UCI School of Law on the subject “Jewish and Islamic Legal Scholarship for Law School Audiences: From the Academy to the Courts.”

Before his judicial appointment, Justice Fybel was a partner in the law firm of Morrison & Foerster LLP. Justice Fybel specialized in civil business litigation.

## **Justice Thomas M. Goethals**

Thomas M. Goethals was appointed to the California Court of Appeal, Fourth Appellate District, Division Three, by Governor Jerry Brown. Justice Goethals was rated “exceptionally well qualified” for the position by the California State Bar Commission on Judicial Nominees, and he was confirmed by the Commission on Judicial Appointments on January 25, 2018. Prior to his appointment to the Court of Appeal, Justice Goethals had served as a judge of the Superior Court in Orange County since 2003. For two years he was the supervisor of Orange County’s felony trial courts.

Justice Goethals was born in 1952 in Glendale, California. He graduated from Loyola High School, Santa Clara University, and Loyola Law School. After passing the California Bar Exam, Justice Goethals worked for the Orange County District Attorney, where he supervised both the Homicide Unit and the Law and Motion Panel. He also worked for the law firm then known as Robinson and Robinson. In 1990, he joined the firm which became Pohlson, Moorhead and Goethals, where he remained until his appointment to the Superior Court. During his twenty-five years in practice, Justice Goethals tried nearly 200 jury trials, including both civil and criminal matters. At the time of his appointment to the Superior Court, he was a member of the Board of Directors of the Orange County Bar Association.

Justice Goethals was an adjunct professor at his alma mater, Loyola Law School, from 1998 through 2017. He has also been an adjunct professor at Whittier Law School. Justice Goethals has taught his fellow judges through the CJER program since 2008.

Justice Goethals has been married since 1976 to his high school sweetheart. He and his wife, Patty, have three married children and a growing gaggle of grandchildren.

**Judge Kimberly A. Knill**

Judge Kimberly A. Knill was appointed to the Orange County Superior Court in 2018. She earned her J.D. from Pepperdine University School of Law and a B.S. from the University of Arizona. Judge Knill started her legal career at McDermott, Will and Emery where she practiced as an associate from 1988 to 1994. Judge Knill then started her own private practice where she specialized in civil and child dependency appeals. In 2014, she joined the Orange County Superior Court as a research attorney for two years and then served as a senior appellate attorney at the California Court of Appeal, Fourth District, Division Three from 2016 until her appointment to the bench in 2018. Judge Knill previously served as Chair of the State Bar's Judicial Nominees Evaluation Commission.

### **Judge Frank Ospino**

Judge Frank Ospino was appointed to the Orange County Superior Court in 2015. After earning a B.A. in political science from the University of California, Irvine, Judge Ospino earned his J.D. from the University of California, Hastings College of Law in 1984. Judge Ospino then returned to Orange County where he served as a deputy public defender from 1985 to 1990. After two years with his own private practice, Judge Ospino returned to the Orange County Public Defender's office where he rose through the ranks and was appointed Orange County Public Defender in 2012.

Judge Ospino was the first Orange County Public Defender of Hispanic origin and was recognized by the Hispanic Bar Association as its Attorney of the Year in 2013.

by Judge George F. Bird and Kimberly A. Knill

# JUDICIOUS SELECTION

An investigation and interview by the State Bar Judicial Nominees and Evaluation Commission is an important part of the process for prospective judicial candidates

**JUDGES** daily perform laudable public service in adjudicating cases and dispensing justice in civil, criminal, juvenile, probate, and family proceedings, drafting and issuing legal opinions, and handling various administrative, supervisorial, and other responsibilities. Many California attorneys have judicial aspirations, but they may not be familiar with the rigorous and intensive process required to fulfill the goal of becoming a judge in this state. Under the California Constitution, the governor is granted the authority to appoint superior court judges<sup>1</sup> as well as to nominate court of appeal and supreme court justices subject to confirmation by the Commission on Judicial Appointments (CJA).<sup>2</sup> (See sidebar on page 37, “What to Expect When Applying for a Judicial Appointment or Nomination.”)

Currently, the state’s judiciary consists of 2,024 authorized judge positions in the superior courts of the 58 counties, 105 authorized justice positions in the six divisions of the courts of appeal, and seven supreme court justices.<sup>3</sup> In Los Angeles County, there are currently 483 judicial offices in the superior court and 32 judicial offices

in the Second District Court of Appeal.

The path to serving on the bench commences from one of two directions. The customary and usual path is a gubernatorial appointment. Once appointed, a judge is required to run in the next general election on a nonpartisan basis in order to retain his or her seat on the bench.<sup>4</sup> The other but less frequent path is through election by the general public.<sup>5</sup> Regardless of how an individual assumes the bench, judges who serve in the superior court must run for election every six years to keep the seat.<sup>6</sup> Similarly, supreme court and court of appeal justices must run for election every 12 years.<sup>7</sup>

A lawyer must practice law in California for 10 years before applying for the bench.<sup>8</sup> A prospective judicial candidate seeking a gubernatorial appointment initiates the process by completing an application for appointment.<sup>9</sup> The applications are intended to attract candidates from throughout the legal system, thereby resulting in a judiciary that is diverse in experience, gender, ethnic background, and geography.

The applications for the trial court and appellate court differ

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**The Honorable George F. Bird is a judge of the Los Angeles Superior Court. Prior to his appointment, he practiced law for nearly 30 years and was a certified criminal law specialist. He is a former member of the Commission on Judicial Nominees Evaluation of the State Bar of California (JNE). Kimberly A. Knill is a senior appellate attorney with the California Court of Appeal, Fourth Appellate District, Division Three, and past chair of JNE.**



slightly in the kinds of professional experience relevant for the requested office. Although attorneys can apply for an appointment to an appellate court, generally trial judges apply for appellate positions. For sitting judges, the application requests details about cases over which the applicant has presided and appellate court decisions reviewing the applicant's rulings.

For attorneys, starting an application might be likened to reviewing jury instructions before filing a complaint—it provides a road map and sets forth the necessary elements for a successful outcome. Familiarity with the information the governor requests and finds important will assist the applicant in preparing for the task of submitting a comprehensive application. Applicants should consider establishing a relationship with a sitting judge who can act as a mentor throughout the process. A mentor judge who has successfully navigated the process can be an invaluable resource to a judicial candidate. In addition to appearing in court on client cases, serving as a temporary judge, attending bar functions, and volunteering in the legal community are excellent ways to begin relationships.

Recognizing that most candidates presumably know the law, what then are the qualities that set one applicant apart from another? Most judges and lawyers agree impeccable judicial temperament is a paramount quality of a great judge. Thus, the applicant should demonstrate his or her patience, appropriate demeanor, ability to maintain decorum in difficult circumstances, and similar attributes indicative of fitness to manage a heavy courtroom calendar with ease and finesse. The applicant should describe life experiences that demonstrate good judgment and temperament and highlight these experiences in the application.

The application asks for a description of past legal and nonlegal experiences, education, training, practice areas, community service and involvement, teaching and writing history, bar association involvement, family life, hardships, leadership roles, and similar life experiences. A candidate must also provide thoughtful insights as to why he or she wants to become a judge, what the candidate has contributed to society, what role judges and attorneys serve in society, and similarly themed topics. Furthermore, applicants must submit detailed explanations about past cases in which they have been involved, including case names and numbers, names of opposing counsel, and the judges who presided over those matters. Additionally, a candidate must provide a writing sample. Letters of reference from carefully selected individuals who have worked closely with the candidate, and who can comment on the candidate's character, judicial temperament, and other qualifications can provide valuable information for the governor's review.

Senior members of the bench familiar with the judicial selection process advise that the governor is looking for candidates who will perform the judicial function with distinction. The applicant should be prepared to demonstrate in the application and interviews what that individual has done to make this a better world. For example, has he or she served as a temporary judge or performed pro bono work? What has the applicant overcome in life? Does she or he have a compelling or incredible story that has taught life lessons that give that individual an appreciation for those less fortunate who may appear before him or her in court?

The most common mistake that can derail an applicant's chances for appointment is failing to disclose a lawsuit, judgment, lien, arrest, or other negative event the applicant hoped would never be discovered. A failure to disclose magnifies the significance of the underlying event and generally weighs heavily against the applicant successfully emerging from the investigation and evaluation that will follow. If the investigative process independently uncovers negative matters that the candidate clearly should have disclosed in response to a question in the application, it can doom the applicant's quest for a judicial appointment. Consequently, candidates should err on the

side of overinclusion in the judicial application.

Before the governor may appoint a judge to any superior court or nominate a candidate to become a justice of any appellate court, the applicant must undergo an investigation and be rated by the State Bar Commission on Judicial Nominees Evaluation (JNE).<sup>10</sup> Once a judicial application is received, the governor decides whether or not to send the candidate to the JNE Commission for vetting; not every applicant will undergo a JNE review. The governor's office may seek additional peer review and evaluation from local bar associations by releasing the application for a secondary vetting in the local jurisdiction. Locally, Governor Brown regularly requests input directly from the Los Angeles County Bar Association. In addition, JNE often seeks input from members of other local bar associations. The multiple layers of vetting are designed to provide the governor with as much information as possible before making a decision on who should be a judicial officer.

The JNE Commission began as a pilot program in 1979.<sup>11</sup> A year later, the commission's authority was formalized and it became the designated agency of the State Bar responsible for evaluation of judicial candidates.<sup>12</sup> The commission consists of up to 38 members, primarily attorneys and retired judges but also nonattorney public members.<sup>13</sup> The commission convenes for a two-day meeting six times each year to evaluate candidates at the governor's request.

The JNE Commission must adhere to strict rules of confidentiality to ensure its investigations of judicial candidates are undertaken with integrity, to encourage the free flow of information, and to promote the gathering of facts and opinions from members of the bench and bar without fear of recrimination by those who submit feedback.<sup>14</sup> In addition, the State Bar has promulgated rules governing the commission's evaluation process.<sup>15</sup>

When the governor submits a judicial candidate to JNE for evaluation, JNE assigns two to four commissioners to each candidate investigation. In the lead commissioner's first contact with the candidate, the commissioner asks the individual to provide a list of all persons referenced in the judicial application and another list of up to 75 personal references. Over the next 60 days, the investigating commissioners solicit input and feedback from members of the bench and bar familiar with the candidate's legal work and reputation through the use of a Confidential Comment Form (CCF), usually sent through e-mail. In addition to sending CCFs to those on the candidate's two lists, the commissioners send CCFs to randomly selected members of the bar and to members of the bench in the county in which the candidate has applied.

During the investigation, the commissioners follow up on comments they receive and make other inquiries to arrive at a recommended rating. The commission evaluates numerous qualities during this process, including impartiality, freedom from bias, industry, integrity, honesty, legal experience broadly, professional skills, intellectual capacity, judgment, community respect, commitment to equal justice, judicial temperament, communication skills, and job-related health.<sup>16</sup> In addition, superior court candidates are expected to have the qualities of decisiveness and patience as well as the ability to communicate well orally. Candidates for the court of appeal are expected to have the qualities of collegiality, writing ability, and scholarship, while supreme court candidates are expected to have these qualities as well as distinction in the profession and breadth and depth of experience.<sup>17</sup>

The candidate's final step in the JNE investigative process is an interview with the investigating commissioners. At least four days before the interview, the commissioners must disclose to the candidate as detailed as possible without breaching confidentiality any substantial, credible, and corroborated adverse allegations or negative findings related to temperament, industry, integrity, ability, experience, health, physical or mental condition, or moral turpitude that would

be determinative of unsuitability for judicial office unless rebutted.<sup>18</sup> The candidate is given ample time to address any concerns at the interview.

At the full commission meeting, each candidate is discussed and the commission assigns one of the following ratings: exceptionally well qualified, well qualified, qualified, or not qualified.<sup>19</sup> Once the investigation is concluded, the commission's findings and rating are memorialized in a confidential report to the governor. Only a candidate rated not qualified is permitted to request a reconsideration of the JNE rating.<sup>20</sup> The JNE Commission's rating of trial court candidates is confidential. Unless a trial court candidate is rated not qualified, the candidate is never notified of his or her rating.

Appellate justices must be confirmed by the CJA, a three-member commission consisting of the chief justice of the California Supreme Court, the state attorney general, and the senior justice from the appellate district of the affected district. When a supreme court appointee is being considered, the third member of the CJA is the state's senior presiding justice of the courts of appeal.<sup>21</sup> When an appellate court candidate is nominated by the governor, the CJA schedules a public hearing in which the candidate and his or her supporters are given an opportunity to testify as to the candidate's suitability for appointment. Members of the public also are invited to comment. The chair of the JNE Commission testifies by disclosing the JNE Commission's rating of the candidate and offering a summary of the basis for its rating. The appellate appointment becomes effective upon confirmation by the CJA.<sup>22</sup>

After the JNE report reaches the governor's office, the JNE Commission has no further input or involvement with the candidate. The governor's decision to interview, appoint, or nominate is made at the governor's discretion and on the governor's timetable, up to 11:59 p.m. on the last day of the governor's term in office.

Attorneys who aspire to become a judge should begin assembling materials and carefully considering the judicial application at the

earliest possible opportunity. Governor Brown's history of considering legal experience broadly in evaluating a candidate's suitability for judicial office and appointing attorneys from all walks of legal life has led to a richer and more diverse California judiciary. Many attorneys no doubt have valuable life experiences, background, and training to make a positive impact on this community and to provide meaningful access to justice in our courts. Those whose legal careers and personal character demonstrate the hallmarks of a good judge and who have a desire to serve the public should consider applying for a judicial appointment. ■

<sup>1</sup> CAL. CONST., art. VI, §16(c).

<sup>2</sup> *Id.* §16(d).

<sup>3</sup> See, e.g., About California Courts, California Courts, available at <http://www.courts.ca.gov> (last visited Sept. 27, 2016).

<sup>4</sup> CAL. CONST., art. VI, §16.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* §16(c).

<sup>7</sup> *Id.* §16(a).

<sup>8</sup> *Id.* §15.

<sup>9</sup> See, e.g., Judicial Appointment Applications, Office of Governor Edmund G. Brown, Jr., available at <https://www.gov.ca.gov> (last visited Sept. 28, 2016).

<sup>10</sup> GOV'T. CODE §12011.5(a).

<sup>11</sup> See, e.g., Background, The State Bar of California, available at <http://www.calbar.ca.gov> (last visited Sept. 27, 2016).

<sup>12</sup> *Id.*

<sup>13</sup> GOV'T. CODE §12011.5(b).

<sup>14</sup> *Id.* §12011.5(c); see also STATE BAR R. 7.20.

<sup>15</sup> *Id.*

<sup>16</sup> GOV'T. CODE §12011.5(d).

<sup>17</sup> STATE BAR R. 7.25.

<sup>18</sup> STATE BAR R. 7.50.

<sup>19</sup> GOV'T. CODE §12011.5(c); STATE BAR R. 7.26.

<sup>20</sup> STATE BAR R. 7.65.

<sup>21</sup> CAL. CONST., art. VI, §7.

<sup>22</sup> *Id.* §16(d)(2).

## What to Expect When Applying for a Judicial Appointment or Nomination

The authority to appoint and nominate judges vested in the governor of California can translate to far-reaching change within the judiciary. For example, Governor Edmund G. Brown, Jr. has had a profound impact at all levels of the judiciary through his selection of judicial officers. Since he began his second tenure as governor in 2011, Brown has appointed a larger share of women, Latinos, and African-Americans to the state bench than any governor in history, including his own first tenure as governor decades ago.<sup>1</sup> Specifically, nearly 40 percent of Brown's appointees identify themselves as nonwhite.<sup>2</sup> Also, over the last five years he has appointed 15 judges from the lesbian, gay, bisexual, and transgender communities.<sup>3</sup>

When Governor Brown made his most recent appointments to the California Supreme Court a few years ago, he stated, "I was looking for people who you could say were 'learned in the law'...I put the word out: Are there people who are scholars or of unusual ability?"<sup>4</sup> Brown's last three supreme court appointees—Goodwin H. Liu, Mariano-Florentino Cuéllar, and Leandra R. Kruger—among other accomplishments, had been law professors who had never served on the bench before appointment. They also represent diverse ethnic and cultural backgrounds: Justice Liu's parents are Taiwanese, Justice Kruger is African-American, and Justice Cuéllar was born in Mexico.

Departing from tradition, Governor Brown has deemphasized prior service as a federal or state prosecutor. For example, in addition to appointing criminal defense attorneys, Brown has appointed attorneys whose practices include plaintiff's tort litigation, insurance defense, and transactional, civil rights, employment, and administrative law. He has selected

in-house corporate and government attorneys, as well as those with appellate experience as a practitioner or working for a judicial officer.

Below, several of Governor Brown's recent appointees to the Los Angeles Superior Court reflect on their experiences with the judicial selection process.

### **Judge Michelle Ahnn, former deputy alternate public defender currently assigned to a misdemeanor courtroom:**

Q: What advice would you give to someone wanting to become a judge?

A: Persevere, make sure you maintain a good reputation among the bench and opposing counsel, and be yourself. Also, be prepared for it to take some time for your appointment. Make friends with others going through the process. I found that going to numerous networking events was much more enjoyable with someone who could introduce me to new people and vice-versa. Keep in mind this is not a competition and just because someone gets appointed does not mean you won't. I found it helpful to view others going through the appointment process as a support network rather than a competition.

Q: How did you prepare for the JNE interview and how long did it last?

A: My interview lasted about 45 minutes. To prepare, I did a mock interview with a recent appointee, which was extremely helpful in helping me formulate my answers and to anticipate questions. I also spoke with five other people who had been recently interviewed by JNE and found out what questions were asked. I was asked which judge I admired. The judge had been a former prosecutor and I admired her for setting aside her "D.A.

hat” and ruling without regard to her former role as a prosecutor.

Q: What is the one thing you might do differently if given the chance?

A: During the process, I reviewed my application several times, especially before the JNE, LACBA, and Mr. Groban’s interviews, because I knew I would be asked questions about it. Reading through it, I definitely would have changed some of my answers. I think if I could do it over, I would have written my application and then put it away for a few months before submitting it to make sure I really did like the way I answered the questions. Looking back, I wish I had put it aside after I thought it was OK and waited a few months to give me some more perspective and fresh eyes.

**Judge Kevin Stennis, former deputy district attorney, currently assigned to a misdemeanor courtroom:**

Q: What is the one thing you might have done differently if given the chance?

A: The one thing I would have done differently.... I was a party to a lawsuit and I wish I had given the interviewers my documents showing the person suing me was irrational *prior* to the interview. I spent too much time trying to explain the lawsuit during the interview whereas if I had given them the documents prior to the interview, I believe less time would have been spent trying to explain the lawsuit. I gave the LACBA interviewers the documents prior to the interview and, fortunately, I did not have to spend the interview explaining the lawsuit with them.

Q: What was the most enjoyable part of the process?

A: Getting the call from Josh Groban!!!

Q: What advice would you give someone wanting to become a judge?

A: I would advise people to treat everyone with dignity and respect and use the saying from the great coach John Wooden, “The time to make friends is before you need them.”

**Judge Rupa Goswami, former assistant United States attorney, currently assigned to a misdemeanor courtroom:**

Q: What advice would you give to someone wanting to become a judge?

A: Do everything you want to do as an attorney. Go be president of a bar—but not copresident. Do pro bono work. Raise funds for your favorite charities. You cannot do these things after you become a judge. Once a judge, always a judge. No more cut-off Daisy Dukes, itty-bitty shorts for you. No more screaming at the slow car in front of you. No more ripped-up sweatpants on the weekends. Even off the bench, you are still a judge.

Q: What was the most enjoyable part of the process?

A: My JNE interview! My commissioners had so many questions. It went on forever, but my sense was they wanted to know. They were well prepared and spent a lot of time talking about my judicial philosophy, which is something I am thinking about to this day. They really made me feel that my application was ripe, and they were challenging me to think deeply about what kind of judge I would be, if appointed.

Q: What did you dread and was it as bad as you thought?

A: I dreaded having the Confidential Comment Form go out. There was a problem with the electronic CCFs, and none of my colleagues at the Department of Justice received theirs thanks to a spam filter; only the federal public defenders received theirs.

Q: What would you have done differently if given the chance?

A: I would not have been so shy about telling my personal story. I was embarrassed by my childhood which was rocky, but the JNE commissioners really seemed to want to know about those rough patches.

**Judge Michael Small, former senior counsel at Akin, Gump, Strauss, Hauer, and Feld, assigned to a misdemeanor courtroom:**

Q: What is the one thing you would do differently if given the chance?

A: Probably relaxed a bit more.

Q: What was the most enjoyable part of the process?

A: Receiving very nice notes from friends and colleagues who said that they said good things to JNE about me in their evaluations.

Q: What advice would you give to someone wanting to become a judge?

A: Go for it! It’s a great job.

Q: How has being a judge changed your life?

A: I was very fortunate to have had a very interesting career as a lawyer and law professor before I became a judge. I loved my prior life in the law. But I love judging even more. I am honored to have this job.

**Judge Rupert Byrdsong, former partner at Ivie McNeill, currently assigned to a civil calendar:**

Q: What advice would you give to someone wanting to become a judge?

A: I would first want to know why the person wants to be a judge. If the person is seeking power and prestige, I would have some concerns. If a person has a genuine passion for the law and for what the law can do to help the community, I would say apply right now. Attorneys should approach their practice with the levels of professionalism, competence, and ethics to establish an unimpeachable reputation. Attorneys should not simply represent their clients, but they should represent the profession: be responsible, be fair, be reasonable, and be honest.

Q: What was the one thing you learned going through the JNE vetting process that you never considered before applying for a judicial appointment?

A: I learned that *every* interaction you have with opposing counsel can be the game-changing information for a positive application. Even though litigation is by its nature an adversarial process, you must remain professional and reasonable at all times. If you have negative interactions with opposing counsel, you demonstrate the ability to work well with people with different views and objectives.

Q: How has becoming a judge changed your life?

A: I have a greater sense of pride knowing that I am making a difference in the community. My position enables me to influence lives for the better. Finally, the bench is less stressful than the rigors of the business and practice of law. I am proud to serve on the greatest court system in the world!

**Judge Rob Villeza, former assistant United States attorney, currently assigned to a misdemeanor courtroom:**

Q: How did you prepare for the JNE interview and how long did it last?

A: Mock interviews. Then more mock interviews. It’s easy to talk about your strengths, but it helps to prepare to discuss any perceived weaknesses, and a great boost if you’re prepared to turn those weaknesses into positive talking points.

Q: What is the one thing you might do differently if given the chance?

A: I submitted my application without asking others to review it. At the very least, you’ll catch more typos if others read it first.

Q: What did you dread, and was it as bad as you thought?

A: Doing the research for the application—collecting names, addresses, phone numbers for defense counsel, etc., and compiling the list of 75 names for JNE and LACBA. On the upside, I called many of those names and reconnected so they knew they might be contacted.

Q: What advice would you give to someone wanting to become a judge?

A: I would probably offer different advice depending on the stage of the process. If the person has not yet applied, I would encourage the person to get the application and begin to think about their responses, then work on areas that might be considered weak spots, i.e., trial or courtroom experience, community work, etc.

Q: How has being a judge changed your life?

A: I do a job that I love, with time to enjoy life outside of work.

**Judge Mark Hanasono, former deputy public defender, currently assigned to a high volume misdemeanor calendar court:**

Q: What was one thing that you learned going through the JNE

vetting process that you never considered before applying for a judicial appointment?

A: Talking about myself and asking others for help made me feel uncomfortable. I learned that there are many people out there who are willing to help and are generous with their time.

Q: What was the most enjoyable part of the process?

A: The humbling feeling of receiving support from so many people.

Q: What advice would you give to someone wanting to become a judge?

A: Really understand what a judge does and determine if this is what you really want to do.

Q: How has being a judge changed your life?

A: I am much more mindful of each facet of courtroom operations. I am more appreciative of professionalism by attorneys.

**Judge Frank J. Menetrez, former appellate judicial attorney at the Court of Appeal, Second Appellate District, currently assigned to a juvenile dependency courtroom:**

Q: What was the one thing you learned going through the JNE process that you never considered before applying for a judicial appointment?

A: That the process can consist of long periods of completely uneventful waiting, punctuated by brief periods of intense activity. When you hear from JNE, you are given a short deadline to submit names and addresses of persons to whom JNE should send review and comment forms. Shortly after that comes the JNE interview, followed by more waiting for an interview with the governor's appointment secretary.

Q: What was the most enjoyable part of the process?

A: The interview with the governor's liaison from the Appointments Office, Josh Groban. It was a long and comprehensive interview, and a bit unnerving, because Josh is very good at not giving any signs of how well

or how poorly the interviewee is doing. He really gives nothing away. But it was just an interesting and challenging conversation, and in the end I really enjoyed it.

Q: What advice would you give to someone wanting to become a judge?

A: Before applying, be a good lawyer and be good to your colleagues, both friends and adversaries. JNE sends out lots of review and comment forms, and they are taken very seriously. After applying, be patient. Some applicants sail through quickly, but others take much longer. The vetting of judicial candidates is a long, multilevel administrative process, and can slow down or break down at any number of points for any number of reasons.

Q: How has being a judge changed your life?

A: An easier question would be: How has it not changed your life? As we learn at new judge orientation, we're not just judges when we are on the bench. We're judges 24/7, and we need to conduct ourselves at all times in a manner that will reflect well on the courts. That's an enormous responsibility. And when you take it seriously, as I do, it ramifies in all sorts of directions. It affects everything you do.

<sup>1</sup> Adam Nagourney, *Jerry Brown, Governor of California, Takes Second Chance to Shape Court*, N.Y. TIMES (December 25, 2014), available at <http://www.nytimes.com> [hereinafter Nagourney].

<sup>2</sup> Nick Cahill, *Report Highlights California Judges' Diversity*, COURTHOUSE NEWS SERVICE (February 29, 2016), available at <http://www.courthousenews.com>.

<sup>3</sup> *Id.*

<sup>4</sup> Nagourney, *supra* note 1.

<sup>5</sup> Joshua Groban is a senior advisor for Policy and Appointments in the Office of the Governor.

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