

## Benching Diversity

### FORUM COLUMN

By Fabian Nuñez

Thanks to the Legislature, 50 new Superior Court judgeships have been authorized in California. Everyone agrees that more judges makes sense in terms of helping ensure a swifter and more efficient judicial system in California. However, both AB 159 - which authorized the new judgeships - and its predecessor, SB 56 - which authorized the initial batch of 50 judgeships - were surrounded by concerns about whether the Schwarzenegger administration would step up to the plate and accept the responsibility to make certain that the new appointments reflect the diversity of our state.

In approving the funding for the new judgeships, the Legislature included strong disclosure requirements to help improve the diversity of judicial appointments.

At halftime, the outcome is uncertain at best.

The governor has already filled 38 of the first set of 50 Superior Court judge positions. Fourteen of those 38 have been women. According to information provided by various bar associations, 13 have been people of color: five African-Americans, five Latinos and three Asian/Pacific Islanders.

Almost half, 15 of the 38, were former prosecutors before being appointed to the bench. It seems that all California governors, not excepting Gov. Schwarzenegger, tend to have a myopic focus on prosecutors when looking at potential judicial appointments. This trend fuels limited diversity and leads to lopsided sentencing in our courtrooms.

These numbers maintain an unhealthy status quo. Statewide, 70 percent of judges are white, 6.3 percent are Hispanic or Latino, 4.4 percent are Asian-American and 4.4 percent are black, according to a survey conducted earlier this year. When you compare those numbers to the state's overall population statistics (from 2005 U.S. Census figures) of 43.8 percent white, 35.2 percent Latino, 12.2 percent Asian-American and 6.7 percent black, the disparity is as obvious as the diversity isn't.

Our courts service all Californians, and they should reflect all Californians. No one is saying that you can receive justice only from someone of a similar gender, ethnicity, sexual orientation or cultural background. But given the role of judges in setting precedent and in interpreting and shaping the laws that affect us all, variety in perspective and experience is a valuable thing.

Additionally, I have to wonder if the recent court interpreters strike in Los Angeles - where many individuals were left going into court without being able to understand the proceedings - would have been allowed to last as long as it did if the supervisory and management positions were more diverse or shared backgrounds with the interpreters and the clients they serve.

It is incorrect and insulting to suggest, as some have, that there would be a decline in quality outside the pool of white male judicial applicants in California. There are more than 62,000 female attorneys and 20,000 minority attorneys in the state. With the right motivation and intentions, a governor could certainly find more than enough well-qualified judges in those pools.

The Legislature was seeking to provide that motivation when we said that increased state funding for judges should only follow increased judicial diversity. We looked at the numbers and saw that certain communities that have the requisite "professional ability, experience and reputation, judicial temperament, work ethic and bias" to qualify to be judges are clearly being denied the opportunity to serve.

If we want to have judges who apply the law without prejudice, then we need to ensure that potential judges don't face prejudice when they apply for the job.

Gov. Schwarzenegger still has several appointments to make from the first batch of 50 new judgeships and he will soon be able to make the new batch of 50 appointments as well. In making those appointments, he and his staff need to keep in mind the makeup of California and the intent of the Legislature. Then, they need to do the right thing.

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