



CALIFORNIA JUDGES ASSOCIATION

The Voice of the Judiciary

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THE DANGERS OF POLITICIZING OUR COURTS

(SACRAMENTO, CA – MARCH 15, 2018) A fair and impartial judiciary is a cornerstone of our democracy. Yet, throughout our state, keeping the courts free from the influences of political partisanship and favoritism is under a serious threat. Sitting judges are being challenged in the upcoming June election for doing their jobs within the authority provided them under the law. This is not a valid reason for voters to remove them from office.

We want judges who will rule on cases based on the facts and the law, and not what is perceived as good “policy.” We do not want “political judges”, nor do we want political judicial elections. A judge’s removal by the voters should be reserved for situations involving illegal or unethical conduct, not a perceived difference of opinion or political philosophy.

Judges must often make decisions that will be unpopular with one group or another. Results in cases involving searches by police, their use of force or interrogations, setting amounts of bail, criminal sentencing, zoning and land use, employment law, child custody and the enforcement of personal liberties can often trigger strong negative reactions from certain groups, even when entirely legal. But, even if disagreeable to some, a lawful decision by a judge is no offense but rather the hallmark of an impartial judiciary which is faithful to the law.

In this June’s election, a highly respected and long-serving Los Angeles judge is being challenged purportedly for his rulings in employment law cases. Many say his age has something to do with it. In one high profile case, a Santa Clara judge faces a recall for his grant of probation to a first-time sex offender. A judge in San Luis Obispo has just been appointed by the Governor after careful vetting and yet has drawn a challenge.

In San Francisco, four respected judges, all Democrats appointed by Republican governors are being challenged because, as one of those challengers put it, “A Democrat appointed by a Republican governor - how much of a Democrat is that person, really?” There is no claim that any of the aforementioned sitting judges is incompetent, has engaged in lawless or unprincipled decision-making, or corruption of any kind.

The partisanship and single-issue politics motivating these challenges has no place in the selection of our state's judicial officers.

Some of the challengers also say these judges should be removed from office and replaced to better diversify our state's bench. They are correct to recognize that Californians should have a judiciary that reflects our population. But the challenged judges are, themselves, a diverse group. Moreover, recent governors take diversity into account when making judicial appointments, and opportunities exist in many elections for the voters to further diversify their local bench. Election to an open seat, where there is no incumbent candidate, remains a viable opportunity for voters to have an imprint on their courts. Indeed, ten of the eleven judgeships on the June ballot in Los Angeles are for open seats.

Finally, the specter of these partisan judicial elections brings the possibility that special interest campaign money will have an effect on the composition of our courts. Across the United States this has been a troubling trend. Spending in state supreme court elections has gone from \$6 million in the 1990 elections to over \$45 million in 2008. Justice Sandra Day O'Connor, the first woman appointed to the United States Supreme Court recognized, "Left unaddressed, the perception that justice is for sale will undermine the rule of law that the courts are supposed to uphold."

Californians have the right to a non-partisan, impartial judiciary that applies the law without fear or favor. Yet, this very right is threatened when judicial elections are politicized in order to remove judges who make rulings some people disagree with or who are thought to hold differing social or political views than their own. The ability of judges to render decisions within the law, without fear of reprisal from special interests, is fundamental to the ability of our courts to protect the rights of all Californians.

Absent demonstrable illegal or unethical conduct, please vote to retain the incumbent judges on California's ballots this June. Let's keep partisanship and politics out of our courts.

Hon. Stuart M. Rice, President
California Judges Association*

*For almost a hundred years, the California Judges Association has represented approximately 2300 sitting and retired judicial officers in matters concerning the fair and impartial administration of justice for the people of California.

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