

# Ad Hominem

OPINION AND SATIRE

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## DIVERSITY: Beyond the Politicians

By Eugene M. Hyman

Sitting judges and senior partners of successful, socially responsible law firms can and should become much more deeply involved in helping build a more ethnically representative judiciary in California. In fact, together these groups might even be able to put an end to the circular and seemingly endless debate about whether there are enough qualified minority judicial applicants.

How? By recruiting and mentoring more lawyers of color and encouraging them to become judges.

Leading law firms have a particularly vital role to play. At present, many young minority attorneys, people who want to hold on to their jobs, are understandably reluctant to tell their current employers they might be interested in a career in the judiciary. That stumbling block would be lowered if some of our best local law firms start creating positions specifically designed to attract minority attorneys who want to gain the professional experience they need to qualify for service on the bench.

Law firms typically gain prestige when one of their colleagues is sworn into office. It is in the interest of these firms to create job paths that make the transition into the judiciary more routine and less a matter of chance.

The need to create a more ethnically representative judiciary was highlighted in July when the creation of 25 new judgeships was stalled by state legislators frustrated by the primarily lily-white complexion of recent judicial appointees. Speaker Fabian Nuñez finally relented and included those slots in the state budget, but only after representatives from the governor's office promised more determined efforts to find qualified minority candidates.

No one outside the governor's office can, however, con-

See DIVERSITY page 9

## DIVERSITY

Continued from page 4

firm exactly how many qualified minorities are already in the applicant pool since those names remain confidential as a result of privacy considerations. As a consequence, we've been left with finger-pointing, with each side placing the blame for the current situation on factors outside their control.

That's why it seems wise not to leave the responsibility for solving this problem solely in the hands of the politicians in Sacramento. The governor and the speaker of the Assembly are not the only important actors on this stage. The more central characters can be found in the trenches: in our courtrooms and legal offices where individual career decisions are made.

It may not be easy. In my personal experience I've learned that it can be difficult to find qualified young minority lawyers who are willing to give up lucrative salaries to serve as a judge. In recent years I've made more than a dozen personal appeals to talented and able lawyers of color, urging them to step up to the bench. I succeeded just once. I know other judges in my county who've fared even worse, including a few sitting minority judges who have yet to find or mentor a single non-white colleague.

Among the many accomplished minority lawyers who have turned me down, the most common reason cited was a reluctance to take a steep cut to their current salary to that of a new judge, who makes roughly \$150,000 a year.

In general, successful minority lawyers have worked very hard to get where they are. Once they have accumulated the 10 years of experience it currently takes to qualify for a judicial appointment it usually means they are also just beginning to earn salaries at levels that finally make all that hard work pay off. Finding the few willing to forgo the material rewards

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they could otherwise earn takes time, patience, effort and community support.

Recruiting a more diverse, fully qualified judiciary is in the interests of all Californians. Gov. Schwarzenegger has indicated he wants to appoint more non-white judges. He's already appointed more than 25 Democrats and at least one lesbian. Most legal scholars agree his appointees are a pretty diverse group ideologically even if they are not as ethnically representative as Schwarzenegger might like. I say, let's take the governor at his word, roll up our sleeves, and play a more active role in helping him identify more qualified minority applicants. We can all do a better job to solve this problem. We owe it to future generations to try.

*Eugene M. Hyman is a superior court judge in Santa Clara County.*