

**FINAL REPORT OF THE 2008**

**JUDICIAL ELECTIONS EVALUATION COMMITTEE**

**OF THE**

**LOS ANGELES COUNTY BAR ASSOCIATION**

**Issued May 2, 2008**

**FINAL REPORT OF THE  
JUDICIAL ELECTIONS EVALUATION COMMITTEE**

**Issued May 2, 2008**

This is the final report of the Judicial Elections Evaluation Committee of the Los Angeles County Bar Association (“Association”) for the June 2008 primary election.

The President of the Association during the administrative year 2008 appointed the committee. It currently numbers 30 members who represent, by race, gender, and ethnicity, a cross section of the legal community, including lawyers from the private and public sectors, corporate counsel, sole practitioners and members of small, medium and large law firms. Most of the members have broad courtroom experience, and all have a firm understanding of the qualifications required for judicial office.

The Board of Trustees has approved the Rules of the Judicial Elections Evaluation Committee of the Los Angeles County Bar Association. A copy of the Judicial Elections Evaluation Committee Handbook, which incorporates the Rules, is available from W. Clark Brown at the Los Angeles County Bar Association (213-833-6703) and online at the Association website. Further voter information is available from the County Bar Web page at <http://www.lacba.org/judiciaevaluation>.

Before commencement of the committee's work this year, a training session was held for new committee members to acquaint them with the handbook and the rules and procedures to be used in their work on the committee. In addition, a full committee organizational meeting was held on March 11, 2008, with Judge J. Steven Czulager, Presiding Judge of the Los Angeles County Superior Court discussing with the committee members, the attributes of successful bench officers and the qualities that help to ensure exemplary performance as a judicial officer. The committee then began its evaluation of candidates for the contested judicial offices in Los Angeles County for the primary election scheduled for June 3<sup>rd</sup>, 2008. During this election, 30 candidates sought eleven contested offices.

After the number of contested offices became known, the committee was divided into three subcommittees. Subcommittee assignments were made by the committee chair in consultation with the vice chairs. These assignments were designed to provide, to the extent possible, each subcommittee with members of diverse personal and professional backgrounds. Each subcommittee had approximately ten to eleven members. The vice chairs and the

subcommittee chairs organized the subcommittees and performed other functions to assist in the preparation of the subcommittees' reports to the full committee. Those functions relative to each candidate include but are not limited to, public database inquiries, the distribution, return and analysis of Confidential Questionnaires, telephonic inquiries to candidate supplied and other references, on-site monitoring of bench officer performance in the courtroom where applicable, and subcommittee interviews with each participating candidate.

Candidates who elected not to participate in the evaluation process or who were demonstrably delinquent in the submission of evaluation documents (such as Personal Data Questionnaires, etc.) were not afforded subcommittee interviews or appeals of their ratings. Each candidate was given due and timely notice of the document submission deadline on multiple occasions using a variety of notice vehicles such as e-mail, telephone calls, personal contact and hard copy notice letters. The non-participant policy was adopted in order to level the evaluation process for participating candidates and to ensure a measure of discipline to the overall evaluation process. The committee has a much larger universe of information to consider, validate and analyze on candidates who timely provide such documentation than those who elect not to. This places non-participants in a position to secure somewhat of a tactical advantage over those candidates who fully participated and did so in a timely manner. The committee takes a candidate's election not to participate in the evaluation process into consideration as one of several factors impacting the candidate's judgment, character, work ethic and temperament since the Los Angeles County Bar Association membership is emblematic of the constituency any bench officer serves.

The entire committee met to review subcommittee reports and to make tentative evaluations on April 8<sup>th</sup>, April 15<sup>th</sup>, April 22<sup>nd</sup>, April 24<sup>th</sup>, April 29<sup>th</sup> and May 1<sup>st</sup>, 2008. In addition, during the last four meetings, the entire committee conducted interviews with those candidates who appealed their tentative evaluations and requested a re-evaluation.

All candidates given a tentative evaluation of "Well Qualified," "Qualified" or "Not Qualified" were invited to meet with the full committee to discuss their tentative evaluations. Nine filed such appeals and appeared before the full committee.

### Evaluation Standards

In accordance with the Rules, the committee evaluated the candidates as "Exceptionally Well Qualified," "Well Qualified," "Qualified," or "Not Qualified." These standards are described in the committee's Rules as follows:

To be "Exceptionally Well Qualified," the candidate must possess qualities and attributes considered to be of remarkable or extraordinary superiority so that, without real doubt, the candidate is deemed fit to perform the judicial function with distinction.

To be "Well Qualified," the candidate must possess qualities and attributes considered to be worthy of special note as indicative of a superior fitness to perform the judicial function with a high degree of skill and effectiveness.

To be "Qualified," the candidate must possess qualities and attributes considered sufficient to perform the judicial function adequately and satisfactorily.

To be "Not Qualified," the candidate must possess less than the minimum qualities and attributes considered necessary to perform the judicial function adequately and satisfactorily.

These standards necessarily contemplate a quantitative and qualitative evaluation. They are, therefore, very different from the eligibility provisions of the California Constitution, which merely require membership in the State Bar or service on a court of record for ten years for Superior Court.

#### Evaluation Procedure and Investigation

In discharging its responsibility, the committee complied with its Rules as follows:

1. A meeting was held by the vice chairs and the committee chair to discuss assignments, procedures, and techniques. Vice chairs then organized their subcommittees. Assignments were made to avoid potential conflict situations. The attempts by judicial candidates' political consultants to politicize the evaluation process were also discussed.

2. A letter describing the committee's work was sent to each candidate along with a Personal Data Questionnaire, a roster of committee members, notice of the candidate's right to

seek disqualification of any committee member based upon conflict of interest, and a copy of the Judicial Elections Evaluation Committee Handbook and Rules. Each candidate was asked to complete and return the Personal Data Questionnaire, and to review the roster for members who might have a possible conflict of interest. The committee chair then dealt with any conflicts claims. Candidates were also asked to supply the names and current email addresses of 75 lawyers and judges who could evaluate the candidate's legal skills and knowledge, including all counsel and judges listed in the responses to the Personal Data Questionnaire.

A candidate's orientation meeting was held on March 4, 2008, at the Los Angeles County Bar Association offices to acquaint each candidate in person with the evaluation process, time frames and to answer any questions they may have. Each candidate when invited to this orientation meeting was asked to submit their evaluation documents prior to or on that date. Over sixty percent of the candidates did so.

Personal discussions were held at the same time with any candidate who asserted a perceived or actual conflict of interest with any individual committee member. In each such case, appropriate steps were taken to protect against even the appearance of a conflict of interest.

3. The subcommittees reviewed the Personal Data Questionnaires and analyzed additional information concerning the candidates' qualifications for judicial office. Among other things, they emailed and hard mailed questionnaires to the person's shown reference list submitted by the candidates and, in some instances, to other persons considered to be knowledgeable about the candidate's qualifications (*e.g.*, members of local bar associations representing communities where the candidate practices or sits as a judge). The questionnaires were patterned after questionnaires used by the State Bar Commission on Judicial Nominees Evaluation in rating persons being considered for judicial appointment by the Governor.

Upon receipt of completed questionnaires, the subcommittees followed up with telephone or other communications with judges, lawyers, and other persons who know the candidates. In particular, reports of negative qualities were followed up to determine the extent to which the reports had any substance and reflected broadly held opinions as opposed to isolated instances or personal reactions peculiar to the person responding.

In their investigations, subcommittee members specifically inquired, among other things, into the following attributes of the candidates:

- ( 1) Integrity and character
- ( 2) Judgment and intellectual capacity
- ( 3) Fairness
- ( 4) Experience
- ( 5) Industry and diligence
- ( 6) Judicial temperament, including whether the candidate would be courteous and considerate of counsel, parties, witnesses and jurors, and whether the candidate is even-tempered
- ( 7) Professional ability and knowledge of the law
- ( 8) Health problems that affect the ability to serve as a judge
- ( 9) General reputation in the community
- (10) Civic and community activities
- (11) Other relevant matters of concern.

4. Committee members supplemented the investigations of the subcommittees by exchanging information with the full committee in order to take advantage of the broad base of knowledge, background and experience of the entire membership.

5. All candidates were personally interviewed by the subcommittees assigned to them.

6. After the subcommittees completed their investigations and interviewed the candidates, the subcommittees reported to the entire committee and recommended tentative evaluations. During the meetings of the full committee, the subcommittees' reports and recommendations were fully discussed, and a tentative evaluation of each candidate was determined by the full committee. In accordance with the rules, a vote of over fifty percent of the committee quorum present and voting is required for a rating of "Qualified," over sixty percent for a "Well Qualified," and a vote of over seventy-five percent is required for the rating of "Exceptionally Well Qualified." Each candidate receiving a tentative evaluation other than "Exceptionally Well Qualified" was advised in writing of the basis for the tentative evaluation and invited to appear individually before the full committee to discuss the evaluation. Immediately before the candidates appeared, the committee reviewed the reasons for the tentative evaluation. When the candidates appeared, they were given the opportunity to address

the reasons given for the tentative evaluation, to present relevant facts, letters from third persons and other documents, and to answer questions from committee members. After each candidate's discussion with the committee and his or her departure, the committee again discussed the information it had, reviewed the tentative evaluation, and reached a final evaluation. Final evaluations were then sent to each candidate.

### Confidentiality

In accordance with the Rules, all investigations and proceedings of the committee and its subcommittees were treated as confidential. The need for confidentiality was stressed from the beginning of the committee's work, with each member and staff person signing an agreement by which the member agreed to be bound by the Rules and, among other things, to not disclose to the public or to any person information regarding the work of the committee, except as set forth in the Judicial Elections Evaluation Committee Handbook and the Rules.

Candidates were, however, free to disclose the contents of the confidential letters directed to them from the chair advising them of the committee's tentative and final evaluations, as well as to disclose other information they received from the committee, *e.g.*, during interviews with subcommittees and the full committee.

### Evaluations

The committee stresses that its evaluation does not reflect upon and is not an evaluation of a candidate's qualifications, as a practicing attorney, or in any other endeavor.

## SUPERIOR COURT EVALUATIONS

Having completed its investigations and deliberations, the Judicial Elections Evaluation Committee reports its final evaluations for the candidates for the following Superior Court offices:

### SUPERIOR COURT OFFICE NO. 4

|                  |   |                              |
|------------------|---|------------------------------|
| Ralph W. Dau     | — | Exceptionally Well Qualified |
| Sydnee R. Singer | — | Qualified                    |

### SUPERIOR COURT OFFICE NO. 69

|                       |   |           |
|-----------------------|---|-----------|
| Serena Raquel Murillo | — | Not Rated |
| Harvey A. Silberman   | — | Not Rated |

### SUPERIOR COURT OFFICE NO. 72

|                          |   |                |
|--------------------------|---|----------------|
| Marc Alain Chomel        | — | Well Qualified |
| Hillari Grossman Merritt | — | Well Qualified |
| Steven R. Simons         | — | Qualified      |

### SUPERIOR COURT OFFICE NO. 82

|                 |   |                |
|-----------------|---|----------------|
| Mark Lee        | — | Qualified      |
| Cynthia Loo     | — | Qualified      |
| Thomas Rubinson | — | Well Qualified |

### SUPERIOR COURT OFFICE NO. 84

|                       |   |               |
|-----------------------|---|---------------|
| Pat Connolly          | — | Not Qualified |
| John“Johnny”Gutierrez | — | Not Qualified |
| Bob Henry             | — | Not Qualified |
| Lori Ann C. Jones     | — | Not Qualified |

### SUPERIOR COURT OFFICE NO. 94

|                   |   |                |
|-------------------|---|----------------|
| Eduard R. Abele   | — | Qualified      |
| C. Edward Mack    | — | Qualified      |
| Michael J. O’Gara | — | Well Qualified |

### SUPERIOR COURT OFFICE NO. 95

|                   |   |                              |
|-------------------|---|------------------------------|
| Patricia D. Nieto | — | Well Qualified               |
| Lance E. Winters  | — | Exceptionally Well Qualified |

### SUPERIOR COURT OFFICE NO. 119

|                     |   |                |
|---------------------|---|----------------|
| Robert Davenport    | — | Not Qualified  |
| Jared D. Moses      | — | Well Qualified |
| Douglas W. Weitzman | — | Not Qualified  |

SUPERIOR COURT OFFICE NO. 123

|                    |   |               |
|--------------------|---|---------------|
| Kathleen Blanchard | — | Qualified     |
| Allan A. Nadir     | — | Not Qualified |
| Richard A. Nixon   | — | Not Qualified |

SUPERIOR COURT OFFICE NO. 125

|                 |   |                |
|-----------------|---|----------------|
| James N. Bianco | — | Well Qualified |
| Bill Johnson    | — | Not Qualified  |

SUPERIOR COURT OFFICE NO. 154

|                       |   |                |
|-----------------------|---|----------------|
| Paul “Pablo” Bruguera | — | Not Qualified  |
| Rocky L. Crabb        | — | Well Qualified |
| Michael V. Jesic      | — | Well Qualified |

EVALUATION OF NOT QUALIFIED CANDIDATES - SUPERIOR COURT

The committee rated the following ten candidates as “Not Qualified”:

Pat Connolly, John “Johnny” Gutierrez, Paul “Pablo” Bruguera, Robert Davenport, Bob Henry, Bill Johnson, Lori Ann C. Jones, Allan A. Nadir, Richard A. Nixon, and Douglas W. Weitzman. That evaluation reflects the committee's opinion that these candidates do not adequately possess one or more of the following attributes necessary to perform the judicial function satisfactorily:

- Integrity and character
- Judgment and intellectual capacity
- Fairness
- Experience
- Industry and diligence
- Judicial temperament, including whether the candidate would be courteous and considerate of counsel, parties, witnesses and jurors, and whether the candidate is even-tempered
- Professional ability and knowledge of the law
- Absence of health problems that affect the ability to serve as a judge
- Positive professional reputation in the community.

Candidates for election to Los Angeles Superior Court Office number 69 were not evaluated due to pending matters outside the control of the committee.

## CONCLUSION

The Judicial Elections Evaluation Committee of the Los Angeles County Bar Association 2008 respectfully submits this report hoping it will be a source of information for the voters of Los Angeles County and will assist them in selecting qualified and able judicial officers in the forthcoming election. The report collectively represents innumerable hours of work by the committee during a four-month period. This enormous time investment was made to ensure a quality evaluation and represents a sincere commitment by the committee to the administration of justice.

In addition, the committee with the assistance of the LACBA staff embarked on several new initiatives. They included enhanced LACBA Internet website placement and information, photographs and contact information about each candidate for each contested election and a website “landing page” that provided a short biography on each candidate. The website also provided for links to the League of Women Voter’s “Smart voter” website, the candidate’s individual website for those that have them and the Metropolitan New Enterprise legal newspaper’s website. These significant enhancements were designed to increase the public awareness of the JEEC evaluation process, promote public understanding of those qualities that make for excellence on the bench and to educate the public on who these candidates are. The committee with the assistance of the LACBA staff will embark on a multiple facet public information campaign to publicize the judicial elections and the JEEC’s candidate evaluations prior to the June 3, 2008 Primary Election and again prior to the November 2008 General Elections for those candidates in a run-off election.

Finally the JEEC extends its appreciation to Judge J. Stephen Czuleger, Presiding Judge of the Los Angeles Superior Court, for his support of the JEEC and his invaluable insights during his presentation to the full committee on March 11, 2008 and assistance securing comments via the committee’s Confidential Questionnaire process from the bench officers of the Los Angeles Superior Court.

Officers of the Committee:

Brent A. Braun, Chair  
Richard J. Burdge, Jr., Vice Chair  
Gigi Gordon, Vice Chair  
Roberta M. Yang, Vice Chair

Members of the Committee

|                       |                        |
|-----------------------|------------------------|
| Jerrold E. Abeles     | Max G. Huntsman        |
| Jerry C. Baik         | Alan Jackson           |
| Stephanie M. Bedi     | Jonathan A. Loeb       |
| Laura J. Butler       | Michael L. Many        |
| Christopher C. Chaney | Sean K. McDonald       |
| Nicholas P. Connon    | Christopher C. Melcher |
| Paul N. Crane         | James "Duff" Murphy    |
| Charles D. Ferrari    | Ricardo Ocampo         |
| Russell Glazer        | James R. Robie         |
| Robert L. Grace       | Rickard Santwier       |
| Laura Green           | Lorin D. Snyder        |
| Christa M. Hohmann    | Cress Templeton        |
| Reid S. Honjiyo       | R. Bruce Tepper, Jr.   |

LACBA General Counsel:

W. Clark Brown

LACBA Executive Assistant:

James H. Cleaver, III

Respectfully submitted.



Brent A. Braun, Chair  
Los Angeles County Bar Association  
Judicial Elections Evaluation Committee