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THE VOICE OF THE WEST

## The Blackballing of Justice Brown

By Shawn Steel  
and Patrick Manshardt

**T**HE MEMBERS of the Commission on Judicial Nominees Evaluations ought to be ashamed of themselves. Meeting in secret, they handed down an "unqualified" rating to state Supreme Court Justice Janice Rogers Brown.

However, it appears that this time, the governor, as well as almost everybody else, refused to yield to this transparent attempt at political blackmail. The suspicion is that the rating of Justice Brown, a self-described conservative, had more to do with the ideological agenda of the State Bar than an honest evaluation of her capabilities.

The Commission on Judicial Nominees Evaluations (also known as the JNE or "Jenn" commission) consists of 21 lawyers and six public members, all of whom serve at the will of the Board of Governors of the State Bar. In an era when both California and the U.S. Supreme Court are rethinking the wisdom of quotas and set-asides, the diversity requirements of the panel are representative of the left's usual obsession with race, gender and ethnicity: The rules require that at least one-third of the commissioners be minorities and at least half must be female.

As State Bar critic Mark Pulliam, an attorney in San Diego, stated, the unqualified rating of Justice Brown is nothing more than "political blackballing" by the commission. The commission acts as sort of a judicial "Star Chamber" of the State Bar. Both it and the infamous 15th Century court held their proceedings in the cloak of utmost secrecy and neither was subject to any outside scrutiny, more disturbing, hearsay allegations are protected by the commission's rules that protect the names of the accusers.

One does not have to look far for evidence of political bias on the part of the commission. Commission Vice Chair



Janice Brown

Arturo Vargas is the vice president of community education and public policy for the Mexican-American Legal Defense Foundation (MALDEF). MALDEF's political agenda has included lobbying for the rights of illegal immigrants and supporting racial quotas. Information on individual commission members, however, is almost impossible to come by since both the commission and the State Bar are unusually tight-lipped.

The circumstances around the nomination also raise suspicions of political animus. Brown, an associate justice on the California Court of Appeals, was praised in a letter signed by all nine of her colleagues on the 3d district for her intelligence and ability to do the job. Justice Brown's appointment is supported not only by the governor, but by state Attorney General Dan Lungren, and Cali-

fornia Supreme Court chief justice nominee Ronald M. George. The commission's rating was rendered more suspect when Brown received the support of former California Supreme Court Justice Allen Broussard, himself an African American and well regarded liberal who told the commission that he did not agree with their evaluation.

Much has been made of Justice Brown's relatively short time of 18 months on the bench. However, using this criteria as a yardstick would have disqualified such legal giants as California Supreme Court Justice Roger Traynor and Earl Warren. In addition, Brown has 18 months more experience as an appellate court justice than Wilson's second choice for the post, former U.S. attorney Robert Bonner, who received a rating of "qualified" from the panel.

These circumstances beg the question: Why would such a diverse panel find Brown, the first black woman to be elevated to the position of Supreme Court justice, unqualified? The answer lies in the mix of African American female and conservative philosophy that the State Bar's liberal establishment finds so unsettling.

The Jenny Commission's continued secrecy and partisanship raise the need for true reform in the judicial evaluation process. The people of California deserve better than a judicial "Star Chamber." Just as importantly, the members of the State Bar deserve to be served by an organization that is run for the purpose of improving legal services instead of implementing a social and public policy agenda that would evaporate in the sunlight of public scrutiny.

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