

Judicial 'Star Chamber' promotes wrong agenda

By Patrick Manshardt and Shawn Steel

After meeting in secret, the members of the Commission on Judicial Nominees Evaluations have once again spoken, handing down an "unqualified" rating to California Supreme Court nominee Janice Rogers Brown. However, it appears that this time, almost nobody listened.

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 as a judge.

The Commission on Judicial Nominees Evaluations (JNE or Jenny Commission for short) 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. Most disturbing, hearsay allegations were protected by the commission's rules that keep the names of the accusers from public scrutiny. Court of Appeals Justice Arthur Scotland has suggested that the committee's promise of confidentiality allows critics to derail candidates out of personal animosity for their political leanings.

One does not have to look far for evidence of political bias on the part of the commission. The panel's vice-chair, 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

governor, but by Attorney General Dan Lungren and California Supreme Court Chief Justice Ronald M. George.

Much has been made of Brown's relatively short 18-month tenure on the bench. However, using this criteria as a yardstick would have disqualified such legal giants as California Supreme Court Justice Roger Traynor and U.S. Supreme Court Justice Earl Warren. Additionally, 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

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Brown, the first black woman to be elevated to the position of state 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. One liberal judge who asked not to be identified predicted that Brown would be another Clarence Thomas. Conservative African-Americans like Brown and Thomas embarrass the civil rights establishment by their success in life despite humble beginnings (Justice Brown was the daughter of Alabama sharecroppers). The life story of people like Brown and Thomas belie liberal arguments that people of color have little chance of success in "rac-