

JUDICIAL SELECTION

Bar Associations Voice Judicial Support

By **Hannah Garcia**
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THE JUDICIAL nomination process in Colorado relies on a “merit selection” plan and has since 1966, designed to remove political motives by avoiding elections. Although it’s not a democratic system, it strives to be a pluralistic one.

Specialty bars in the state have added another layer of scrutiny to the judge selection process for years. When a district or state judicial vacancy opens, the applications of interested attorneys are forwarded to a nomination commission within the district, which whittles the list down and typically sends three final nominees to the governor’s office. The nomination commissions comprise three attorneys and four non-attorneys with no more than four members belonging to one political party.

The process is similar for Denver county judgeships, except nominees go to Mayor Michael Hancock.

After receiving the final nominees, the governor then has 15 days to investigate and make an appointment. Within those 15 days, specialty bars including the Asian Pacific American Bar Association of Colorado, the Colorado Women’s Bar Association, the Colorado Hispanic Bar Association and the Colorado GLBT Bar Association aid in that investigatory phase with their own due diligence. Each has their own review process, differing in scope and intensity, but all say it’s a vital part of the process.

“We’ve done this for years,” Andrea Wang, president of APABA of Colorado and a partner with Davis Graham & Stubbs’ Denver Office. “The No. 1 thing we consider is if will they be a good judge. We want sharp legal thinkers with the highest ethical standards and who treat all litigants and everyone with respect.

“Then we’re also looking for if they share the values of APABA: Do they appreciate diversity? Is equal access to justice important to them?”

APABA evaluates and endorses nominees from their applications. The CWBA may conduct the most thorough review. After receiving application packets from the governor’s office, members reach out to individuals listed in “question 16,” which asks for five litigated cases and the names of all counsel involved.

“With five different cases, each volunteer easily gets between a dozen and 20 people (to contact),” said Ann Lebeck, a trial attorney at DGS and co-chair of the CWBA’s judicial committee. “It’s not always possible to get in touch with everyone. Volunteers usually only have a few days.”

CWBA president Alison Zinn said the due diligence is “one of the most important things we do as an organization.”

“I think our due diligence is special because it’s so thorough,” Zinn said. “We’ve done it ever since I became a member 10 years ago. I think the input of the specialty bars is crucial because they often bring a different perspective.”

The comments are all confidential, compiled by the committee chairs and sent to the governor’s office. The intention is to gather information, not advocate for



KYLE VELTE

one nominee. Endorsements have to be requested and are approved by the CWBA’s executive committee.

Lebeck said the CWBA focuses on six areas: the candidate’s experience, legal ability, reputation for fairness and integrity, judicial temperament, treatment of women and what they know about the other nominees.

“I don’t know of any other mechanism that seeks this array of observations, not just colleagues, but opposing counsel,” Lebeck said. “We want the judiciary to reflect diversity in our community at large but also make sure that our judiciary is treating women in a way that would be appropriate and fair. We’re trying to ensure the judiciary is fair in all regards.”

Zinn, an attorney at Wade Ash Woods Hill & Farley, said for particularly important appointments, she sometimes speaks with other specialty bar presidents to gauge their impression of the nominees.

“Sometimes we have different agendas, but we’d all obviously love to see more diversity on the bench,” Zinn said.

The Colorado Hispanic Bar Association has a similar process but only evaluates nominees if they request an endorsement before sending a letter to the governor’s office.

“We have backed lawyers who aren’t members, but it’s more about the community involvement and how it falls in line with our mission,” said CHBA president Liz Krupa, who runs her own law firm. “If people are being politically honest, I think most chief judges to the governor or mayor would agree that a diverse bench is a better bench.”

The Colorado GLBT Bar Association invites nominees to participate in the endorsement process. Candidates can participate in phone interviews with committee members, who ask about their judicial philosophy and familiarity with LGBT issues before making their choice.

President Kyle Velte said she has a lot of confidence in the process.

“It’s not just lip service,” Velte said. “(Gov. John Hickenlooper) really reads this stuff and takes it into consideration. We don’t always get the appointment of our endorsement, but we do sometimes, and



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we know the governor is looking for our input.”

Velte said she has seen a positive trend in the last decade when it comes to nominees’ attitudes toward the LGBT community.

“It’s very rare to talk to someone who doesn’t know someone who is LGBT. That’s a definitely a change from seven, eight, nine years ago when we started,” Velte said. “It’s also rare to express any kind of

reluctance for LGBT folks. I think there’s only been one time in the last five years that we expressly asked the governor’s office not to appoint someone because of his attitude towards our community.”

Krupa said the CHBA and other specialty bars have wondered in the past why more minorities are not appointed to the bench, only to be told that none are applying.

All of the specialty bars typically take a proactive approach to a diverse bench and forward vacancies to their members and encourage them to apply, as well. CHBA offers mock interviews for members who wish to apply. The CWBA is taking a more aggressive stance with its “Storming the Bench!” seminar scheduled for Sept. 23, with a panel that includes former and current judges and the governor’s chief legal counsel, Jack Finlaw. The session is designed to demystify the nomination process.

Wang said Hickenlooper is one of the first governors she has seen that really encourages the specialty bars’ involvement in the process. Lebeck said the governor’s office has even reached out to the organizations for input in the past.

“It helps to know that the governor is listening,” Wang said. •

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