

On judicial campaigning
By Myanna Dellinger¹

On the campaign trail, certain misleading statements have been made about judicial candidates (including me). The below are relevant rules, fact, and information *with proper citations and factual support* for your information. I do not believe in *personally* negative and misleading campaigning by persons or organizations seeking to influence the election of judges. I personally believe in fact, the truth, and integrity. That still allows discussions of government and other *functions*.

First, under the California Constitution, a person must, “for 10 years immediately preceding selection ... be[] a member of the State Bar.” California Constitution, Article VI Judicial, Sec. 15. This is the only requirement for qualifications for elected judges. The voters decide the rest. In my case, I have been an “active” member for some years and “inactive” others for a total of 12, see <https://www.calbar.ca.gov>. This is a voluntary, monetary difference. Bar memberships are very expensive. I am not paid much as a public law professor. I am also a member in another state. People who are licensed in several states typically chose inactive status in some to save money. To become active, all one has to do is change the status online and pay (a lot more). Law professors are not required to be on active status or maintain continuing legal education precisely because we work so hard on legal development ourselves. (Email from the State Bar witnessing this available upon request.)

Second, the State Bar is the *only accreditation and oversight agency for attorneys*. Attorneys pass (or fail) the “bar.” That is the *state* “bar” or “bar test,” see <http://www.calbar.ca.gov/Admissions>.

The Los Angeles County Bar Association is a private association of mainly big law firm and big government attorneys. They “evaluate,” in their subjective opinion, candidates for office. While they also do vet candidates for office by contacting a large number of our professional contacts, they eventually opine subjectively on what *they* think is qualifying or not. They will not release the basis for their findings to the general public. Their committees differ from election to election. Their findings are not always consistent from one election cycle to another. Local media does not report on their “evaluations” which are often presented as “ratings.” This year, LACBA claimed that they “evaluated the candidates’ legal knowledge.” They administer no test, do not scrutinize people’s law school transcript, ask candidates about the law or any such thing. This statement was false and misleading. A narrow group of members appointed by *one single person* – the President of the association - opined on the candidates’ candidacy. That’s all.

While LACBA claims to be “dedicated” to diversity, they displayed a remarkable diversity issue this year demonstrating that they are not truly living up to their own statements. Basically, the male candidates got all the high “evaluations” with zero women doing so and all diverse women rated “not qualified.” See <https://www.lacbaratings.org> and <https://www.lacba.org/about-us-menu/lacba-committees/standing-committees/diversity-in-the-profession>. LACBA committee members are entitled to their opinions. But you are entitled to your own opinion and vote too!

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No facts or history shows that trial attorneys become better judges than attorneys from other professional backgrounds!

Third, Canon 5 of Judicial Ethics specifically allow candidates for election to make “private comment[s]” and entertain “personal views on political questions.” This is because candidates are “not required to surrender their rights or opinions as citizens.” Candidates cannot, however, actually and definitely commit *themselves* to *specific* “cases, controversies, or issues that are likely to come before the courts.” In contrast, a candidate may not “knowingly or with reckless disregard for the truth, make false or misleading statements about the ... qualifications, present position ... concerning himself or herself or his or her opponent...”. See https://www.courts.ca.gov/documents/ca_code_judicial_ethics.pdf

Happy voting!