



The State Bar of California

OPEN SESSION

AGENDA ITEM

54-113 JULY 2020

BOARD EXECUTIVE COMMITTEE III.H

DATE: July 16, 2020

TO: Members, Board Executive Committee
Members, Board of Trustees

FROM: Sarah L. Cohen, Attorney, Mission Advancement & Accountability Division

SUBJECT: Judicial Council of California – Withdrawal of Appointment and Appointment of Member

EXECUTIVE SUMMARY

Under the California Constitution, the State Bar appoints four lawyer members to the Judicial Council of California, the policy-making body of the California courts. Members serve three-year terms. The terms of Rachel Hill and Gretchen Nelson will expire on September 14, 2020. At its May 14, 2020 regular meeting, the Board reappointed Rachel Hill and appointed David Fu to fill these two upcoming vacancies. The State Bar subsequently learned that Gretchen Nelson had informed the Supreme Court that she was willing to serve an additional term. Consistent with the Supreme Court's preference for reappointing high-value contributing members of the Judicial Council whenever possible, and with the Court's support and David Fu's understanding, this agenda item recommends that the Board of Trustees withdraw the appointment of David Fu and reappoint Gretchen Nelson.

BACKGROUND

The Judicial Council, a state constitutional agency established in 1926, provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure, and administration. The council consists of the Chief Justice, one associate justice of the Supreme Court, three justices of the Courts of Appeal, 10 judges of the superior courts, four lawyers appointed by the State Bar, one member appointed by the legislative leaders in each house of the Legislature, two nonvoting court administrators, and other nonvoting positions as determined by the council. See California Rules of Court, rule 10.2.

Terms and membership of the Judicial Council are set by the State Constitution. The lawyer members serve staggered three-year terms, with terms beginning September 15 and ending September 14. Members receive no compensation for services, but are reimbursed by the council for approved travel expenses in accordance with the reimbursement schedule for state employees. The new members of the council typically are invited to the council's May or June meeting and must be able to attend the orientation, which is usually held in conjunction with the council's August meeting.

Service on the Judicial Council is a significant time commitment approximating 300 hours per year for meetings and assignments. Each year the council meets six to eight times, with the meetings typically set for two days (usually Thursday and Friday). Members serve on one of the council's internal committees, which meet frequently at a convenient location or by conference call. In addition, council members are assigned special tasks, which are supported by staff, and may serve as a liaison to the council's advisory committees.

The current State Bar appointees to the Judicial Council and their term expiration dates are as follows:

1	Pritt, Maxwell	Oakland	2019–2022
2	Kelly, Patrick M	Los Angeles	2015–2021
3	Hill, Rachel W.	Fresno	2017–2020
4	Nelson, Gretchen M.	Los Angeles	2017–2020

A chronological list of the State Bar's appointments to the Judicial Council is found at Attachment A.

DISCUSSION

Criteria deemed important for lawyer members' service on the council include broad experience in the legal field, including trial experience, credibility as a leader both within the home county and statewide, collegial working relationships, and a demonstrated interest in, and experience with court administration issues. Another important consideration is the applicant's ability to make the time commitment.

In the last year, the Supreme Court has taken a more active role in assisting the State Bar in identifying suitable and qualified candidates to serve on the Judicial Council. We have learned that the Supreme Court prefers the reappointment of members who have proven their value to the Judicial Council; reappointment of high-value contributing members of the council brings the distinct benefits of experience, expertise, institutional awareness, and continuity.

Current Judicial Council members whose terms are expiring in 2020, Gretchen Nelson and Rachel Hill, were identified by the Court as members who should be considered for reappointment. Rachel Hill informed the State Bar that she was interested in serving another term. Initially, Gretchen Nelson informed the State Bar that she had decided to step aside to

open the opportunity for others. Therefore, at its May 14, 2020 meeting, the Board reappointed Rachel Hill to a second term and appointed David Fu as a new member.

Subsequently, Gretchen Nelson informed the Supreme Court that she was willing to serve an additional term, and David Fu was so informed by the Supreme Court. The State Bar learned that the confusion surrounding Gretchen Nelson's appointment was due in part from general disruption brought on by the pandemic, and from the timing of the appointment being so far in advance of term expiration. After consultation with the Supreme Court, it is recommended that the Board of Trustees withdraw the appointment of David Fu and reappoint Gretchen Nelson to a second three-year term.

Gretchen Nelson

Gretchen Nelson, of Nelson & Fraenkel LLP in Los Angeles, is a trial lawyer who has been in practice for 36 years. In addition to the Judicial Council, her volunteer service includes membership on the following boards and committees: State Bar Board of Trustees (2010–2013), Los Angeles County Complex Courts Committee, Open Courts Coalition, and Los Angeles Superior Court Central Civil Liaison Committee (Bench Bar). Through Gretchen Nelson's longstanding interest in the state and federal judiciary, Gretchen Nelson has developed an understanding of the financial and other challenges facing the courts. Gretchen Nelson is a past recipient of Loyola Law School's Champion of Justice award. Furthering access to justice, protecting the independence of the judiciary, and ensuring that the California courts are adequately supported motivate Gretchen Nelson's commitment to the courts.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board Executive Committee recommends that the Board of Trustees withdraw the appointment of David Fu and reappoint Gretchen Nelson to the Judicial Council for a three-year term to commence on September 15, 2020, and to expire on September 14, 2023, or until further order of the Board, whichever occurs earlier.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, withdraw the appointment of David Fu and reappoint Gretchen Nelson to the Judicial Council for a three-year term to commence on September 15, 2020, and to expire on September 14, 2023, or until further order of the Board, whichever occurs earlier.

ATTACHMENT(S) LIST

- A.** List of the State Bar's Lawyer Appointments to the Judicial Council



The State Bar of California

ATTACHMENT A

Judicial Council of California State Bar Lawyer Members

(in order of most recent term)

#	State Bar Appointed Member	City	State Bar District	Term/Years Served
<i>Current Members</i>				
1	Pritt, Maxwell	Oakland	1	2019–2022
2	Kelly, Patrick M	Los Angeles	2	2015–2021
3	Hill, Rachel W.	Fresno	5	2017–2020
4	Nelson, Gretchen M.	Los Angeles	2	2017–2020
<i>Past Members (Previous State Bar District)</i>				
5	Ibarra, Audra – Resigned	Palo Alto	6	2016–2018
6	Melby, Donna D.	Los Angeles	2	2014–2017
7	Pole, Debra E.	Los Angeles	2	2014–2017
8	Bonino, Mark G.	Redwood City	1	2013–2016
9	Fox, James P.	San Francisco	1	2012–2015
10	Davis, Angela J.	Los Angeles	2	2011–2014
11	Robinson, Jr., Mark P.	Newport Beach	4	2011–2014
12	Matthai, Edith R.	Los Angeles	2	2010–2013
13	Krinsky, Miriam A.	Studio City	2	2009–2012
14	Miliband, Joel	Irvine	4	2008–2011
15	Penrod, James	San Francisco	1	2008–2011
16	Capozzi, Anthony	Fresno	5	2007–2010
17	Aragon, Raymond G.	Bonita	4	2006–2009
18	Girardi, Thomas V.	Los Angeles	2	2005–2008
19	Parker, Barbara Jean	Oakland	1	2005–2008
20	Capozzi, Anthony	Fresno	5	2005–2007
21	Herman, James	Santa Barbara	2	2004–2005
22	Heinke, Rex	Los Angeles	2	2003–2006
23	Pasternak, David	Los Angeles	2	2002–2005
24	Ravel, Ann	San Jose	6	2002–2005
25	Warwick, Thomas	San Diego	4	2001–2004
26	Heeseman, Rex	Los Angeles	2	2000–2003

27	Collins, John J.	Los Angeles	2	1999–2002
28	Gee, Pauline	Sacramento	3	1999–2002
29	Case, Michael	Ventura	2	1998–2001
30	Sloan, Sheldon	Los Angeles	2	1997–2000
31	Evans, Maurice	Anaheim	4	1997–1999
32	Holmes, Dallas	Riverside	4	1995–1997
33	Veasey, Glenda	Los Angeles	2	1995–1999
34	Saferstein, Harvey	Los Angeles	2	1994–1998
35	Walsh, Brian	San Jose	2	1994–1998
36	Illston, Susan	Burlingame	1	1993–1995
37	McCurine, Jr., William	San Diego	4	1992–1995
38	Phillips, Patricia D.	Los Angeles	2	1991–1994
39	Rothenberg, Alan	Los Angeles	2	1991–1993
40	Culhane, Kevin	Sacramento	3	1990–1994
41	La Mothe, Louise Ann	Los Angeles	2	1990–1992
42	Cochran, Jr., Johnnie	Los Angeles	2	1989–1991
43	Hinton, Peter J.	Walnut Creek	1	1988–1990
44	Martens, Don W.	Newport Beach	4	1988–1990
45	Larson, Kenneth W.	San Pablo	1	1987–1991
46	Heilbron, David	San Francisco	1	1987–1989
47	Baum, David B.	San Francisco	1	1986–1988
48	Cummins, Joseph H.	Los Angeles	2	1986–1988
49	Hirschberg, Gert	Calabasas	2	1984–1986
50	Murray, Anthony	Los Angeles	2	1984–1986
51	Midlam, Kevin	San Diego	4	1983–1987
52	Raven, Robert	San Francisco	1	1983–1987
53	Morgan, W. Robert	San Jose	6	1982–1984
54	Hughes, Peter J.	San Diego	4	1981–1983
55	Janssen, Clayton	Eureka	3	1981–1983
56	Illston, Susan	Burlingame	1	1980–1982
57	Hurley, Joseph G.	North Hollywood	2	1980–1982
58	Munoz, Gregory	Santa Ana	4	1979–1981
59	Wilson, Edwin	Long Beach	2	1978–1981
60	Anderson, Thomas T.	Indio	4	1978–1980
61	Price, E. Dean	Fresno	5	1978–1980
62	Colley, Nathaniel	Sacramento	3	1977–1979
63	Hufstedler, Seth	Los Angeles	2	1977–1979
64	de Leonardo, Michael	Sunnyvale	6	1976–1978
65	Cotchett, Joseph	Burlingame	1	1976–1978
66	Robinson, Mark P.	Los Angeles	2	1976–1977
67	Jenkins, Thomas M.	San Carlos	1	1975–1977
68	Schall, William	San Diego	4	1975–1977
69	Mattson, Marcus	Los Angeles	2	1969–1973

70	Miller, Harvey C.	Santa Clara	6	1968–1973
71	Hunt, Clarence S.	Long Beach	2	1967–1972
72	McKnight, C. Galen	Fresno	5	1967–1972
73	Shelton, Leonard A	Claremont	2	1964–1968
74	Wagener, Samuel H.	Oakland	1	1964–1966
75	Focht, Jr., James L.	San Diego	4	1963–1967
76	Wyckoff, James A.	Watsonville	6	1963–1967
77	Belcher, Frank B.	Los Angeles	2	1963–1965
78	Enersen, Burnham	San Francisco	1	1961–1964
79	Finn, Howard	San Francisco	1	1961–1963
80	Higgs, DeWitt A.	San Diego	4	1961–1963