

President Renominates Controversial Court Picks

By Lawrence Hurley
Daily Journal Staff Writer

As expected, President Barack Obama has renominated two controversial picks for federal courts in California.

The White House notified the U.S. Senate Monday evening of its intent to renominate 9th U.S. Circuit Court of Appeals nominee Goodwin Liu and Northern District of California district judge nominee Edward M. Chen.

Both nominations were returned to the White House in August when the Senate recessed for the summer.

Although the Senate Judiciary Committee has previously approved both nominees, they have faced significant Republican opposition.

Chen, who currently serves as a magistrate judge in the Northern District, attracted negative comments from Republicans for his 16-year employment with the American Civil Liberties Union. UC Berkeley School of Law professor Liu has been criticized for his long history of speaking out on progressive legal issues.

The nominees won't have to endure another confirmation hearing, but the judiciary committee will have to vote again to forward their names for full Senate consideration. A committee vote could happen as early as next week.

Chen was originally nominated a year ago and has already been renominated once following the Senate's December recess. Liu was nominated in February.

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Empowering Women Lawyers for the Next Decade

By Susan McRae
Daily Journal Staff Writer

LOS ANGELES — Fifteen years after joining the Women Lawyers Association of Los Angeles as a second-year law student, Angela S. Haskins will take over on Thursday as president of the 1,000-member organization. She succeeds last year's leader, Helen B. Kim of Katten Muchin Rosenman.

A partner at Baker, Keener & Nagra, Haskins, who specializes in medical malpractice defense, said being a member of the association has helped to keep her focused on how it wasn't always so easy for women in the legal profession.

"I just turned 40 last October, so I'm at a disadvantage," Haskins said. "I've always had the right to choose. I've always had the right to vote. I've always had the right to do just about anything I've wanted to do."

"And I think to myself, 'How did this happen?' It didn't just manifest itself. There were a lot of fantastic women who made that happen."

The installation dinner will be held at the downtown Los Angeles Millennium Biltmore Hotel.

The association also will be honoring Los Angeles lawyers Eileen M. Decker and Edith Matthai.

Decker, a past president of WLALA and deputy Los Angeles mayor for Homeland Security and Public Safety, will receive the distinguished service award for her work on the association's history project, overseeing the recording, archiving and preservation of significant events in women's legal history in Los Angeles.

Matthai, founding partner of Robie & Matthai, will receive the Ernestine Stahlut award for encouraging

women in the legal profession to excel and who exemplifies dedication to the cause of justice, the association says.

Haskins, an Ohio native, earned her undergraduate degree in business administration in 1991 from Ohio State University and her law degree in 1996 from Southwestern University School of Law. The daughter of a state highway patrol officer, she said she knew at an early age she wanted to be a lawyer and used to slip into court to watch her father testifying in cases.

While attending law school at night, Haskins worked at the Los Angeles city attorney's office, and then landed a job with the American Arbitration Association. She began as a case administrator and worked her way up to director of marketing and outreach. During that time, she spent her nights studying the law and her days sitting in on arbitrations and learning from the best judges and lawyers around.

"I got to do things during the day, like sit with Justice David Eagleson [former state Supreme Court justice who died in 2003] and talk to him about an opinion he wrote, and that night in property class I'd go, 'Well, I was at lunch with Justice Eagleson today and he said...' It was the best opportunity ever," Haskins said.

After five years with the American Arbitration Association, Haskins joined John Horn as a principal at what then was ADR International Inc., an ADR consulting firm. Five years into the job, she realized she was approaching 30 and had never tried a case. So, she signed on as an associate at LaFollette, Johnson, DeHaas, Fesler, Silberberg & Ames. Two days later, she was deep into her first deposition.

'We've learned that just because you make partner doesn't mean it's smooth sailing from here on out. There are still struggles.'

ANGELA S. HASKINS
INCOMING WLALA
PRESIDENT



Angela S. Haskins

Susan McRae / Daily Journal

In 2003, Haskins jumped to Baker, Keener & Nagra as a senior associate, making partner 18 months later.

Through it all, her one constant has been Women Lawyers Association of Los Angeles, which she praises enthusiastically for its support and networking opportunities.

The organization's theme this year is "empowerment." One of the projects Haskins is building on is the power lunch program. Started last year, the program, funded and coordinated by WLALA, targets high school students in the city's depressed areas. Volunteers bring the students to the downtown courthouse, where a criminal lawyer, a civil lawyer and a judge talk to them about the Constitution and the law. Afterward, they play a game of legal jeopardy.

Haskins also is starting a new section this year. Drawing on her years of experience in alternate dispute resolution, she is creating a section on women in ADR. The association

has many ADR professionals in its membership, she noted, but this will be the first time it has had a section dedicated to women who have made great inroads into what had become a male-dominated practice.

Haskins also will keep a eye on addressing the changing dynamics affecting women lawyers. Two years ago, she said, WLALA President Kathy Forester of Munger, Tolles & Olson created a joint task force for women, focusing on how to make partner, stay partner and to make that be an important part of their career.

"We've learned that just because you make partner doesn't mean it's smooth sailing from here on out," Haskins said. "There are still struggles."

Women Lawyers offers an opportunity to engage in topical dialogues about what affects them, Haskins said, through MCLE courses, conferences, newsletters and a host of other events. The organization is not exclusive to women. It has male board

members, as well as a number of men on its membership roster. Sole and small firm practitioners get a special discount membership fee of \$40 a year. It's free for students and new admittees. The regular price is \$75 a year.

Looking back over her time with the organization, Haskins said many things have progressed in terms of women in the profession.

"Twenty years ago, if you were a partner at a big firm you just kind of kept your mouth shut and were thankful you were there," Haskins said. "You didn't tell anyone else how you got there, and you didn't complain about anything."

"Well, now, we're actually telling people how we got there, and we're complaining about stuff and talking about how to fix it. That's a huge and incredible change. We can have open and candid dialogue, and that could never have happened before."

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Court: Federal Agents Can Take DNA of Pretrial Felony Defendants

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the government fails to justify a Fourth Amendment exemption of this magnitude."

The ruling was the first challenge of a 2006 federal DNA collection law to have reached a federal appellate court. A similar case is currently awaiting a decision by the 3rd Circuit in Pittsburgh.

"It's an enormous step," said ACLU staff attorney Michael T. Risher of San Francisco, who filed a friend of the court brief and is litigating his own 9th Circuit challenge to California's use of DNA collection from arrestees, *Haskell v. Brown*, 10-15152. "I expect the government to try to go further."

Phillip A. Talbert, the chief of the appellate section at the U.S. at-

torney's Sacramento office, whose staff defended federal agents' right to DNA collection from felony defendants, declined to speculate on any effort to extend the practice to federal arrestees.

"Today's decision allows the government to be more accurate in its investigations by having better DNA information," Talbert said. "Some suspects may even be exculpated by the tests as we get an ever larger database."

Congress passed the statutes at question, including the DNA Fingerprint Act of 2005 and the Adam Walsh Child Protection and Safety Act of 2006 to extend mandatory DNA testing to persons not yet convicted of crimes, and the attorney general has ordered federal agencies to obtain DNA samples to the extent authorized, to be compiled

in a federal criminal database.

It was Congress' third expansion of DNA testing in criminal cases. An earlier version of the law held that only convicted violent federal felons should be tested. Then came a revision authorizing testing for all convicted felons.

The 9th Circuit ratified that practice, 7-4, in a 2004 en banc decision, *U.S. v. Kincaid*, 379 F.3d 813.

Callahan cited *Kincaid* to explain how courts use the "totality of the circumstances" test to balance an intrusion on an individual's privacy with the government's legitimate interests.

Kincaid noted "the well-established principle that parolees and other conditional releasees are not entitled to the full panoply of rights and protections possessed by the general public," Callahan wrote, adding that once a judge or a grand jury has issued an indictment, a pretrial defendant is likewise distinguished from the general public and is subject to the test.

"When a suspect is arrested upon probable cause, his identification becomes a matter of legitimate state interest and he can hardly claim privacy in it," she wrote, ruling that the totality test favors the

government.

Circuit Judge Stephen R. Reinhardt, the circuit's liberal lion, dissented in *Kincaid* as he has in more than a dozen Fourth Amend-

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CONSUELO M. CALLAHAN
9TH CIRCUIT JUDGE

ment cases over the years.

"They that can give up essential liberty to obtain a little safety deserve neither liberty nor safety," he wrote in his *Kincaid* dissent, quoting Benjamin Franklin.

Last month Reinhardt penned yet another such dissent in a case allowing police agents, acting with-

out a warrant, to affix a GPS device to a suspect's car parked next to his home.

"I have served on this court for nearly three decades," Reinhardt wrote. "I regret that over that time the courts have gradually but deliberately reduced the protections of the Fourth Amendment to the point at which it scarcely resembles the robust guarantor of our constitutional rights we knew when I joined the bench." *U.S. v. Pineda-Moreno*, 2010 DJDAR 12585 (Aug. 12, 2010).

Assistant Federal Defender Rachelle Barbour of Sacramento, who represents defendant Jerry Arbert Pool and who argued Tuesday's case before the circuit panel, agreed.

"They keep pushing the boundaries, and this is a really dangerous slippery slope they are on," she said.

Barbour pointed out that the 2006 law as written could actually require DNA from persons arrested on federal misdemeanor charges, such as speeding in a national park. "That's even more scary, and we're just glad they didn't go that far this time," she said.

She said her office will petition

for an en banc review of the decision. "There's a lot of division in the court on these Fourth Amendment issues," she said. "The composition of the panel is so important."

Callahan is a President George W. Bush appointee. She was joined in the majority by Circuit Judge Carlos F. Lucero of the 10th Circuit in Denver, a President Bill Clinton appointee sitting by designation. President Jimmy Carter appointed Schroeder, who served as the 9th Circuit's chief judge from 2000 to 2007.

Pool was charged last year with possessing and receiving child pornography. He pleaded not guilty. A magistrate judge directed he be released before trial on a \$25,000 bond, subject to conditions that included DNA sampling.

Pool challenged the sampling requirement as unconstitutional and the court stayed that condition and allowed his release while the issue was litigated. Tuesday's ruling affirmed Senior U.S. District Judge Edward J. Garcia of Sacramento.

Barbour said she expects Pool to remain untested and on pretrial release while further appeals proceed.

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Newly Minted Lawyers Turning to Solo Practices in Downturn

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Bar Association's now disbanded Commission on the Impact of the Economic Crisis on the Profession and Legal Needs.

"You have no opportunity to learn by example of other lawyers that are around you, and you have these enormous economic pressures that really were not there for the last classes of law school graduates where jobs were more plentiful," he said. "At a minimum, you run the risk of new lawyers developing bad habits. Bad habits can lead to unprofessional conduct. Bad habits can lead to bad problems."

The ABA does offer a mentoring program for law school students in which they can be paired with solo practitioners. However, the association does not have a formal mentoring program for law school graduates in solo practice, nor does the Los Angeles County bar association, according to spokespeople.

Zein Obagi, 26, started his own

civil and municipal law solo practice shortly after being laid off from the land use department of Allen Matkins Leck Gamble Mallory & Nastis in January of this year. Obagi, a classmate of Kelly's, now focuses primarily on creditors' rights and has found several more experienced lawyers willing to share advice. Still, he agreed that one of his biggest stumbling blocks has been mastering the practical skills not taught in law school or found in practice guides.

"The first time I filed a lawsuit, I didn't even have a civil cover sheet," he said. "It was kind of embarrassing."

After being let go from Allen Matkins, Obagi applied for positions at Nossaman and Manatt, Phelps & Phillips in Orange County. "But the truth of the matter was, considering where land use was, land use practices could get for the same rate much more experienced people," he said.

Obagi has recently helped clients including family members,

plastic surgeons and a BMW parts manufacturer with collections. But learning day-to-day tasks on the fly is still a challenge.

"It's the little things," said Obagi. "I feel like there are many ways, especially procedurally, where you can trip up."

Like Kelly, Obagi has also grappled with logistics and keeping afloat financially. He worked from his apartment until July, when he linked up with a partner who handles business development and marketing and moved into a Monrovia office sub-leased for a discounted rate from his partner's father. Obagi's parents have also temporarily taken over his student loan payments while he pours most of his income back into his business and takes home a nominal salary of roughly \$2,000 a month.

"The pay is just enough to get me by," he said. "With my severance package I can pay off my car, but I've kept my standard of living very modest. The reward is in the future."

Many young lawyers who have

gone it alone like Obagi and Kelly will eventually be brought back into the fold of bigger firms once the job market improves, said Leipold, as an earlier wave of solo practitioners did in the wake of the 1990s recession.

Others, however, see the solo route as a permanent path.

Daren Schlechter, 29, graduated from Whittier Law School in 2008 and started a solo bankruptcy practice in April after a year and a half with a small firm. He often relies on advice from other bankruptcy lawyers at the boutiques that share his Century City suite to make up for his relative inexperience, he said. While Schlechter still supplements his income with contract work, he does not envision working for anyone else again.

"There are days you feel so fulfilled, and there are a lot more now than when I worked for somebody else," he said. But, he said, "the hardest day at my old job is still the easiest day at this job."

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