

TESTIMONY OF JUSTICE GOODWIN LIU
Before the Assembly Committee on Judiciary
Hearing on Diversity in the Legal Profession
May 14, 2019

Thank you, Chairman Stone. I am delighted to participate in this important hearing, and I am grateful to you and the committee for highlighting this issue.

Mr. Chairman, like many Californians, I grew up in an immigrant family — in fact, right here in Sacramento. And coming back here today reminds me of the first lawyer I ever met. His name was Bob Matsui, and he was my congressman at a time when the 435 Members of the House of Representatives included just three Asian Americans. When I was in high school, Bob sponsored me to be a page on Capitol Hill, and from his mentorship and example, I came to realize that a person who looked like me could grow up to be a person like him. When I think about why diversity matters in the legal profession, I think about the difference Bob made in my life.

I also think about the difference that a more inclusive legal profession might have made in Bob's life. In 1942, when Bob was six months old, he and his family were forcibly relocated from their home in Sacramento to the internment camp at Tule Lake. This indelible stain on our nation's history had many causes, but it is worth asking whether it could have been avoided if more people like Bob Matsui had occupied the top echelons of government at the time.

The issue of diversity has always been deeply personal to me, and never more so than now. When I was appointed to the California Supreme Court in 2011, I did not fully appreciate how uncommon it still was for an Asian American to be a judge. Among nearly 1,700 judges in California, less than 6% were Asian American — at a time when Asian Americans were over 13% of the state population. Today, nearly 8% of California

judges are Asian American, compared to 15% of the state population. And less than 11% of our judges are Latino, compared to 40% of the state population. These numbers reflect significant progress since I joined the bench, but there is still a long way to go.

The most likely pathways to the bench remain an obstacle course for many groups. Consider prosecutors. A study by Stanford Law School found that among California prosecutors in a supervisory position in 2014, only 9% were Asian, 10.8% were Latino, and 6.6% were black; 73% of the supervisors in District Attorney offices were white in a state whose population is less than 40% white.

Consider law firms. A 2015 survey of 225 major firms by Vault and the Minority Corporate Counsel Association reported that 92% of equity partners were white, as were 89% of non-equity partners. Attrition rates among Asian, black, and Latino associates are much higher than among whites. Notably, some of the firms demonstrating leadership on diversity are here in California. For example, one of your next panelists, Hailyn Chen, was recently appointed co-managing partner of Munger, Tolles & Olson. But we need a lot more Hailyn Chen's in the pipeline for advancement in our profession.

Or consider judicial clerkships, an early prestige marker after law school. Data from the National Association for Law Placement show that Asians, Blacks, and Latinos comprised 14% of federal law clerks in 2015, even though they made up 23% of graduates from the top 30 law schools. This disparity is troubling because a judicial clerkship is often an experience that stimulates interest in becoming a judge.

In a recent media interview, I was asked to reflect on my own path to the bench. I said that much of my path arose from sheer luck — luck that I found certain mentors, luck that some of those mentors intervened at crucial moments and others were willing to

take a chance on me. And I said, “For every one of me who has good fortune, there are others who are trying to navigate [their careers] on their own or fall through the cracks.”

I am reminded of the old adage that “opportunity is where luck meets preparation.” Much of what needs to be done is to reduce the element of luck so that preparation is the main gateway to opportunity. In a 2017 study that I coauthored with several Yale law students, we surveyed over 600 Asian American lawyers and asked what obstacles to advancement they experience. The most common answer was inadequate access to mentors and contacts. In many workplaces, access to important relationships and networks is the toughest nut to crack. But this cannot be left to luck if we want diversity at the top of our profession. We have to make inclusion an intentional and systematic part of workplace policies and reward structures. It must be baked into the way we develop talent and facilitate advancement.

In closing, I want to commend this committee for shining a spotlight on this issue. We need to discuss it, we need to monitor it, and we need to keep measuring progress — because what gets measured gets managed. Transparency and awareness are the prerequisites for developing solutions and motivating action. My hope is that this hearing will be the first of many, perhaps on an annual basis, that brings sustained attention to an issue that is vital to the efficacy of our profession and to the well-being of society as a whole.

Thank you again for this opportunity, and I am pleased to answer any questions you might have.