

Contentious battle for El Dorado County judgeship

By Loretta Kalb, Sacramento Bee

As judicial races go, the contest in El Dorado County is remarkable – particularly because a sitting judge's competency has been called into question by a colleague on the bench.

Superior Court Judge Warren C. Stracener was appointed to the bench in December 2010 and is campaigning in the Nov. 6 runoff election to retain the post for a six-year term. His assignment: juvenile criminal and dependency law.

Joseph Hoffman, an attorney with experience as a judge pro tem for El Dorado Superior Court, is campaigning to wrest the bench from the incumbent.

Beyond those bare facts, the race for the Superior Court judgeship bears little resemblance to the typical judicial race. Those tend to be nondescript affairs with minimal controversy.

Election angst in this race, by contrast, has swept El Dorado County's legal leadership, and much of it is directed at the incumbent.

Four sitting judges have taken sides, evenly split between Stracener and Hoffman. One judge openly criticized Stracener at a meeting of leaders in the legal community.

"I have never seen such opposition to a sitting judge the entire time I have been here, since 1979," observed Ron Dosh, an attorney in private practice who said he wants change on the bench.

There are public criticisms leveled at incumbent Stracener about his competency and slow pace of handling cases –

complaints rarely voiced publicly in the judicial realm.

And with El Dorado County's small-town chemistry that dust-up is magnified.

Superior Court Judge Doug Phimister gave the *Bee* a particularly brutal assessment of Stracener.

"He doesn't know the law. At all. None," he said. "That's pretty scary."

Stracener countered that Phimister is wrong.

"This statement that I don't know the law is absolutely false," Stracener said. In exchanges with the judge, he said, "I primarily spoke with him about process and procedures and only occasionally about the law."

Stracener said it's not uncommon for a judge to have a learning curve when new to the job. And if cases don't move forward as quickly as some would like, he said, it is because he is diligent and committed to making the best possible decisions.

And Stracener has many backers.

"He's a good judge," said El Dorado County Supervisor Ron Briggs. "He has the credentials and the demeanor and the maturity. I think he's proven himself."

Stracener has support from sitting Judge Kenneth Melikian.

Steven Bailey, the presiding juvenile court judge in El Dorado County, calls Stracener eminently qualified.

"He may be the brightest judge we have on the bench and the most qualified in terms of experience and capability," Bailey said. "He is extremely deliberative, making sure that he is giving the right answer in cases that are difficult. Judge Stracener is the perfect fit for that."

Hoffman, on the other side of the contest, has faced criticisms from the Stracener camp about his legal role on behalf of a former business client later accused of loan fraud.

Hoffman's former client, El Dorado Hills resident Daniel Chartraw, is under indictment for allegedly defrauding investors and at one time had his funds in the attorney's trust account.

Hoffman has not been accused of any wrongdoing by prosecutors. Attorneys are required to maintain trust accounts registered with the State Bar for their clients.

Hoffman calls the complaint bogus.

"The bottom line is that it's very frustrating that the Stracener camp, which should know better, attacks me on a bogus issue they know I can't possibly discuss because of attorney-client privilege, even for a former client," Hoffman said.

During the year, the schism between camps has been intense.

The fray has put fear into some lawyers who have privately chosen sides but are afraid to go public – lest they pay the price when they appear in court before the winning candidate after the election.

Stracener was the top vote-getter in a three-way race in the June 5 primary, receiving 42 percent of the vote. He needed a majority to avoid a runoff. Hoffman placed second with 37 percent.

Hoffman has been an attorney for 18 years and has experience in family law, business litigation, business formation and succession and real estate litigation. He co-founded a law firm that now has seven members.

He has served as an El Dorado Superior Court judge pro tem

since 2001. And he has served as a private judge – meaning that he is hired by opposing sides to resolve their case.

Stracener lists his experience as an attorney in labor employment law, as a senior litigator for the state, as a legal adviser to the Public Employment Relations Board and in private practice, which included education law. He served as a small claims court judge pro tem in 1997 and 1998.

Stracener supporter John Stelzmilller, former chairman of the county's Republican Central Committee, describes the incumbent as meticulous, someone who is concerned about each case that comes before him.

"He was told to ask questions of the other judges whenever in doubt, which is a common practice for a new judge," Stelzmilller said. "So he did that."

Stelzmilller said he was dismayed when Judge Phimister went public in his criticism of Stracener.

Phimister headed a meeting in the backroom of the Tortilla Flats restaurant on Main Street last spring in which he detailed a list of his concerns with the incumbent.

"In my estimation, it was a low point in Judge Phimister's background and history," said Stelzmilller.

Phimister makes no apologies.

"I was trying to energize people, that this guy doesn't know what he's doing," Phimister said. "He's coming up for re-election, and we need to either get him trained or he must go."

Also opposing Stracener is Judge Daniel Proud.

Even the district attorney has entered the discourse.

"Given that Judge Stracener was an incumbent judge, I had

initially decided to stay out of the race,” said District Attorney Vern Pierson.

“But after a significant percentage of the deputy DAs in our office approached me and expressed great concerns about Stracener’s competency and ability to get through a calendar, I decided to get involved at that point and oppose the incumbent,” Pierson said.

Stracener said he views his opponents as part of the county’s good-old-boy network.

“It’s unfortunate, but it has become political because I am viewed as an outsider in the community,” said Stracener.

“It’s the old-school politics. When (Gov. Arnold) Schwarzenegger appointed me, he didn’t consult with any of the political officials,” he told the *Bee* in an interview. “Apparently he passed over several others.”

Pierson, who has resided in the county eight years and has been its top prosecutor for 5 1/2 of those, doesn’t buy it.

“The outsider being picked on by the old-boy network is a joke,” Pierson said. “It’s silly. I can’t think of a better way to say that.”