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Gender diversity of 8th Circuit scrutinized at regional meeting

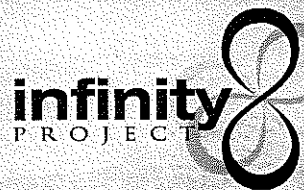
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The Infinity Project — a grass-roots initiative dedicated to increasing gender diversity on the 8th U.S. Court of Appeals — last week kicked its efforts up into high gear with a meeting of representatives from throughout the circuit.

The event, held Oct. 17 at the University of St. Thomas School of Law, included the presentation of the first annual Judge Diana Murphy Legacy Award. Judge Murphy, the first and so far only women to serve on the 8th Circuit bench, was the first recipient of the award named in her honor. Prior to her elevation to the 8th Circuit bench in 1994, Murphy was a U.S. District Court judge in Minnesota.

In presenting the award, University of Minnesota Professor Carol Chomsky described Murphy as a judge who renders her opinions with fairness, dignity, compassion and understanding and who has had

Infinity | Page 19



Ifill: Gender diversity issue in 8th Circuit requires 'constant vigilance'

Infinity | From Page 1

the courage to reach unpopular results to support freedom and justice. Chomsky quoted former Chief U.S. Magistrate Judge Jonathan Lebedoff, who said, "I've never known any man or woman who possesses the extraordinary gifts that Judge Murphy has shared with our profession and our community."

Murphy said she was overwhelmed at the expression of support from a new generation of women leaders and the award that will in the future recognize people who have worked to advance equal justice for women. "Diversity affects the quality of justice and not just the perception of justice," Murphy said.

Taking the lead

University of Maryland School of Law professor Sherrilyn Ifill delivered the keynote address, which was on the topic of "Leadership, Gender and Judicial Selection." Ifill said that efforts to increase diversity on the bench do not conflict with the concept of an impartial, color-blind bench.

"The lack of gender diversity on the 8th Circuit shows that this issue is one that really requires constant vigilance," Ifill told attendees. While many circuit courts do not have a representative gender balance, the 8th Circuit is the most out of skew, she said. While the 1st Circuit has also only had one women judge in its history, the 8th Circuit has twice as many judges, she pointed out.

The 8th Circuit's gender issue reflects the continuing problem of gender equity in the legal profession, according to Ifill. "We want to make sure that we've got women operating at the highest levels of law firms who can be selected to serve on courts," she said.

Diversity ensures the best-informed and richest decision-making, Ifill stated. "I've argued that this is part of the due process right of litigants that's embedded in the 14th Amendment," she said.

"In talking about the importance of gender diversity on the bench, we should be careful to talk about how it enhances judicial decision-making and therefore the legitimacy of the courts," Ifill continued. "It brings into the room, particularly on the appellate bench, perspectives, viewpoints and experiences that otherwise might not be present. Those perspectives and viewpoints are not just nice because they make us feel good, they are important because they [result in] better judicial decision making."

Ifill advised reaching out to other circuits. "I think we have a national problem of gender diversity on our circuit courts," she explained. Since the circuit courts are a pipeline to the U.S. Supreme Court, the issue has tremendous implications, she said.

The circuit feeder system

8th Circuit Judge Michael J. Melloy, who is chambered in Cedar Rapids, Iowa, shared with attendees some of his insights on increasing gender diversity at the federal appellate level.

"For good or bad, we tend to have a pipeline system to the federal bench," Melloy said. Most of the judges on the 8th Circuit have come from the federal district courts or state supreme courts, he said. "I think it's important that you consider how to encourage women, particularly younger women, to work into the pipeline."

Pointing out that President George W. Bush has appointed seven of the 11 sitting judges on the 8th Circuit, Melloy pointed out that there might not be many vacancies in the near future.



The Infinity Project kicked off with a circuit-wide meeting recently. Attending were: (front row) University of Minnesota School of Law professor Carol Chomsky, 8th U.S. Circuit Court of Appeals Judge Diana Murphy and Sally Kenney, director of the Center on Women and Public Policy at the Humphrey Institute of Public Affairs; (back row) Hamline University School of Law associate dean for academic affairs Marie Failingler, Minneapolis attorney Mary Vasaly, keynote speaker Sherilyn Ifill and University of St. Thomas School of Law assistant dean Lisa Brabbit

However, he continued, there will be U.S. District Court vacancies.

According to Melloy, about 40 percent of the District Court judges will be eligible to retire in the next four years. "I suspect many of them will, particularly if it's a President Obama, because many of those people are Clinton appointees," he said, adding that those judges will be prime candidates for the appellate court in 10 or 15 years.

Melloy also discussed the role that diversity plays in the court, particularly during conferencing cases.

"We had a wonderful African-Ameri-

can judge, Judge [Theodore] McMillian. Having a judge who grew up in segregated St. Louis added a whole dimension, not in every case, but in that case where race, discrimination or desegregation of schools is an issue, in the same way that Justice Thurgood Marshall brought it to the Supreme Court," he recalled.

The same is true of Murphy in any case that has a gender component, Melloy said. "It may or may not change the outcome, but at least it's a view that will be considered [and] it may affect how the decision is written," he explained. 