

# Editorials

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**StarTribune**

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## A lack of diversity on Court of Appeals

• Amazingly, the Eighth Circuit has had just one woman judge.

More than a decade after Sandra Day O'Connor became the first female U.S. Supreme Court justice, Minnesota's Diana Murphy broke through one of the region's oldest glass ceilings with her 1994 appointment to the powerful Eighth Circuit Court of Appeals.

Fifteen years later, Murphy is now one of its most senior justices and, shockingly, she's still the only woman ever to have served on this federal appellate court. Eleven judges sit on the St. Louis, Mo.-based court. Nine of them were appointed after Murphy. All are men.

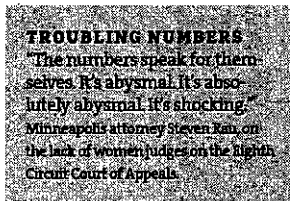
It's a conundrum and an embarrassment, one that's been under the radar far too long in the seven states of the Eighth Circuit: Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Missouri and Arkansas.

Women have long comprised about half of U.S. law school graduates. They've served with distinction in federal and state courts across the nation, Minnesota in particular. The state Supreme Court had a superb female chief justice in Kathleen Blatz, and at one point in the 1990s it had a majority of women justices.

And yet with all these highly qualified women candidates, the most powerful court in the nation's heartland is one retirement away from being an all-male court. It's also a basement dweller among the U.S. Courts of Appeals' 12 regional circuits when it comes to the percentage of women judges.

The Eighth Circuit and New England's First Circuit are the only two with just one woman justice. In contrast, eight women serve the Ninth Circuit in the West, 30 percent of that court's judges. Even the Fifth Circuit — composed of Texas, Mississippi and Louisiana — has a better percentage. It also has a female chief justice: Edith Hollan Jones, frequently mentioned as a possible U.S. Supreme Court nominee.

A Minnesota-based group of lawyers known as the Infinity Project has launched a well-timed campaign to bring attention to the shameful pattern of exclusion in the Eighth. Currently, there are no va-



cancies on that court. However, a recent retirement by Judge James M. Rosenbaum in Minnesota has created a new opportunity for a qualified woman to win presidential appointment to become part of the federal district court system from which many Eighth Circuit Court judges are chosen.

Like the women lawyer groups that first pushed for gender balance in the 1970s, the Infinity Project makes a strong argument for its benefits. A diverse, highly qualified bench brings a range of expertise to legal decisions that have wide-ranging impacts on everyday life. And far more than a panel of elites, a bench reflective of those it serves reaches decisions in tune with the communities around it, inspiring public confidence.

"People understand why it's important to have diverse juries. We have to ask the same questions about our judges, our gatekeepers of justice," said Lisa Montpetit Brabbit, an assistant dean at the St. Thomas University Law School who is the Infinity Project's current president.

The Infinity Project and its supporters wisely emphasize that gender balance should not take precedence over qualifications. By raising awareness, they hope to inspire women to consider a career in the judiciary and act as a resource for those weighing the mysterious, sometimes intimidating federal appointment process. The search committee that will recommend Rosenbaum's replacement recently extended its application deadline to Sept. 18. A stack of résumés from Minnesota's best women lawyers is a small but important step toward bringing balance to the Eighth Circuit Court bench.