

LOST IN THE DEBATE: THE THREAT TO JUDICIAL INDEPENDENCE

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The judicial branch is prohibited from making comments about pending cases. Therefore, it is important for attorneys involved in the judicial system to provide their insight. The San Francisco Chapter of ABOTA is not a political organization. It does not comment on rulings in individual cases. It is part of a national organization of experienced civil trial lawyers representing plaintiff and defense interests who are dedicated to preservation of the right to trial by jury, guaranteed by the Seventh Amendment of the U.S. Constitution. Just as important to our Chapter is that its members are committed to the principle of advocacy through ethics, integrity and civility.

Recently, the media has devoted significant attention to public criticism of the sentence in the Brock Turner sexual assault case by Judge Aaron Persky. Some media accounts have reported on petitions to recall Judge Persky from the bench through the special election process.

While SF ABOTA respects and supports the public's First Amendment right to criticize and protest on items of public interest, including issues related to appropriate sentencing in sexual assault cases and equal treatment of individuals adjudicated of crimes, SF ABOTA strongly denounces efforts to recall any judge based solely on the unpopularity of a single decision.

Our judicial system has rules in place to review a trial judge's decision. When judicial errors occur they are dealt with in our system of justice through the appellate process. When a judge is alleged to have engaged in misconduct, or acted unethically, their actions are subject to an investigation by the Commission on Judicial Performance, and if warranted by the circumstances, the judge may be disciplined. If the misconduct is very serious or part of a repeated pattern, removal may be warranted.

SF ABOTA wishes to emphasize during this public debate that the preservation of an independent judiciary is an integral and essential component of our system of justice and the proper functioning of our democracy. The concept of judicial independence requires that judges make decisions by applying the law to the facts, without regard for the popularity or politics of the result. Judges should never be placed in a position where their decisions are influenced by which way the political winds blow, how the media will react or whether their decision is the most popular on any given day. This is not a new concept. It dates back to the foundation on which this country was built, and our Constitution.

Respectfully,

FRANK M. PITRE
President, SF Chapter of ABOTA

[The San Francisco Chapter of the American Board of Trial Advocates is composed of experienced plaintiff and defense trial lawyers practicing in the Greater San Francisco Bay Area.]