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### TO RETAIN OR NOT TO RETAIN

A bad judge might not just ruin your day. That judge could ruin your life. That's why the job of the state's 23 Judicial Performance Commissions is so important in giving voters an idea of whom to boot out of office and whom to retain, and why once again we are disappointed in the commissions' work.

It's not because they scrimped on effort. To the contrary: They undertook a massive amount of work to prepare their recommendations, and we applaud them for it. But all that effort would count for a lot more if the recommendations were based on clearer standards - and the commissions were a lot tougher.

Why, for example, should voters indulge a judge who has 24 years of experience and yet who is still, by his own admission, weak in his knowledge of the law and in "reading efficiency." Yet the state commission urged state appeals court Judge Henry E. Nieto be retained (though not unanimously).

Of the 104 district and county judges who will be on November's ballot, commissions recommended all but two stay on the bench. It could be that there were other miserable performers who decided not to run because they anticipated unfavorable recommendations; we can't tell, because information on judges who don't run isn't public.

But the information on those who are running, which is available through the Web site of the Colorado Bar Association (at [cobar.org](http://cobar.org)), suggests that there are a good number of others, such as Nieto, whose evaluations are well below average. Sometimes the commissions' summary of their findings explain why they decided to overlook a seemingly poor performance or to give credence to promises to improve. For instance, one judge who received above-average marks from attorneys but below-average marks from non-attorneys observed that he handles a lot of domestic cases such as divorce and child custody, and no matter what he decides, the losing party is likely to hold the decision against him. That's entirely plausible.

There is one statewide commission, which studies judges on the state Supreme Court and the Colorado Court of Appeals. Each judicial district has its own commission. They solicit opinions both from attorneys and non-attorneys.

One quick way to sum up the results for each judge is to look at the percentage of respondents who said he or she should be retained, or not. For county judges, the average statewide is 83 percent "yes" and 11 percent "no" (the rest had no opinion). For Arapahoe County Judge Stephen Ruddick, one of the two judges who weren't recommended for retention, the percentages were 61 and 33.

But Ruddick's results are not the worst. Within judicial districts near Denver, that dubious honor belongs to Weld County Judge Robert Lowenbach, who rated 50 percent and 36 percent respectively. The commission that recommended he be retained said it was impressed by his "sincere desire to address the weaknesses" revealed by the surveys. But we don't want people with a sincere desire to be a good judge. We want good judges.

We suggest that if less than 75 percent of attorneys surveyed thought a judge should be retained, or more than 15 percent thought he or she should not be, voters might consider rejecting the judge no matter what the commissions recommend. (At the very least they should treat the scores as a red flag and review the judges' entire record.) In the metro area, that list, with percentages, includes:

Colorado Court of Appeals

Henry Nieto, 75/17.

1st Judicial District (Gilpin, Jefferson counties)

Gilpin County Judge Frederic Rodgers, 6 1/28.

2nd Judicial District (Denver County)

District Judge Paul Markson, 59/30;

District Judge Gloria Rivera, 68/26;

Denver County Judge Kathleen Bowers, 73/23;

Denver County Judge Mary Celeste, 60/25;  
17th Judicial District (Adams, Broomfield counties)  
Adams County Judge Michael Cox, 80/18;  
Adams County Judge **Emil Rinaldi**, 76/16;  
18th Judicial District (Arapahoe, Douglas, Elbert, Lincoln counties)  
Arapahoe County Judge Stephen Ruddick, 61/33;  
Douglas County Judge Susanna Meissner-Cutler, 77/23;  
Lincoln County Judge Truston Lee Fisher, 75/19  
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