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## Judges Say 'We've Had It' With Attacks On The Judiciary

By **Aebra Coe**

Law360, San Francisco (August 9, 2019, 11:07 PM EDT) -- The time has come for judges to "take more aggressive action" to fight back against attacks on the judiciary made by President Trump and other politicians, Washington Supreme Court Justice Debra Stephens said Friday, speaking on a six-judge panel on the topic.

Several other judges agreed with Justice Stephens that the time has come for members of the judiciary to speak out and use their voices to defend themselves and the judiciary when faced with attacks, such as President Donald Trump's Twitter post labeling U.S. District Judge James Robart a "so-called judge" following an unfavorable ruling on one of his policies.



A panel of judges at the ABA's annual meeting in San Francisco discuss strategies Friday for responding to attacks on the judiciary by elected officials. (Aebra Coe | Law360)

"I think these very personal and sometimes terrifying attacks are having an effect," Justice Stephens said. "We can't do things the way we've always done with our lips sealed and talking in platitudes about civics. I think we have to take more aggressive action."

The panel, hosted by the American Bar Association during its annual meeting in San Francisco, comprised Justice Stephens, Judge Robart, retired U.S. District Judge Shira Scheindlin, Kansas Chief Justice Lawton Nuss, California Chief Justice Tani Cantil-Sakauye and Ohio Chief Justice Maureen O'Connor.

The judges shared stories about recent experiences in which they believed lawmakers made attempts to undermine them or their courts.

Justices Stephens and Nuss described battles with lawmakers over state court funding that was tied to lawmakers' anger over decisions the courts made on controversial issues, where the funding was withheld in what appeared to be an attempt to influence the courts.

Judge Robart talked about how he'd received angry calls after his ruling on Trump's travel ban, but said that after the president's tweet, "the tone changed" to something much darker. He said he received 1,100 threats deemed "serious" by the U.S. Marshals Service, 100 of which were death

threats.

Judge Scheindlin related how she feels she was personally attacked by New York City's then-mayor and police commissioner for her 2013 ruling striking down the city's stop-and-frisk law enforcement policy.

"It's not just today's president," she said. "It's not the first time in our history that judges have been attacked for their decisions."

Following her decision on stop-and-frisk, New York's mayor and police commissioner accused Judge Scheindlin of anti-police bias and of suppressing evidence. She fought back against those accusations and believes other judges should fight back as well when they believe their character is being attacked.

"I think judges have been historically reluctant to put themselves front and center," she said. "I think judges should feel more free to defend themselves and their colleagues when the attacks have nothing to do with the merits and instead are based on personal characteristics."

The stakes are high, Judge Scheindlin said, because personal attacks on the character of judges can cause the public to view the entire judiciary in a more negative light, threatening the rule of law.

"A threat to the rule of law is the greatest threat to our democracy," she said. "We need to protect our democracy. If the public loses trust in the judiciary, if the other branches lose respect for the judiciary, if the other branches denigrate the judiciary and thereby take us away from the rule of law, then our entire democracy is at stake."

--Editing by Breda Lund.

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