

All Three D.C. Circuit Court Nominees Should Get Yes-or-No Votes

July 31, 2013

United States Senate
Washington, DC 20510

Dear Senator:

The undersigned 97 organizations represent a diverse array of groups deeply committed to the proper functioning of the federal court system. We are writing to urge you to ensure the Senate holds yes-or-no votes on whether to confirm Patricia Millett, Nina Pillard, and Robert Wilkins, the president's three nominees to the U.S. Court of Appeals for the District of Columbia Circuit.

As you know, the D.C. Circuit has unique importance in American law. Many statutes require the D.C. Circuit to be the exclusive court to consider appeals of federal agency regulations and decisions affecting the entire country. Moreover, even when parties appealing agency decisions, congressional statutes, or presidential actions have a choice of venues, they often choose to have their cases heard by the D.C. Circuit, due to its expertise in complex administrative matters. And since the Supreme Court hears only a few dozen cases a year, the decisions of the D.C. Circuit are almost always the last word.

Late in the Bush Administration, Congress worked together in an overwhelmingly bipartisan manner and determined that the D.C. Circuit would function most efficiently with eleven active judges. Today, three of its eleven judgeships stand vacant. Consistent with the constitutional responsibility of all presidents to nominate judges to fill the judgeships that Congress has created and the precedent established by his predecessors, President Obama in June made nominations to fill each of these three vacancies.

Ms. Millett, Ms. Pillard, and Judge Wilkins are all extremely qualified nominees and worthy of full consideration by the U.S. Senate.

However, we are concerned that some may seek to block yes-or-no confirmation votes for one or more of the nominees based on unsupported claims that the D.C. Circuit's caseload does not warrant filling all 11 congressionally-mandated seats. In fact, the court has many more pending cases now than it did when the Senate confirmed George W. Bush nominees Janice Rogers Brown and Thomas Griffith to the 10th and 11th seats in 2005: According to the Administrative Office of United States Court, the D.C. Circuit had 1,456 pending cases as of March 31, 2013, as opposed to only 1,313 pending cases in May of 2005 when Brown and Griffith were confirmed.

Moreover, the court's caseload is even heavier than those numbers suggest. Because of its unique jurisdiction, the typical proceeding before the D.C. Circuit is far more complex than a typical

proceeding before any of the other circuit courts. As former D.C. Circuit Judge Pat Wald has written, the D.C. Circuit hears “the most complex, time-consuming, labyrinthine disputes over regulations with the greatest impact on ordinary Americans’ lives: clean air and water regulations, nuclear plant safety, health-care reform issues, insider trading and more. These cases can require thousands of hours of preparation by the judges, often consuming days of argument, involving hundreds of parties and interveners, and necessitating dozens of briefs and thousands of pages of record – all of which culminates in lengthy, technically intricate legal opinions.”

We would be deeply concerned about efforts to obstruct votes to fill any of the three vacancies on the D.C. Circuit. Our courts deserve better. And so do the American people.

The rule of law requires that our nation’s federal courts function properly. To do that, they must be fully staffed by qualified judges. The D.C. Circuit’s unique importance and nationwide jurisdiction makes it critical to every American that it be allowed to operate with all 11 active judgeships filled.

Whether you support or oppose Millett, Pillard, and Wilkins, please allow the American people to see you and your Senate colleagues express that position in a yes-or-no confirmation vote for all three nominees.

Sincerely,

African American Ministers in Action

AFL-CIO

Alliance for Justice

Amalgamated Transit Union (ATU)

American Association for Justice

American Association of University Women

American Constitution Society

American Federation of Government Employees (AFGE)

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers (AFT)

American Postal Workers Union (APWU)

Americans for Financial Reform

Asian Americans Advancing Justice – AAJC

Association of Flight Attendants (CWA)

Auto Workers, United (UAW)

Black Leadership Forum

Coalition of Women’s Initiatives in Law

Common Cause

Communications Workers of America

Constitutional Accountability Center

CREDO Mobile

Department of Professional Employees - AFL-CIO

Earthjustice
Earth Rights International
Environmental Law and Policy Center
Feminist Majority
Generational Alliance
Hispanic National Bar Association (HNBA)
Human Rights Campaign
International Brotherhood of Boilermakers
International Federation of Professional and Technical Engineers (IFPTE)
Justice at Stake
Lambda Legal
Leadership Conference on Civil and Human Rights
Legal Momentum
MALDEF
Metal Trades Department (AFL-CIO)
Mine Workers of America (UMWA)
National Abortion Federation
NAACP
NAACP Legal Defense & Educational Fund, Inc.
National Association of Consumer Advocates
National Bar Association
National Coalition on Black Civic Participation
National Conference of Women's Bar Associations
National Congress of American Indians
National Council of Jewish Women
National Education Association
National Employment Lawyers Association (NELA)
National Fair Housing Alliance
National Legal Aid & Defender Association
National Organization for Women
National Partnership for Women & Families
National Women's Law Center
People For the American Way
ProgressNow
Service Employees International Union
Sheet Metal Air Rail Transportation (SMART) Transportation Division
Sierra Club
Steelworkers, United (USW)
Union for Reform Judaism
USAction
YEO Action
Young People For Action

American Constitution Society New England Law Boston
Americans for Democratic Action Iowa
Arizona Advocacy Network
Asian Americans Advancing Justice – Chicago
California School Employees
Cleveland NAACP
Courts Matter to ME
I Believe Project (Mississippi)
Illinois Coalition for Constitutional Values
Interfaith Alliance of Iowa
Iowa Association for Justice
Iowa Citizen Action Network
Iowa Fair Courts Coalition
Jewish Alliance for Law & Social Action (Massachusetts)
Justice Not Politics (Iowa)
Louisiana Courts Matter
Maine Women's Lobby
National Association of Social Workers Maine Chapter
National Council of Jewish Women Louisiana State Policy Advocacy Network
National Council of Jewish Women Maine State Policy Advocacy Network
National Council of Jewish Women Minneapolis Section
National Council of Jewish Women Pennsylvania State Policy Advocacy Network
National Council of Jewish Women Missouri State Policy Advocacy Network
National Council of Jewish Women Texas State Policy Advocacy Network
Nebraskans for Civic Reform
Ohio Coalition for Constitutional Values
One Iowa
Pennsylvania Coalition for Constitutional Values
Planned Parenthood of the Heartland
Texans for a Fair Judiciary
Women's Bar Association of Illinois
Women's Bar Association of Massachusetts
Working Families Win (Iowa)