



Federal Bar Association

Office of the President

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November 19, 2010

The Honorable Harry Reid
Majority Leader
United States Senate
The Capitol
Washington, DC 20510-7010

The Honorable Mitch McConnell
Minority Leader
United States Senate
The Capitol
Washington, DC 20510-7020

Dear Majority Leader Reid and Minority Leader McConnell:

I write on behalf of the approximately sixteen thousand members of the Federal Bar Association (FBA) to encourage expedient Senate floor action on the judicial candidates reported out of the Senate Judiciary Committee and awaiting a Senate floor vote. As the Senate reconvenes, there is a very real need – in the interest of our federal court system -- for the Senate to fulfill its constitutional responsibility to vote on these pending nominees.

The FBA is the foremost national association of private and public attorneys engaged in the practice of law before the federal courts and federal agencies. We seek the fair and swift administration of justice for all litigants in the federal courts. We want to assure that the federal courts are operating at their full, authorized capacity and that justice is timely delivered by the federal courts. The large number of judicial vacancies prevents the prompt and timely administration of justice in the federal courts. This is causing unnecessary hardship and increased costs on individuals and businesses with lawsuits pending in the federal courts.

Our Association's interest is focused upon prompt, dispositive action by the Senate in filling vacancies as they arise on the federal bench. Prompt, dispositive action by the Senate on judicial candidates will assure that lawsuits filed in our federal courts are heard and decided without delay. The justice system suffers when vacancies are not filled in a timely manner. Vacancies create a burden of added litigation and economic costs that at times overwhelm the system and its ability to hear and decide matters in a timely and effective manner.

Seventeen of the 23 federal judicial candidates who await a Senate floor vote have been approved by the Senate Judiciary Committee by unanimous consent or without controversy. These candidates deserve an up-or-down vote before the 111th Congress reaches an end.

In particular, 7 of these 17 noncontroversial judicial candidates cleared by the Senate Judiciary Committee have been nominated to circuit and district court judgeships that have stood vacant for substantial periods of time and are associated with courts with especially high caseloads. These vacancies have been designated as “judicial emergencies” by the Judicial Conference, the policy-making body of the federal judiciary, because each vacancy has existed for a significant period of time and is associated with a court that has caseloads that are considerably higher than normal.

The 7 candidates associated with judicial vacancies that have been designated as “judicial emergencies” are:

- Albert Diaz, nominated to the Fourth Circuit Court of Appeals (North Carolina), to the judgeship vacated by Judge William Wilkins on July 1, 2007; this vacancy has existed for 1237 days.
- Kimberly Mueller, nominated to the Eastern District of California, to the judgeship vacated by Judge Frank C. Damrell on January 1, 2009; this vacancy has existed for 1091 days and is located in the federal district court with the highest caseload in the nation.
- Raymond Lohier, nominated to the Second Circuit Court of Appeals (New York), to the judgeship vacated by Justice Sonia Sotomayor on August 6, 2009; this vacancy has existed for 470 days.
- John A. Gibney, nominated to the Eastern District of Virginia, to the judgeship vacated by Judge Robert E. Payne on May 7, 2007; this vacancy has existed for 1293 days.
- Susan R. Nelson, nominated to the District Court of Minnesota, to the judgeship vacated by Judge James R. Rosenbaum on October 26, 2009; this vacancy has existed for 389 days.
- Mary H. Murguia, nominated to the Ninth Circuit Court of Appeals (Arizona), to the judgeship vacated by Judge Michael Daly Hawkins on February 12, 2010; this vacancy has existed for 280 days.
- Carlton W. Reeves, nominated to the Southern District Court of Mississippi, to the judgeship vacated by Judge William Henry Barbour, Jr. on February 4, 2006; this vacancy has existed for 1748 days, the longest period of any of these seven candidates.

The Federal Bar Association as a matter of policy takes no position on the credentials or qualifications of specific nominees to the federal bench. The FBA’s foremost interest lies in the assurance of prompt, dispositive action by the President in nominating qualified federal judicial candidates and the Senate in either confirming or not confirming them in a prompt manner. Such action will ultimately reduce the number of vacancies to a more tolerable level.

The Federal Bar Association firmly believes that all judicial candidates, once cleared by the Senate Judiciary Committee, deserve a prompt up-or-down vote by the Senate. Swift action is particularly needed on those candidates associated with federal circuit and district courts whose caseloads are in emergency status. We urge the Senate to vote upon these pending nominees before the end of the current legislative session.

Thank you for your support of the nation's federal court system and your consideration of our views.

Sincerely yours,

A handwritten signature in black ink that reads "Ashley L. Belleau". The signature is written in a cursive, flowing style.

Ashley L. Belleau

cc: Senator Patrick Leahy
Senator Herb Kohl
Senator Dianne Feinstein
Senator Russ Feingold
Senator Charles E. Schumer
Senator Richard J. Durbin
Senator Benjamin L. Cardin
Senator Sheldon Whitehouse
Senator Amy Klobuchar
Senator Chris Coons
Senator Arlen Specter
Senator Al Franken
Senator Jeff Sessions
Senator Orrin G. Hatch
Senator Chuck Grassley
Senator Jon Kyl
Senator Lindsey Graham
Senator John Cornyn
Senator Tom Coburn