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**Federal Bar Association**

# **FBA CAPITOL HILL DAY HANDBOOK**

## **FINAL VERSION**

### **MARCH 21, 2019**

# CAPITOL HILL DAY HANDBOOK

## TABLE OF CONTENTS

Table of Contents .....	2
Schedule and Getting to Capitol Hill .....	3
Registrant Roster .....	10
Preparing for Capitol Hill Day and General Information .....	13
Issues Brief and Meeting Talking Points.....	31
Federal Judiciary Funding .....	36
Judicial Vacancies .....	41
Additional Federal Judgeships .....	64
Establishing an Article I Immigration Court ... ..	70
FBA Foundation Charter Amendments Act .....	79

**CAPITOL HILL DAY SCHEDULE**  
**AND**  
**GETTING TO CAPITOL HILL**



# Federal Bar Association

4

## FBA CAPITOL HILL DAY THURSDAY, MARCH 21, 2019

### Schedule

- 8:00 – 9:00 am**      **Continental Breakfast, Kickoff and Group Photo  
Ritz Carlton Hotel, Salon 1**
- 9:00 am**              **Depart for Meetings with House and Senate Offices**
- 10:00 am – 3:30 pm**   **Meetings with Senate and House Offices  
Delegates are responsible for scheduling their meetings**
- Lunch**                **On Your Own**
- Meetings with Senate and House Offices Continue**
- 4:00 – 5:00 pm**      **Debriefing on Congressional Meetings  
902 Hart Senate Office Building**

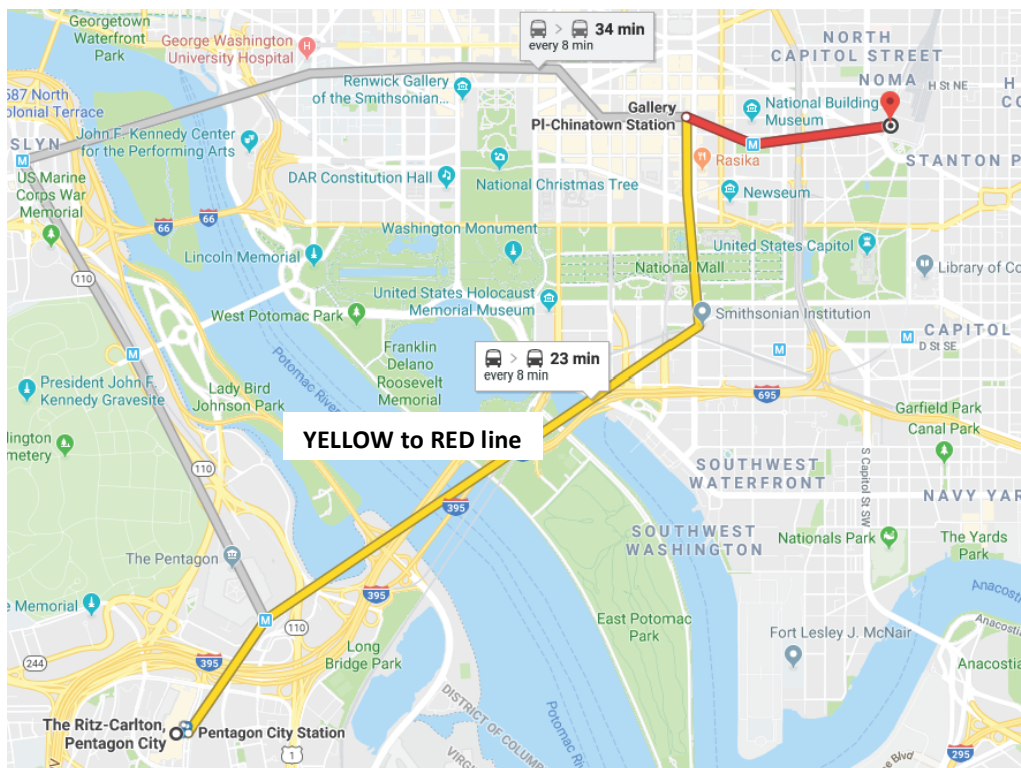
## Getting to Capitol Hill Day (CHD) 2019

**Thursday March 21, 2019**

### CHD Kickoff

- The CHD kickoff meeting will be held at the Ritz-Carlton Pentagon City in Salon 1 from 8:00 a.m. to 9:00 a.m.
- Continental Breakfast will be provided.
- CHD Attendees should plan to leave the Ritz-Carlton at 9:00 a.m.
- Metro Cards\* will be provided to attendees who plan to get to Capitol Hill by Metro.

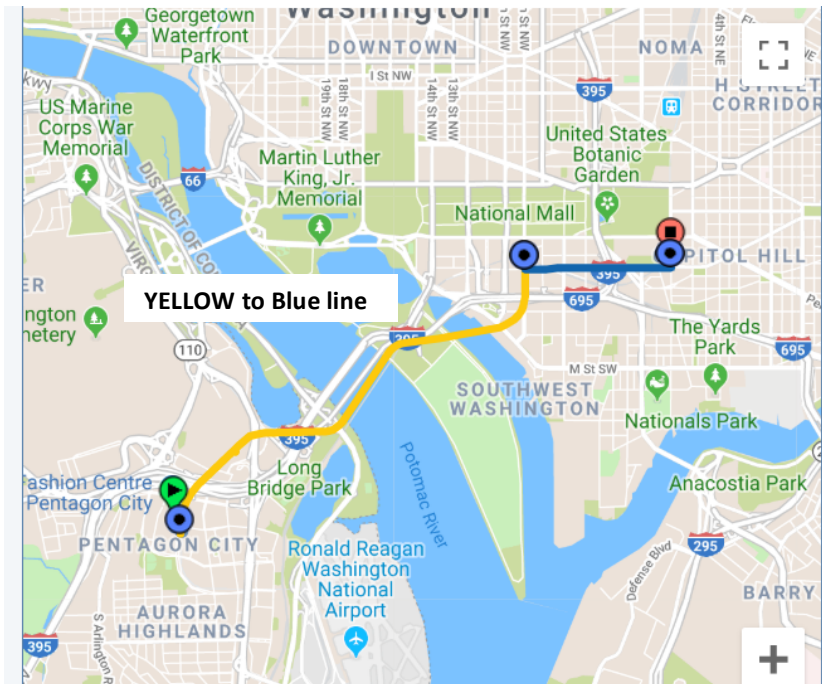
### METRO: Directions from Pentagon City Metro to Union Station (Senate Side)



- The Ritz Carlton is located directly above the Metro; Follow the signs to the **Pentagon City Metro Station**.
- Take the YELLOW line traveling in the direction of Mount Vernon Square/Fort Totten to **Gallery Place-Chinatown Station** (4 stops). Transfer to the RED line traveling in the direction of Silver Spring/Glenmont and exit at **Union Station** (2 stops).

\*One-way metro fare is \$2.65.

## METRO: Directions from Pentagon City Metro to Capitol South Metro Station (House Side)



- The Ritz Carlton is located directly above the Metro; Follow the signs to the **Pentagon City Metro Station**.
- Take the **YELLOW** line traveling in the direction of Mount Vernon Square/Fort Totten to **L'Enfant Plaza Metro Station**. (2 stops). Transfer to the **BLUE, ORANGE OR SILVER** line traveling in the direction of Largo Town Center OR New Carrollton and exit at **Capitol South Metro Station** (2 stops). Total trip time approx. 21 minutes.

*\*One-way metro fare is \$2.45.*

### Alternate transportation to Capitol Hill:

- Taxicabs are also available from the Ritz-Carlton Pentagon City to Capitol Hill. \*Estimated fare: \$18-\$20.
- Uber: *Estimated Fares* from Ritz Carlton, 1250 South Hayes Street to Capitol Hill, 2<sup>nd</sup> Street: Pool \$9.08, UberX \$12.70, UberXL \$20.05

## Afternoon CHD Debrief:

Capitol Hill Day afternoon debrief takes place in Room 902 of the Senate Hart Building, 4:00 p.m.-5:00 p.m. SH-902 will be available for attendees as soon as 3:00 p.m. and until 6:00 p.m. Drinks and snacks will be provided to CHD attendees.



CHD debrief ROOM  
Senate Hart 902

# U.S. CAPITOL Visitor Center



**Legend**

	Accessible Entrance		Elevators
	Accessible Route		Parking
	Visitor Services Shuttle		Bus Pick-Up
	Circulator Bus Stop		Bus Drop-Off
			Metro Station

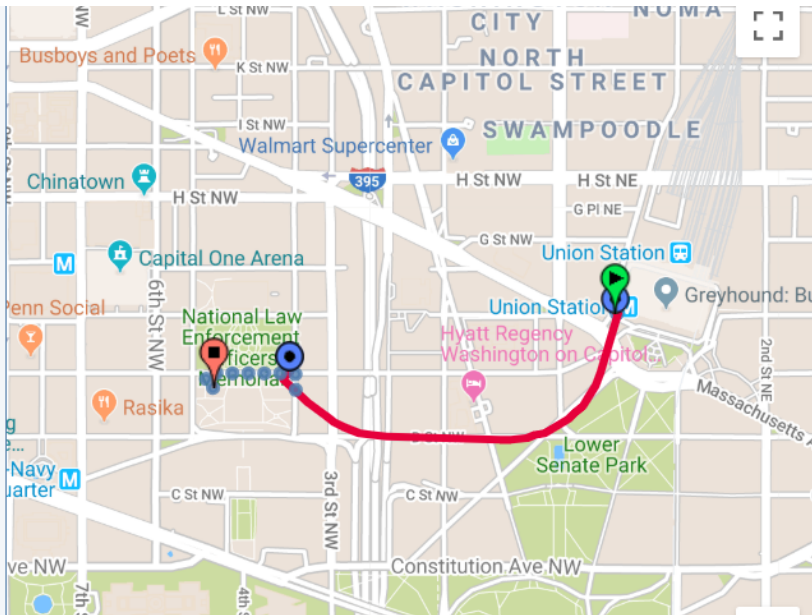


Union Station Metro  
(Senate side)

CHD debris  
SH902

Capitol South Metro Station  
(House side)

## **METRO: Directions from Union Station to the Court of Appeals for the Armed Forces (Moot Court Final Round and Evening Reception)**



From **Union Station Metro** take the Red Line in the direction of Shady Grove. Exit at the Judiciary Sq. Metro Station (1 stop). The U.S. Court of Appeals for the Armed Forces is on 450 E St., NW, a short walk from Judiciary Sq. Metro Station.

**CAPITOL HILL DAY  
REGISTRANT ROSTER**

2019 Capitol Hill Day Participant List

Full Name	First Name	Last Name	City	State	Circuit	Chapter	Email
Ms. Juliet Davison	Juliet	Davison	Boston	MA	1	Massachusetts Chapter	juliet@davidsonlawllc.com
Mr. Robert M. Farrell	Robert	Farrell	Boston	MA	1	Massachusetts Chapter	rob_farrell@mad.uscourts.gov
Mr. Matthew C Moschella	Matthew	Moschella	Boston	MA	1	Massachusetts Chapter	mcmoschella@sherin.com
Mr. Nathan A Olin	Nathan	Olin	Northampton	MA	1	Massachusetts Chapter	nate@oliplaw.com
Mr. Erika Paula Reis	Erika	Reis	Boston	MA	1	Massachusetts Chapter	erika.reis@boston.gov
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2019 Capitol Hill Day Participant List

<u>Full Name</u>	<u>First Name</u>	<u>Last Name</u>	<u>City</u>	<u>State</u>	<u>Circuit</u>	<u>Chapter</u>	<u>Email</u>
Ms. Brenda Weksler	Brenda	Weksler	Las Vegas	NV	9	Nevada Chapter	Brenda_Weksler@fd.org
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**PREPARING FOR CAPITOL HILL DAY  
AND  
GENERAL INFORMATION**

## PLANNING AHEAD FOR CAPITOL HILL DAY

- Please review these FBA briefing materials in advance of your arrival in Washington, DC, and bring them (or a subsequent version) along with you to Washington. They've been prepared for best use in a 3-ring binder. Sufficient copies of the FBA Issue Brief will be provided to you at the CHD Kick-Off for use in your meetings.
- CHD advocates are responsible for scheduling their meetings with House and Senate offices. In scheduling your meetings, assume a meeting will last approximately 15-30 minutes. All meetings should be coordinated among multiple CHD advocates from the same state to assure adequate coverage and to prevent duplicative coverage. A current list of CHD registrants is included in these briefing materials.
- Contact your Chief Judge in advance of CHD to let him/her know of your efforts. Get the CJ's feedback on important topics. Coordinate that inquiry with other judges as appropriate.
- Be sensitive to whether your Congressional lawmakers are members of the House Judiciary Committee (which oversees the operation of the federal courts) or the Senate Judiciary Committee (which oversee judicial nominations and federal court operations) or the House or Senate Appropriations Committees for Financial Services (which oversee funding for the federal courts). Membership rosters of these committees are included in these briefing materials.
- Arrange the meeting with the "scheduler" in the lawmaker's office. Refrain from making a scheduling request on the lawmaker's website. Provide the scheduler with a point-of-contact for your delegation and make sure that POC can immediately reach all members of the delegation, in the event the lawmaker's schedule changes suddenly.
- Check the weather before departing and pack accordingly; regardless be sure to bring along comfortable shoes. You will be doing a lot of walking.
- Consider sightseeing on Capitol Hill during down time during your meeting schedule (Capitol Visitors Center; Library of Congress; Supreme Court; Union Station)
- Take notes during your Capitol Hill meetings; these will be helpful for the debriefing and for follow-up. Also, take photos of your visits with lawmakers for chapter/section newsletters and *The Federal Lawyer*.
- Send thank you notes to Congressional lawmakers/staff with whom you met.
- Brief your chapter and your Chief Judge/judges on your visits and any necessary follow-through.

**FBA 2019 CAPITOL HILL DAY  
MODEL SCHEDULING REQUEST**

Dear [Name of Scheduler]:

I'm writing to request a meeting with [Lawmaker's Name] on Thursday, March 21, 2019 in my capacity as [designated FBA title], along with other members of the Federal Bar Association from [State Name]. The Federal Bar Association is the foremost professional organization of lawyers and judges associated with our federal court system.

We would like to discuss the state of the federal courts in our federal judicial district and state, along with judicial vacancies and the need for adequate federal court resources.

My colleagues and I will be available to meet at [Identify time or window of time] on March 21. We are aware that Congress will be in recess that week. In the event that [Lawmaker's Name] is unavailable, we would appreciate the opportunity to meet a staff member associated with Federal Judiciary issues.

Thank you for your assistance in arranging this meeting.

Sincerely,

[Name]

## Meeting with Your Member of Congress or Staff Member Do's and Don'ts

### Do

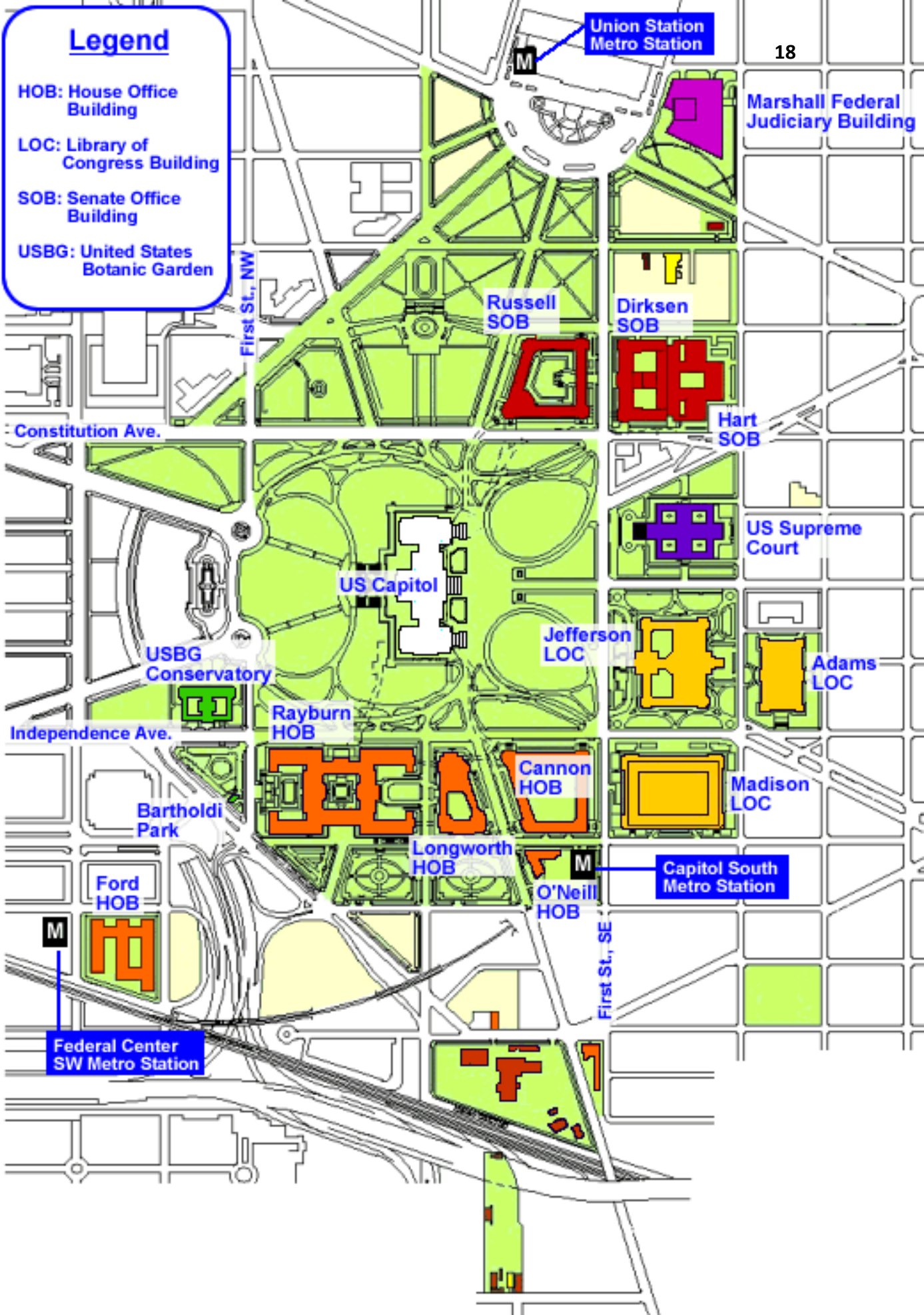
- Remember that time is precious. All meetings should be “short and sweet.” Get to the point soon and focus on your issues.
- Identify yourself as a constituent (if appropriate) and indicate where you live and work. Briefly explain your association with FBA and FBA's mission.
- Connect FBA's issues to your personal experience. Get the legislator or staffer to talk about his or her association with the federal courts.
- Explain in simple and straightforward terms the logic supporting your position.
- The most effective logic involving the filling of judicial vacancies involves the cost of delay, and the magnitude of the cost -- how many people and businesses will be affected.
- The most effective logic involving funding for the federal courts similarly involves the impact of lesser resources and the costs of judicial delay.
- Leave behind the FBA Issues Brief.
- Directly ask the legislator for support.
- Smile, exercise courtesy and respect at all times. Remember to thank the lawmaker for the opportunity to meet and send a thank-you email for the meeting afterwards, confirming any pledges of support or commitments made by the legislator.
- Honor any request for follow-up information.
- Get the business card of the staffer with whom you met and use that contact information for follow-up communication with the lawmaker or staff member.

## Don't

- Don't stray from our central message and talking points.
- If you're not sure of an answer to a question, offer to get back to the lawmaker or staffer with an answer.
- Keep the discussion as non-partisan as possible. Keep the conversation away from campaign financing or political contributions.
- Don't talk about your political opinions on other issues or other politicians.
- Don't threaten or suggest that you'll pursue any negative action if the legislator disagrees with your position.
- Don't linger. If the legislator has informed you of his or her position and your allotted time is up, don't spend unnecessary time on the issue. Just say, "We very much appreciate your support and will do our best to make sure that other folks in the district know where you stand" and conclude the meeting.
- Don't ignore requests for more information. Be sure to follow-up with information that builds credibility for you as a "trusted resource" and keep you involved in the process.

## Legend

- HOB: House Office Building
- LOC: Library of Congress Building
- SOB: Senate Office Building
- USBG: United States Botanic Garden



18

Union Station  
Metro Station

Marshall Federal  
Judiciary Building

Russell  
SOB

Dirksen  
SOB

Hart  
SOB

Constitution Ave.

US Capitol

US Supreme  
Court

USBG  
Conservatory

Jefferson  
LOC

Adams  
LOC

Independence Ave.

Rayburn  
HOB

Cannon  
HOB

Madison  
LOC

Bartholdi  
Park

Longworth  
HOB

O'Neill  
HOB

Capitol South  
Metro Station

Ford  
HOB

Federal Center  
SW Metro Station

First St., SE

## Lunch Options on Capitol Hill

### House Side of the Capitol

**Longworth Cafeteria** – Longworth House Office Building, Basement – cafeteria style food and service, including pizza, hamburgers, cold salad bar, deli sandwiches and wraps, and a global food table. Large seating area. \*This is the largest eatery on the House side.

**Cannon Carry Out** – Cannon House Office Building, Basement – hamburgers, deli sandwiches; very limited seating.

**Rayburn House Cafeteria** – Rayburn House Office Building, Basement – cafeteria style food, including salad bar (hot and cold), deli sandwiches and wraps.

### Senate Side of the Capitol

**Dirksen Cafeteria** – Dirksen Senate Office Building, Basement – cafeteria style food and service, including pizza, hamburgers, cold salad bar, and deli sandwiches and wraps. Large seating area. \*This is the largest eatery on the Senate side.

**Cups** – Russell Senate Office Building, Basement – sandwiches and salad bar (hot and cold); very limited seating.

**Hart Senate Chef** – Dirksen/Hart Senate Office Buildings Connecting Corridor, Ground floor – sandwiches; limited seating.

### Capitol Visitor Center, In the Capitol

Contains two large cafeterias open to the public, featuring soups, salads, specialty entrées, pizzas, sandwiches, desserts, and beverages. Lower level of the CVC. Large seating area.

House Side of the Capitol	Senate Side of the Capitol
Burrito Brothers 205 Pennsylvania Ave SE, 202-543-6835 Burritos; very limited seating.	Union Station 50 Massachusetts Ave NE Various. Contains a food court as well as several fast food and sit down restaurants.
Bullfeathers 410 1st St SE, 202-484-0228 Burgers, sandwiches; no reservations accepted.	La Loma 316 Massachusetts Ave NE, 202-548-2550 Mexican.
Congressional Deli 402 1st St SE, 202-547-1600 Sandwiches; no seating.	The Monocle 107 D St NE, 202-546-4488. Seafood, meat; reservations highly suggested.
Cosi 301 Pennsylvania Ave SE Sandwiches, pizza, salads; limited seating.	Subway 236 Massachusetts Ave, NE 202-544-2522 Sandwiches
Good Stuff Eatery 303 Pennsylvania Ave SE, 202-543-8222 Burgers, no reservations accepted.	Union Pub 201 Massachusetts Ave NE, 202-546-7200 American.
Hawk and Dove 329 Pennsylvania Ave SE, 202-543-3300 American, burgers.	
Hunan Dynasty 215 Pennsylvania Ave SE, 202-546-6161 Chinese.	
La Lomita Dos 308 Pennsylvania Ave SE, 202-544-0616 Mexican.	



# House Committee on the Judiciary

## Chairperson



**Rep. Jerry Nadler**

New York

## Ranking Member



**Rep. Doug Collins**

Georgia

## Member Breakdown

D 24 Democrats

R 17 Republicans

SNAPSHOT

HEARINGS

MARKUP COVERAGE

DOCUMENTS

LEGISLATION

MEMBERS

CONTACTS

## MAJORITY MEMBERS



**Jerry Nadler (D-NY-10)**

Chairman, House Committee on the Judiciary

Contact

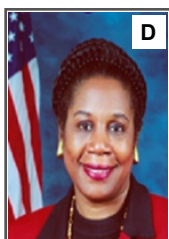
<http://nadler.house.gov/>



**Zoe Lofgren (D-CA-19)**

Contact

<https://lofgren.house.gov/>



**Sheila Jackson Lee (D-TX-18)**

Contact

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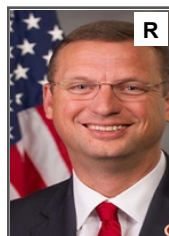


**Steve Cohen (D-TN-09)**

Contact

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## MINORITY MEMBERS



**Doug Collins (R-GA-09)**

Ranking Member, House Committee on the Judiciary

Contact

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**Jim Sensenbrenner (R-WI-05)**

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**Steve Chabot (R-OH-01)**

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**Louie Gohmert (R-TX-01)**

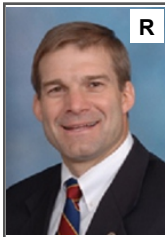
Contact

<http://gohmert.house.gov/>



**D** **Hank Johnson (D-GA-04)**

Contact  
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**R** **Jim Jordan (R-OH-04)**

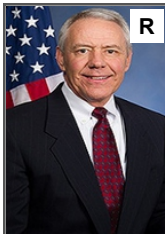
Contact  
<http://jordan.house.gov/>

21



**D** **Ted Deutch (D-FL-22)**

Contact  
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**R** **Ken Buck (R-CO-04)**

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**D** **Karen Bass (D-CA-37)**

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**R** **John Ratcliffe (R-TX-04)**

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**D** **Cedric Richmond (D-LA-02)**

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**R** **Martha Roby (R-AL-02)**

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**R** **Matt Gaetz (R-FL-01)**

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**D** **David Cicilline (D-RI-01)**

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**R** **Mike Johnson (R-LA-04)**

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**D** **Eric Swalwell (D-CA-15)**

Contact



**R** **Andy Biggs (R-AZ-05)**

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D

**Ted Lieu (D-CA-33)**

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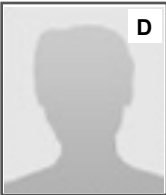
D



**Jamie Raskin (D-MD-08)**

Contact  
<https://raskin.house.gov/>

D



**Pramila Jayapal (D-WA-07)**

Contact  
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D



**Val Demings (D-FL-10)**

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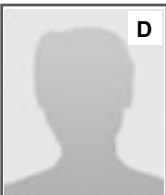
D



**Lou Correa (D-CA-46)**

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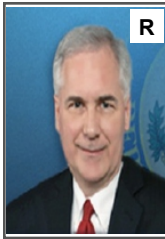
D



**Mary Gay Scanlon (D-PA-05)**

Vice Chair, House  
Committee on the Judiciary  
Contact  
<https://scanlon.house.gov/>

R



**Tom McClintock (R-CA-04)**

22

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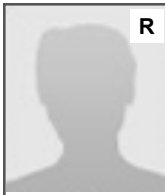
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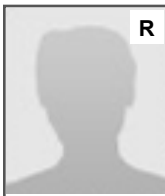
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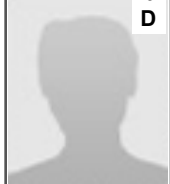
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R



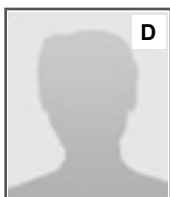
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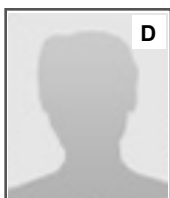
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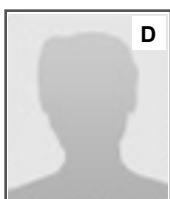
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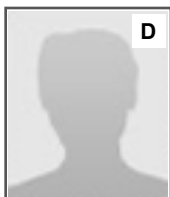
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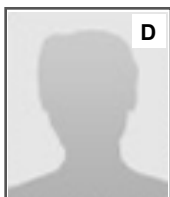
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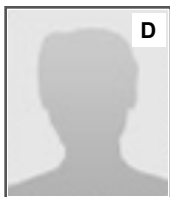
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# House Subcommittee on Financial Services and General Government

## Chairperson



**Rep. Mike Quigley**

Illinois

## Ranking Member



**Rep. Tom Graves**

Georgia

## Member Breakdown

D 6 Democrats

R 4 Republicans

SNAPSHOT

HEARINGS

LEGISLATION

MEMBERS

CONTACTS

## MAJORITY MEMBERS



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Chairman, House Subcommittee on Financial Services and General Government

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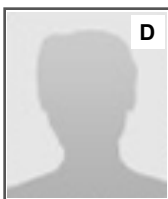
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## MINORITY MEMBERS



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**Nita Lowey (D-NY-17)**

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# Senate Committee on the Judiciary

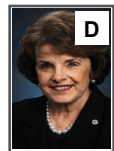
## Chairperson



**Sen. Lindsey Graham**

South Carolina

## Ranking Member



**Sen. Dianne Feinstein**

California

## Member Breakdown

D 10 Democrats

R 12 Republicans

SNAPSHOT

HEARINGS

MARKUP COVERAGE

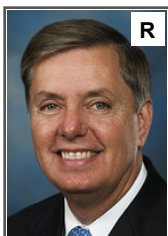
DOCUMENTS

LEGISLATION

MEMBERS

CONTACTS

## MAJORITY MEMBERS

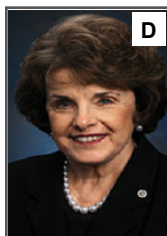


**Lindsey Graham (R-SC)**

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## MINORITY MEMBERS



**Dianne Feinstein (D-CA)**

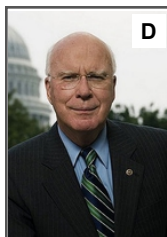
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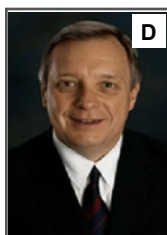
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**John Cornyn (R-TX)**

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**Dick Durbin (D-IL)**

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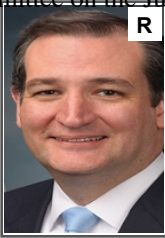
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# Senate Subcommittee on Financial Services and General Government

## Chairperson



**Sen. John Kennedy**

Louisiana

## Ranking Member



**Sen. Chris Coons**

Delaware

## Member Breakdown

D 5 Democrats

R 6 Republicans

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## MAJORITY MEMBERS



**John Kennedy (R-LA)**

Chairman, Senate Subcommittee on Financial Services and General Government

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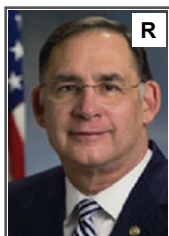
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## MINORITY MEMBERS

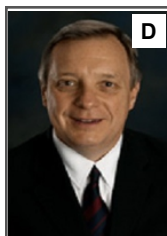


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**Joe Manchin (D-WV)**

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**Chris Van Hollen (D-MD)**

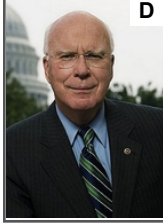
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<https://vanhollen.senate.gov/>



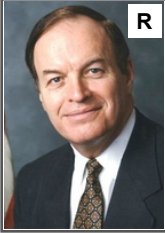
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**Patrick Leahy (D-VT) 30**

Ex-Officio, Senate  
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**Richard Shelby (R-AL)**

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**ISSUES BRIEF  
AND  
MEETING TALKING POINTS**



## 2019 Public Policy Priorities

### **Our Federal Courts Need Adequate Funding**

The Federal Bar Association supports the Federal Judiciary's FY 2020 budget request and urges Congress to provide sufficient funding to permit the Judiciary to fulfill their Constitutional and statutory responsibilities.

The Judiciary's FY 2020 budget request of \$7.6 billion in discretionary appropriations reflects an increase of 4.9 percent above the fiscal year 2019 appropriation. The funding will maintain current services across the Judiciary, and sustain progress on ongoing initiatives and fund new priority investments, including the Judiciary's defender services.

Funding for the Federal Judiciary, a coordinate branch of our Federal government, represents two-tenths of one penny of a taxpayer's dollar.

### **Judicial Vacancies and the Need for Prompt Action in Filling Them**

There are historically high levels of vacancies on the Federal appellate and district court bench that require prompt attention by the President and the Senate. In mid-March 2019, there were 140 Article III vacancies, including 11 appeals and 129 district court vacancies. High numbers of vacancies on the Federal bench harm the delivery of justice, the economic interests of litigants before the courts, and public respect for the efficiency our judicial system.

The Federal Bar Association calls upon the President and Congress to act promptly and responsibly in nominating and confirming well-qualified nominees to the Federal appellate, district and specialty courts. The President and the Senate have a Constitutional obligation to assure that the Federal courts are staffed with sufficient numbers of judges to promptly administer justice. The Federal Bar Association also invites home-state Senators to call upon FBA chapters in their states to assist in appropriate ways to identify well-qualified candidates to the federal bench.

The FBA's interest lies in the assurance of prompt, dispositive action by the President in nominating federal judicial candidates and the Senate in confirming (or not confirming) them. As a matter of policy, the FBA takes no position on the credentials or qualifications of specific nominees to the Federal bench.

### **Growing Caseloads in our Federal Courts Require More Judgeships**

The Federal Bar Association encourages the Congress to add additional permanent judgeships to the courts of appeals and the district courts. Since the last comprehensive judgeship legislation was enacted in 1990, almost 30 years ago, the number of cases filed in the courts of appeals has increased by 15

percent and the number of cases filed in the district courts has increased by 39 percent. Civil filings have increased by 34 percent and the number of criminal felony defendants has increased 60 percent since 1991. During this period there has been only a four percent increase in judgeships, the last permanent judgeships having been created in 2002. The Judicial Conference of the United States anticipates sending its biennial recommendations on judgeships to the Congress later this spring.

The need for judgeships has created enormous difficulties for some federal courts. Several district courts continue to struggle with extraordinarily high and sustained workloads. The severity of conditions in the New Jersey, District of Delaware, the Eastern District of California, the Southern District of Indiana, the Western District of Texas and the Northern and Southern Districts of Florida require immediate attention. The Federal Bar Association urges Congress to establish judgeships in those districts as soon as possible.

### **Congress Should Establish an Independent Immigration Court**

There is broad consensus that our system for adjudicating immigration claims is broken and deserves systemic overhaul. Hiring more immigration judges, while urgent, will not address the longstanding management and operational deficiencies within the Executive Office for Immigration Review (EOIR) in the Department of Justice. Since 2013 the Federal Bar Association has urged Congress to replace EOIR with establish an independent “United States Immigration Court” to serve as the principal adjudicatory forum under title II of the Immigration and Nationality Act. The June 2017 Government Accountability Office (GAO) report reported that a majority of immigration court experts and stakeholders favored EOIR replacement with an independent Article I immigration court. Establishing a specialty court would replace an overstuffed, bloated bureaucracy with a new structure, modeled on the federal courts, their case management expertise, and demonstrated record for delivering prompt, effective justice. Cheaper, faster, better justice is possible through an Article I immigration court.

### **Support for Foundation of the Federal Bar Association Charter Amendments Legislation**

The FBA urges Congress to pass the bipartisan Foundation of the Federal Bar Association Charter Amendments Act, H.R. 1663. This measure, introduced by Rep. Steve Chabot (R-OH) and cosponsored by Rep. Jamie Raskin (D-MD), would make technical changes in the federal charter of the Foundation of the Federal Bar Association, as granted by Congress in 1954. It would permit the Foundation to better fulfill its role as the only institution in America chartered by Congress to promote the federal administration of justice, the advancement of federal jurisprudence and the practice of law in the federal courts.

### **About the FBA**

The Federal Bar Association is the foremost national bar association devoted exclusively to the practice and jurisprudence of Federal law and the vitality of the United States Federal court system. Nearly 20,000 lawyers and judges belong to the Association.

Contact Bruce Moyer, Counsel for Government Relations to the Federal Bar Association  
Email: [grc@fedbar.org](mailto:grc@fedbar.org) Phone: 301-452-1111

## SUGGESTED TALKING POINTS FOR CONGRESSIONAL MEETINGS

**THANK YOU** ... for meeting with us and for your interest in the federal courts.

Let me first explain who we are and why we're here:

I'm an attorney with \_\_\_\_\_. ***[Talk a little about your practice and its relationship to the Federal courts. Also identify the local district court and the circuit with which you are associated.]***

I'm on the Hill today, along with FBA leaders from across the country, to educate Congressional offices about the need for Congressional action that addresses 5 areas:

- The Federal court system's funding needs
- Judicial vacancies and the need for prompt action by the President and the Senate
- Additional judgeships in high-caseload districts and circuits
- The need for a specialty Article I immigration court, and
- Updating the FBA Foundation's Congressional charter

### **First, on the Funding Needs of the Federal Court System**

We appreciate the funding support Congress has provided to the Federal courts in recent years. Looking ahead to FY 2020, we're urging Congress to approve the Judiciary's 2020 request of \$7.6 billion in discretionary appropriations, which reflects a 4.9 percent increase above 2019 levels.

Our constitutional system of government cannot function if the judicial branch is insufficiently resourced. Funding for the Federal Judiciary, a coordinate branch of our Federal government, represents two-tenths of one penny of a taxpayer's dollar.

The Federal courts have undertaken actions to contain costs and implement more efficient ways to administer justice. ***[Add examples of cost-containment in your district/circuit courts, including stewardship in use of courtrooms and resources.]***

### **Second, Judicial Vacancies in our Federal Courts Need to Be Promptly Filled**

We look to the President and the Senate to uphold their Constitutional obligation to assure that the courts are sufficiently staffed with qualified judges to promptly administer justice.

The FBA is nonpartisan and doesn't endorse or evaluate judicial nominees. But we are concerned about the large numbers of judicial vacancies that exist -- nearly 140 vacancies in our district and appellate courts, representing 16 percent of the Article III judiciary. Eighty-seven of the current vacancies are in some of the nation's busiest courts and are considered "judicial emergencies" by the Federal Judiciary.

Vacancies are harmful to the administration of justice and the nation's economy.

***[Discuss current or future vacancies, including judicial emergencies, that exist in your district/circuit and the current state of nominations.]***

***Ask about your current Home State Senator process for soliciting nominations and vetting candidates – and how the FBA can be helpful.]***

### **Third, Growing Caseloads in Our Courts Require More Judgeships**

The last comprehensive judgeship legislation was enacted in 1990, almost 30 years ago. Since then, the number of cases filed in the circuit courts and district courts increased by 15 percent and 39 percent. During this period there has been only a four percent in judgeships, with the last permanent judgeships created in 2002. The Judicial Conference of the United States will send its biennial recommendations on judgeships to Congress later this spring.

This situation has created enormous difficulties for some federal courts. Several district courts are struggling with extraordinarily high workloads. The severity of conditions in the Eastern District of Texas, the Eastern District of California, the Southern District of Indiana, the Western District of Texas and the Southern District of Florida require urgent attention. Current judges (including senior judges) and court staff are doing their best to keep up with their caseloads, but Congress needs to authorize additional judgeships.

### **Congress Should Establish an Article I Immigration court**

There is broad consensus that our government's system for adjudicating immigration claims is broken and deserves systemic overhaul. There are more than 900,000 immigration cases awaiting hearing by the Executive Office for Immigration Review (EOIR) within DOJ. Hiring more immigration judges alone will not address longstanding management and operational deficiencies within EOIR.

The Federal Bar Association believes cheaper, faster, better justice is possible through an Article I "United States Immigration Court" that would replace EOIR. The FBA has drafted model legislation to establish an Article I immigration court and welcomes the opportunity to share more information about the proposal with Congress and stakeholders.

### **Foundation of the Federal Bar Association Charter Amendments Legislation**

The Foundation of the FBA was chartered by Congress in 1954 to promote the federal administration of justice and the practice of law in the federal courts. Today, technical changes to the Foundation's charter, through legislation, are needed to update the Foundation's governance structure and operations.

We would appreciate your cosponsorship of the bipartisan Foundation of the Federal Bar Association Charter Amendments Act, H.R. 1663, as referred to the House Judiciary Committee. This legislation, introduced by Rep. Steve Chabot (R-OH) and cosponsored by Rep. Jamie Raskin (D-MD), will enable the Foundation to better fulfill its role as the only institution in America chartered by Congress to advance the federal administration of justice.

**We've appreciated this conversation. We would like to remain in touch and be of assistance. (Exchange business cards and plan to follow-up).**

## **FEDERAL JUDICIARY FUNDING**

March 4, 2019

## **SUMMARY OF THE JUDICIARY'S FISCAL YEAR 2020 BUDGET REQUEST**

The Judiciary's FY 2020 budget request of \$7.6 billion in discretionary appropriations reflects a 4.9 percent increase above the assumed FY 2019 appropriation to support the Constitutional and statutory mission of the federal courts.

The request will maintain current services across the Judiciary, sustain progress on several ongoing initiatives, and fund new priority investments needed to support judicial operations.

The Judiciary's request includes funding for six additional magistrate judges to address increased workload in four judicial districts; replacement of two critical information technology systems for financial disclosure reporting and projecting payroll; and telecommunications, security, and other infrastructure at new courthouses and annexes currently under construction. The request fully funds the Judiciary's defender services program, which provides court-appointed counsel to indigent defendants, and includes funding to achieve the statutory maximum non-capital panel attorney rate of \$149 per hour and additional staff for federal defender offices to address increased workload. The request also provides for a sufficient level of security at federal court facilities nationwide by adding new court security personnel and through multi-year efforts to replace aging building access and video security technology. Lastly, the Judiciary's request ensures funds are available for criminal and civil jury trials.

The Judicial Conference is grateful for the funding Congress has provided the Judiciary during the last several fiscal years. The Judicial Conference is hopeful that Congress will continue to make the Judiciary a funding priority for FY 2020. Our constitutional system of government, with separation of powers and checks and balances, can only function as intended if the Judicial Branch is funded adequately. The Judiciary's discretionary request of \$7.6 billion is necessary to fulfill its constitutional duties in FY 2020.

### **Details of the Fiscal Year 2020 Budget Request**

- The Judiciary's FY 2020 appropriations request totals \$8.3 billion. The request includes \$7.6 billion in discretionary appropriations, an increase of \$353.0 million (4.9 percent) over FY 2019 assumed appropriations. The request also includes \$669.8 million in mandatory appropriations, an increase of \$35.2 million above FY 2019 assumed levels.

#### **Discretionary Appropriations**

- A total of \$288.9 million (82 percent) of the \$353.0 million increase requested will provide for pay adjustments, inflation, and other adjustments to base necessary to maintain current services. Of this amount:
  - An increase of \$94.1 million provides for inflationary pay and benefit rate increases for magistrate and claims judges and support personnel, including annualization of FY 2019 pay adjustments, changes in benefits costs, and a wage rate adjustment for court security officers. Consistent with OMB guidance, no 2020 COLA for judges or staff is requested.

- An increase of \$77.1 million is requested for a planned increase to the agency contribution rate to the Federal Employee Retirement System plans for FY 2020 based on OMB guidance.
- An increase of \$35.2 million is necessary to replace non-appropriated sources of funds used to support base requirements in FY 2019 with direct appropriations.
- A net increase of \$31.1 million is associated with changes in the Judiciary's space program.
- An increase of \$24.6 million provides for increases in contract rates and other standard inflationary increases.
- An increase of \$8.9 million is for projected changes in Criminal Justice Act panel attorney workload in the defender services program.
- An increase of \$8.6 million is to annualize new positions assumed to be funded in FY 2019, primarily in the defender services program and for new court security officers.
- An increase of \$7.7 million is associated with additional chambers staff for newly confirmed or appointed judges, and judges taking senior status.
- A net increase of \$7.4 million funds security-related adjustments, including changes to system and equipment requirements and increases in Federal Protective Services charges.
- A net decrease of \$5.8 million for non-recurring costs and other miscellaneous adjustments.
- A total of \$64.1 million (18 percent) of the \$353.0 million increase requested will provide for program changes. Of this amount:
  - An increase of \$21.8 million additional positions in the defender services program, including 190 additional positions in federal defender offices to address workload increases and 21 new positions for program support, cybersecurity, and training.
  - A net increase of \$12.7 million will support infrastructure and security requirements for new courthouse construction projects.
  - An increase of \$11.3 million for multi-year security-related efforts to replace aging and outdated building access systems and video management systems at court facilities nationwide.
  - An increase of \$6.2 million for 103 additional court security officers (CSOs) at new courthouses projected to open in FY 2020/2021 and for continued implementation of the U.S. Marshals Service's CSO staffing formula, and for 11 new district supervisors to support the CSO program.

- An increase of \$6.0 million will fund 6 additional magistrate judge positions and staff in the District of Delaware, District of New Jersey (2), Western District of Texas, and the Northern District of Illinois (2).
- An increase of \$4.5 million for the development of a new financial disclosure reporting system and upgrades to the Judiciary's payroll projection system.
- An increase of \$4.2 million to the Supreme Court Care of Buildings and Grounds account to support infrastructure upgrades requirements for Supreme Court facilities.
- An increase of \$2.2 million provides for a \$7 per hour panel attorney rate increase above inflation for non-capital cases to achieve the statutory maximum hourly rate of \$149.
- An increase of \$0.4 million funds 2 position to expand the Judiciary's Office of Judicial Integrity established in 2018.
- A net decrease of \$5.2 million is associated with a decline of 42 FTE in court support staffing in the courts' Salaries and Expenses account due to changes in projected caseload.

#### Mandatory Appropriations

- A \$35.2 million increase is requested for Judiciary mandatory appropriations, as follows:
  - An increase of \$3.8 million provides for pay adjustments for Article III and bankruptcy judges' salaries, including annualization of the FY 2019 pay adjustment and changes in benefits costs.
  - An increase of \$3.0 million funds salary costs associated with changes in the number of senior judges and filled Article III and bankruptcy judgeships.
  - An increase of \$28.4 million provides for Judiciary retirement trust funds accounts based on requirements calculated by an independent actuary.

**Judiciary Appropriations  
(\$000)**

Discretionary Appropriations Account	FY 2019 Assumed Appropriation	FY 2020 Request	\$ Change FY 2020 vs. FY 2019 Assumed	% Change FY 2020 vs. FY 2019 Assumed
U.S. Supreme Court				
Salaries & Expenses	\$84,703	\$87,699	\$2,996	3.5%
Care of Building and Grounds	<u>\$15,999</u>	<u>\$16,390</u>	<u>\$391</u>	<u>2.4%</u>
Total	\$100,702	\$104,089	\$3,387	3.4%
U.S. Court of Appeals for the Federal Circuit	\$32,016	\$32,983	\$967	3.0%
U.S. Court of International Trade	\$19,450	\$19,930	\$480	2.5%
Courts of Appeals, District Courts, and Other Judicial Services				
Salaries and Expenses - Direct	\$5,154,461	\$5,383,970	\$229,509	
Vaccine Injury Trust Fund	<u>\$8,475</u>	<u>\$9,012</u>	<u>\$537</u>	
Total	\$5,162,936	\$5,392,982	\$230,046	4.5%
Defender Services	\$1,157,390	\$1,234,574	\$77,184	6.7%
Fees of Jurors and Commissioners	\$50,750	\$51,851	\$1,101	2.2%
Court Security	<u>\$607,275</u>	<u>\$641,273</u>	<u>\$33,998</u>	<u>5.6%</u>
Subtotal	\$6,978,351	\$7,320,680	\$342,329	4.9%
Administrative Office of the U.S. Courts	\$92,693	\$96,945	\$4,252	4.6%
Federal Judicial Center	\$29,819	\$30,736	\$917	3.1%
U.S. Sentencing Commission	\$18,548	\$19,265	\$717	3.9%
<b>Direct</b>	<b>\$7,263,104</b>	<b>\$7,615,616</b>	<b>\$352,512</b>	
<b>Vaccine Injury Trust Fund</b>	<b><u>\$8,475</u></b>	<b><u>\$9,012</u></b>	<b><u>\$537</u></b>	
<b>Total Discretionary Appropriations</b>	<b>\$7,271,579</b>	<b>\$7,624,628</b>	<b>\$353,049</b>	<b>4.9%</b>

**Mandatory Appropriations:**

Salaries of Judges <sup>1</sup>	\$422,903	\$429,664	\$6,761	
Judicial Retirement Funds	\$211,700	\$240,100	\$28,400	
<b>Total Mandatory Appropriations</b>	<b>\$634,603</b>	<b>\$669,764</b>	<b>\$35,161</b>	<b>5.5%</b>

<b>Total Judiciary Appropriations</b>	<b>\$7,906,182</b>	<b>\$8,294,392</b>	<b>\$388,210</b>	<b>4.9%</b>
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<sup>1</sup> Mandatory salaries include the salaries of justices of the Supreme Court, judges of the Court of Appeals for the Federal Circuit and Court of International Trade, and Article III and bankruptcy judges funded in the Courts' Salaries and Expenses account. (Magistrate judges and Court of Federal Claims judges are funded by discretionary appropriations.)

## **JUDICIAL VACANCIES**

**ADVICE ON PREPARATORY AND MEETING QUESTIONS  
ABOUT THE JUDICIAL VACANCY AND NOMINATION PROCESS**

Be sure to know the answers to the following questions prior to and coming out of each meeting you have with a Congressional office, whether it's a House or Senate office, mindful of the larger role that Senators play in the nomination and confirmation process.

**Preparatory Questions**

Is the lawmaker on the Judiciary Committee?

Is the lawmaker on the Appropriations Committee?

Are there judicial vacancies in my district/state/circuit?

What is the state of play of nominations to existing vacancies?

Are there any future judicial vacancies arising soon?

**Meeting Questions**

If there are current or future judicial vacancies, what is the lawmaker's role in the nomination process?

What is the current status of the home state senator nomination process for vacancies in my state? What is the timeline?

How can the FBA be helpful in nonpolitical ways in connection with the current nomination process?

# Judicial Vacancies

*Find a summary of current and future judicial vacancies, and links to pages that provide full listings of the different types of vacancies.*

\* Judges in territorial courts (Virgin Islands, Guam, and Northern Mariana Islands) and the U.S. Court of Federal Claims are Article I judges with term appointments.

## Judicial Vacancies

Last updated on 03/10/2019

Court	Authorized Judgeships	Vacancies	Nominees Pending	Nominees Pending for Future Vacancies
US Court of Appeals	179	12	9	0
US District Courts (includes territorial courts*)	677	129	50	0
US Court of International Trade	9	3	2	0
US Court of Federal Claims*	16	11	4	0
US Supreme Court	9	0	0	0
Total	890	155	65	0

### **Data on Judicial Vacancies**

The following pages provide data on current judicial vacancies in the federal courts, as reported on the federal judiciary's website on March 10, 2019.

We encourage you to check the judiciary's website, just prior to Capitol Hill Day, for the latest data on vacancies, future vacancies and judicial emergencies at:

<https://www.uscourts.gov/judges-judgeships/judicial-vacancies>

Click on the tabs on the left hand side of the page for the current data sets.

# Judicial Vacancies

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## Judicial Vacancies

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US Supreme Court	9	0	0	0
Total	890	155	65	0

# Current Judicial Vacancies

*This table contains a listing of current judicial vacancies by court. The name of the incumbent, the reason for the vacancy, the vacancy date, the nominee (if applicable), and the nomination date.*

Vacancies in the Federal Judiciary

116th Congress

Last updated on 03/10/2019

Total Vacancies: 155

Total Nominees Pending: 65

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
01 - MA	O'Toole Jr.,George A.	Senior	01/01/2018		
01 - MA	Woodlock,Douglas P.	Senior	06/01/2015		
01 - PR	Garcia-Gregory,Jay A.	Senior	09/30/2018		
01 - PR	Fuste,Jose Antonio	Retired	06/01/2016	Arias-Marxuach,Raul M.	01/23/2019
01 - RI	Lisi,Mary M.	Senior	10/01/2015		
02 - CCA	Raggi,Reena	Senior	08/31/2018	Bianco,Joseph F.	01/23/2019
02 - CCA	Lynch,Gerard E.	Senior	09/05/2016	Park,Michael H.	01/23/2019
02 - CT	Thompson,Alvin W.	Senior	08/31/2018		
02 - NY-E	Feuerstein,Sandra J.	Senior	01/21/2015		
02 - NY-E	Gleeson,John	Resigned	03/09/2016		
02 - NY-E	Vitaliano,Eric N.	Senior	02/28/2017		
02 - NY-E	Amon,Carol Bagley	Senior	11/30/2016		
02 - NY-N	Sharpe,Gary L.	Senior	01/01/2016	Marcelle,Thomas	01/23/2019
02 - NY-S	Forrest,Katherine B.	Resigned	09/11/2018		
02 - NY-S	Sullivan,Richard J.	Elevated	10/11/2018		
02 - NY-S	Pauley III,William H.	Senior	03/01/2018		

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
02 - NY-S	Preska,Loretta A.	Senior	03/01/2017		
02 - NY-S	Crotty,Paul A.	Senior	08/01/2015		
02 - NY-S	Castel,P. Kevin	Senior	08/05/2017	Halpern,Philip M.	01/23/2019
02 - NY-W	Skretny,William M.	Senior	03/08/2015		
03 - CCA	Vanaskie,Thomas I.	Senior	11/30/2018		
03 - CCA	Fuentes,Julio M.	Senior	07/18/2016	Matey,Paul B.	01/23/2019
03 - NJ	Simandle,Jerome B.	Senior	05/31/2017		
03 - NJ	Kugler,Robert B.	Senior	11/02/2018		
03 - NJ	Hochberg,Faith S.	Retired	03/06/2015		
03 - NJ	Sheridan,Peter G.	Senior	06/14/2018		
03 - NJ	Martini,William J.	Senior	02/10/2015		
03 - PA-E	Stengel,Lawrence F.	Retired	08/31/2018		
03 - PA-E	Davis,Legrome D.	Senior	09/28/2017		
03 - PA-E	Slomsky,Joel H.	Senior	10/09/2018		
03 - PA-E	Gardner,James Knoll	Senior	04/03/2017	Wolson,Joshua	01/23/2019
03 - PA-E	McLaughlin,Mary A.	Senior	11/18/2013	Younge,John Milton	01/23/2019
03 - PA-M	Kane,Yvette	Senior	10/11/2018		
03 - PA-W	Conti,Joy Flowers	Senior	12/06/2018		
03 - PA-W	Schwab,Arthur J.	Senior	01/01/2018	Colville,Robert John	03/05/2019
03 - PA-W	Cercone,David Stewart	Senior	11/24/2017	Haines,Stephanie L.	03/05/2019
03 - PA-W	Gibson,Kim R.	Senior	06/03/2016	Ranjan,J. Nicholas	01/23/2019
04 - MD	Quarles Jr.,William D.	Retired	02/01/2016		
04 - NC-E	Howard,Malcolm J.	Senior	12/31/2005		
04 - NC-W	Voorhees,Richard L.	Senior	08/31/2017	Bell,Kenneth D.	01/23/2019
04 - SC	Wooten,Terry L.	Senior	02/28/2019		

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
04 - SC	Quattlebaum Jr.,A. Marvin	Elevated	08/16/2018		
04 - VA-E	Hudson, Henry E.	Senior	06/01/2018		
04 - VA-E	Lee, Gerald Bruce	Retired	09/30/2017	Alston Jr., Rossie David	01/23/2019
04 - VA-W	Conrad, Glen E.	Senior	12/11/2017		
04 - WV-S	Copenhaver Jr., John T.	Senior	11/01/2018		
05 - CCA	Jolly, E. Grady	Senior	10/03/2017		
05 - LA-E	Engelhardt, Kurt D.	Elevated	05/09/2018	Guidry, Greg Gerard	01/17/2019
05 - LA-E	Berrigan, Helen G.	Senior	08/23/2016	Vitter, Wendy	01/23/2019
05 - LA-W	Drell, Dee D.	Senior	11/30/2017		
05 - LA-W	Minaldi, Patricia H.	Senior	07/31/2017	Cain Jr., James David	01/23/2019
05 - MS-S	Guirola Jr., Louis	Senior	03/23/2018		
05 - TX-E	Davis, Leonard E.	Retired	05/15/2015	Barker, J. Campbell	01/23/2019
05 - TX-E	Schell, Richard A.	Senior	03/10/2015	Jordan, Sean D.	01/17/2019
05 - TX-E	Clark, Ron	Senior	02/28/2018	Truncale, Michael J.	01/23/2019
05 - TX-N	Fitzwater, Sidney A.	Senior	09/22/2018		
05 - TX-N	Means, Terry	Senior	07/03/2013		
05 - TX-N	Cummings, Samuel Ray	Senior	12/31/2014	Hendrix, James Wesley	01/17/2019
05 - TX-N	Robinson, Mary Lou	Senior	02/03/2016	Kacsmaryk, Matthew J.	01/23/2019
05 - TX-N	McBryde, John H.	Senior	10/09/2018	Pittman, Mark T.	01/17/2019
05 - TX-S	Harmon, Melinda	Senior	03/31/2018		
05 - TX-S	Miller, Gray H.	Senior	12/09/2018		
05 - TX-S	Jack, Janis Graham	Senior	06/01/2011	Morales, David Steven	01/23/2019
05 - TX-W	Sparks, Sam	Senior	12/31/2017	Pulliam, Jason K.	03/05/2019
06 - CCA	Batchelder, Alice M.	Senior	03/07/2019	Murphy, Eric E.	01/23/2019
06 - MI-E	Rosen, Gerald E.	Senior	10/26/2016		

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
06 - MI-W	Bell,Robert Holmes	Senior	01/31/2017		
06 - OH-N	Nugent,Donald C.	Senior	01/01/2017	Barker,Pamela A.	01/23/2019
06 - OH-S	Barrett,Michael R.	Senior	02/15/2019		
06 - OH-S	Dlott,Susan J.	Senior	05/31/2018		
06 - OH-S	Rose,Thomas M.	Senior	06/30/2017	McFarland,Matthew Walden	01/23/2019
06 - OH-S	Frost,Gregory L.	Retired	05/02/2016	Morrison,Sarah Daggett	01/23/2019
06 - TN-E	Greer,J. Ronnie	Senior	06/30/2018	Corker,Clifton L.	01/23/2019
07 - IL-N	Der-Yeghiayan,Samuel	Retired	02/17/2018		
07 - IL-N	Zagel,James B.	Senior	10/21/2016		
07 - IL-N	St. Eve,Amy J.	Elevated	05/14/2018		
07 - IL-N	Darraha,John W.	Senior	03/01/2017		
07 - IL-S	Herndon,David R.	Retired	01/07/2019		
07 - IN-N	Van Bokkelen,Joseph S	Senior	09/29/2017	Brady,Holly A.	01/23/2019
07 - IN-N	Miller Jr.,Robert L.	Senior	01/11/2016	Leichty,Damon Ray	01/23/2019
07 - WI-E	Randa,Rudolph T.	Senior	02/05/2016		
08 - AR-E	Holmes,J. Leon	Senior	03/31/2018		
08 - MO-E	Perry,Catherine D.	Senior	12/31/2018		
08 - MO-E	Jackson,Carol E.	Retired	08/31/2017	Clark Sr.,Stephen R.	01/23/2019
08 - ND	Erickson,Ralph R.	Elevated	09/28/2017	Welte,Peter D.	01/17/2019
08 - NE	Smith Camp,Laurie	Senior	12/01/2018	Buescher,Brian C.	01/23/2019
09 - AK	Beistline,Ralph R.	Senior	12/31/2015		
09 - AZ	Collins,Raner	Senior	03/04/2019		
09 - AZ	Jorgenson,Cindy K.	Senior	04/06/2018		
09 - AZ	Campbell,David G.	Senior	07/31/2018	Liburdi,Michael T.	01/17/2019
09 - CA-C	Real,Manuel L.	Senior	11/04/2018		

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
09 - CA-C	Otero,S. James	Senior	12/30/2018		
09 - CA-C	Pregerson,Dean D.	Senior	01/28/2016		
09 - CA-C	O'Connell,Beverly Reid	Deceased	10/08/2017		
09 - CA-C	Snyder,Christina A.	Senior	11/23/2016		
09 - CA-C	Collins,Audrey B.	Retired	08/01/2014	Blumenfeld Jr.,Stanley	02/06/2019
09 - CA-C	Morrow,Margaret M.	Senior	10/29/2015	Rosen,Jeremy Brooks	02/06/2019
09 - CA-C	King,George H.	Retired	01/06/2017	Scarsi,Mark C.	02/06/2019
09 - CA-S	Houston,John A.	Senior	02/06/2018		
09 - CA-S	Benitez,Roger T.	Senior	12/31/2017		
09 - CA-S	Moskowitz,Barry Ted	Senior	01/23/2019		
09 - CA-S	Anello,Michael M.	Senior	10/31/2018		
09 - CA-S	Huff,Marilyn L.	Senior	09/30/2016	Bumatay,Patrick Joseph	02/06/2019
09 - CCA	O'Scannlain,Diarmuid F.	Senior	12/31/2016		
09 - CCA	Silverman,Barry G.	Senior	10/11/2016	Bade,Bridget S.	01/23/2019
09 - CCA	Kozinski,Alex	Retired	12/18/2017	Bress,Daniel Aaron	02/06/2019
09 - CCA	Pregerson,Harry	Senior	12/11/2015	Collins,Daniel Paul	02/06/2019
09 - CCA	Reinhardt,Stephen	Deceased	03/29/2018	Lee,Kenneth Kiyul	02/06/2019
09 - NV	Mahan,James C.	Senior	06/29/2018		
09 - NV	Jones,Robert Clive	Senior	02/01/2016		
09 - OR	Brown,Anna J.	Senior	07/27/2017	Immergut,Karin J.	01/23/2019
09 - WA-W	Leighton,Ronald B.	Senior	02/28/2019		
09 - WA-W	Robart,James L.	Senior	06/28/2016		
09 - WA-W	Pechman,Marsha J.	Senior	02/06/2016		
09 - WA-W	Lasnik,Robert S.	Senior	01/27/2016		
10 - CO	Krieger,Marcia S.	Senior	03/03/2019		

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
10 - CO	Blackburn,Robert E.	Senior	04/12/2016	Domenico,Daniel Desmond	01/23/2019
10 - NM	Armijo,M. Christina	Senior	02/07/2018		
10 - NM	Brack,Robert	Senior	07/25/2018		
10 - OK-E	Payne,James H.	Senior	08/01/2017		
10 - OK-W	Miles-LaGrange,Vicki	Senior	11/05/2018		
10 - OK-W	Russell,David L.	Senior	07/07/2013	Wyrick,Patrick R.	01/23/2019
10 - UT	Waddoups,Clark	Senior	01/31/2019		
10 - UT	Stewart,Brian T.	Senior	09/01/2014	Nielson Jr.,Howard C.	01/23/2019
11 - AL-M	Watkins,W. Keith	Senior	01/31/2019		
11 - AL-M	Fuller,Mark E.	Resigned	08/01/2015	Brasher,Andrew Lynn	01/23/2019
11 - AL-N	Hopkins,Virginia Emerson	Senior	06/22/2018	Maze,Corey Landon	01/23/2019
11 - FL-M	Kovachevich,Elizabeth A.	Senior	12/14/2018		
11 - FL-M	Whittemore,James D.	Senior	08/29/2017	Barber,Thomas P.	01/23/2019
11 - FL-M	Steele,John E.	Senior	06/03/2015	Berger,Wendy Williams	01/23/2019
11 - FL-N	Smoak,Richard	Senior	12/31/2015	Wetherell II,T. Kent	01/23/2019
11 - FL-N	Hinkle,Robert L.	Senior	11/07/2016	Winsor,Allen Cothrel	01/23/2019
11 - FL-S	Cohn,James I.	Senior	08/05/2016		
11 - FL-S	Marra,Kenneth A.	Senior	08/01/2017		
11 - FL-S	Lenard,Joan A.	Senior	07/01/2017	Altman,Roy Kalman	01/23/2019
11 - FL-S	Zloch,William J.	Senior	01/31/2017	Ruiz II,Rodolfo Armando	01/23/2019
11 - FL-S	Rosenbaum,Robin S.	Elevated	05/12/2014	Smith,Rodney	01/23/2019
11 - GA-N	Story,Richard W.	Senior	12/01/2018		
11 - GA-N	Duffey Jr.,William S.	Retired	07/01/2018	Boulee,Jean-Paul	01/23/2019
CL	Block,Lawrence J.	Retired	01/08/2016		
CL	Horn,Marian Blank	Senior	03/09/2018		

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
CL	Williams,Mary Ellen Coster	Senior	07/13/2018		
CL	Lettow,Charles Frederick	Senior	07/13/2018		
CL	Braden,Susan G.	Senior	07/13/2018		
CL	Damich,Edward J.	Senior	10/21/2013		
CL	Wolski,Victor J.	Senior	07/13/2018		
CL	Miller,George W.	Retired	08/06/2013	Hertling,Richard A.	01/23/2019
CL	Firestone,Nancy B.	Senior	10/21/2013	Holte,Ryan T.	01/23/2019
CL	Hewitt,Emily C.	Retired	10/21/2013	Solomson,Matthew H.	03/05/2019
CL	Bush,Lynn J.	Senior	10/21/2013	Tapp,David Austin	03/05/2019
DC - CCA	Kavanaugh,Brett M.	Elevated	10/06/2018	Rao,Neomi J.	01/23/2019
DC - DC	Roberts,Richard W.	Senior	03/16/2016	Nichols,Carl J.	01/23/2019
IT	Ridgway,Delissa A.	Senior	01/31/2019		
IT	Pogue,Donald C.	Senior	07/01/2014	Baker,M. Miller	01/23/2019
IT	Eaton,Richard K.	Senior	08/22/2014	Reif,Timothy M.	01/23/2019

Total Vacancies: 155

Total Nominees Pending: 65

# Future Judicial Vacancies

*This table lists judicial vacancies that will occur in the future, for instance if a current federal judge announces his or her retirement. Find out the court where the vacancy will occur, the name of the incumbent, the vacancy reason, the vacancy date, the nominee (if applicable), and the nomination date.*

## Future Vacancies in the Federal Judiciary

116th Congress

Last updated on 03/10/2019

Total Vacancies: 14

Total Nominees Pending: 0

Court	Incumbent	Vacancy Reason	Vacancy Date	Nominee	Nomination Date
02 - CCA	Jacobs,Dennis	Senior	05/31/2019		
02 - NY-E	Bianco,Joseph F.	Elevated	TBD		
03 - NJ	Linares,Jose L.	Retired	05/16/2019		
03 - PA-W	Fischer,Nora Barry	Senior	06/13/2019		
05 - TX-S	Lake III,Simeon Timothy	Senior	07/05/2019		
06 - KY-W	McKinley Jr.,Joseph H.	Senior	06/09/2019		
06 - OH-N	Zouhary,Jack	Senior	06/30/2019		
07 - IL-N	Kapala,Frederick J.	Senior	05/10/2019		
07 - IL-S	Reagan,Michael J.	Retired	03/31/2019		
07 - WI-E	Griesbach,William C.	Senior	12/31/2019		
08 - ND	Hovland,Daniel L.	Senior	11/10/2019		
09 - CA-E	England Jr.,Morrison C.	Senior	12/17/2019		
09 - CA-E	O'Neill,Lawrence J.	Senior	02/02/2020		
10 - NM	Herrera,Judith C.	Senior	07/01/2019		

Total Vacancies: 14

Total Nominees Pending: 0

# Judicial Emergencies

*Find current federal judiciary judicial vacancies that the Judicial Conference has deemed as judicial emergencies and an explanation of what is a judicial emergency.*

\*Adjusted Filings per Panel and Weighted Filings per Judgeship are Calendar Year Data

Beginning with calendar year 2015, weighted filings are based on the new district court case weights [approved by the Judicial Conference \(/news/2016/03/15/judicial-conference-addresses-judgeship-needs-issues\)](/news/2016/03/15/judicial-conference-addresses-judgeship-needs-issues) in March 2016.

The new weighted filings definition may affect whether specific vacancies qualify as judicial emergencies. Read about how a [judicial emergency is defined \(/judges-judgeships/judicial-vacancies/judicial-emergencies/judicial-emergency-definition\)](/judges-judgeships/judicial-vacancies/judicial-emergencies/judicial-emergency-definition).

Judicial Emergencies

Last updated on 03/10/2019

Total Emergencies: 87

Court	Vacancy Created By	Reason	Vacancy Date	Days Pending	Weighted Filings per Judgeship *	Adjusted Filings per Panel *
02 - NY-E	Vitaliano, Eric N.	Senior	02/28/2017	740	559	0
02 - NY-E	Amon, Carol Bagley	Senior	11/30/2016	830	559	0
02 - NY-E	Gleeson, John	Resigned	03/09/2016	1096	559	0
02 - NY-E	Feuerstein, Sandra J.	Senior	01/21/2015	1509	559	0
02 - NY-S	Castel, P. Kevin	Senior	08/05/2017	582	575	0
02 - NY-S	Crotty, Paul A.	Senior	08/01/2015	1317	575	0
02 - NY-S	Preska, Loretta A.	Senior	03/01/2017	739	575	0
02 - NY-W	Skretny, William M.	Senior	03/08/2015	1463	592	0
02 - CCA	Lynch, Gerard E.	Senior	09/05/2016	916	0	630
03 - NJ	Simandle, Jerome B.	Senior	05/31/2017	648	903	0
03 - NJ	Martini, William J.	Senior	02/10/2015	1489	903	0

Court	Vacancy Created By	Reason	Vacancy Date	Days Pending	Weighted Filings per Judgeship *	Adjusted Filings per Panel *
03 - NJ	Hochberg,Faith S.	Retired	03/06/2015	1465	903	0
03 - NJ	Sheridan,Peter G.	Senior	06/14/2018	269	903	0
03 - NJ	Kugler,Robert B.	Senior	11/02/2018	128	903	0
04 - MD	Quarles Jr.,William D.	Retired	02/01/2016	1133	490	0
04 - NC-E	Howard,Malcolm J.	Senior	12/31/2005	4817	665	0
05 - LA-E	Engelhardt,Kurt D.	Elevated	05/09/2018	305	1029	0
05 - LA-E	Berrigan,Helen G.	Senior	08/23/2016	929	1029	0
05 - TX-E	Schell,Richard A.	Senior	03/10/2015	1461	581	0
05 - TX-E	Davis,Leonard E.	Retired	05/15/2015	1395	581	0
05 - TX-E	Clark,Ron	Senior	02/28/2018	375	581	0
05 - TX-N	Means,Terry	Senior	07/03/2013	2076	584	0
05 - TX-N	McBryde,John H.	Senior	10/09/2018	152	584	0
05 - TX-N	Cummings,Samuel Ray	Senior	12/31/2014	1530	584	0
05 - TX-N	Fitzwater,Sidney A.	Senior	09/22/2018	169	584	0
05 - TX-N	Robinson,Mary Lou	Senior	02/03/2016	1131	584	0
05 - TX-S	Harmon,Melinda	Senior	03/31/2018	344	620	0
05 - TX-S	Jack,Janis Graham	Senior	06/01/2011	2839	620	0
05 - TX-S	Miller,Gray H.	Senior	12/09/2018	91	620	0
05 - TX-W	Sparks,Sam	Senior	12/31/2017	434	755	0
05 - CCA	Jolly,E. Grady	Senior	10/03/2017	523	0	905
06 - MI-W	Bell,Robert Holmes	Senior	01/31/2017	768	528	0
06 - OH-S	Rose,Thomas M.	Senior	06/30/2017	618	453	0
06 - OH-S	Dlott,Susan J.	Senior	05/31/2018	283	453	0
06 - OH-S	Barrett,Michael R.	Senior	02/15/2019	23	453	0

Court	Vacancy Created By	Reason	Vacancy Date	Days Pending	Weighted Filings per Judgeship *	Adjusted Filings per Panel *
06 - OH-S	Frost, Gregory L.	Retired	05/02/2016	1042	453	0
07 - IL-N	Zagel, James B.	Senior	10/21/2016	870	446	0
07 - IL-N	Darraha, John W.	Senior	03/01/2017	739	446	0
07 - IN-N	Miller Jr., Robert L.	Senior	01/11/2016	1154	469	0
08 - MO-E	Jackson, Carol E.	Retired	08/31/2017	556	512	0
08 - ND	Erickson, Ralph R.	Elevated	09/28/2017	528	367	0
09 - AZ	Jorgenson, Cindy K.	Senior	04/06/2018	338	703	0
09 - AZ	Campbell, David G.	Senior	07/31/2018	222	703	0
09 - AZ	Collins, Raner	Senior	03/04/2019	6	703	0
09 - CA-C	Pregerson, Dean D.	Senior	01/28/2016	1137	650	0
09 - CA-C	Morrow, Margaret M.	Senior	10/29/2015	1228	650	0
09 - CA-C	Collins, Audrey B.	Retired	08/01/2014	1682	650	0
09 - CA-C	King, George H.	Retired	01/06/2017	793	650	0
09 - CA-C	O'Connell, Beverly Reid	Deceased	10/08/2017	518	650	0
09 - CA-C	Real, Manuel L.	Senior	11/04/2018	126	650	0
09 - CA-C	Otero, S. James	Senior	12/30/2018	70	650	0
09 - CA-C	Snyder, Christina A.	Senior	11/23/2016	837	650	0
09 - CA-S	Anello, Michael M.	Senior	10/31/2018	130	651	0
09 - CA-S	Houston, John A.	Senior	02/06/2018	397	651	0
09 - CA-S	Benitez, Roger T.	Senior	12/31/2017	434	651	0
09 - CA-S	Moskowitz, Barry Ted	Senior	01/23/2019	46	651	0
09 - CA-S	Huff, Marilyn L.	Senior	09/30/2016	891	651	0
09 - NV	Jones, Robert Clive	Senior	02/01/2016	1133	497	0
09 - OR	Brown, Anna J.	Senior	07/27/2017	591	463	0

Court	Vacancy Created By	Reason	Vacancy Date	Days Pending	Weighted Filings per Judgeship *	Adjusted Filings per Panel *
09 - WA-W	Leighton,Ronald B.	Senior	02/28/2019	10	485	0
09 - WA-W	Lasnik,Robert S.	Senior	01/27/2016	1138	485	0
09 - WA-W	Robart,James L.	Senior	06/28/2016	985	485	0
09 - WA-W	Pechman,Marsha J.	Senior	02/06/2016	1128	485	0
09 - CCA	Silverman,Barry G.	Senior	10/11/2016	880	0	723
09 - CCA	Pregerson,Harry	Senior	12/11/2015	1185	0	723
09 - CCA	O'Scannlain,Diarmuid F.	Senior	12/31/2016	799	0	723
09 - CCA	Reinhardt,Stephen	Deceased	03/29/2018	346	0	723
09 - CCA	Kozinski,Alex	Retired	12/18/2017	447	0	723
10 - CO	Krieger,Marcia S.	Senior	03/03/2019	7	583	0
10 - CO	Blackburn,Robert E.	Senior	04/12/2016	1062	583	0
10 - OK-E	Payne,James H.	Senior	08/01/2017	586	345	0
10 - UT	Waddoups,Clark	Senior	01/31/2019	38	488	0
10 - UT	Stewart,Brian T.	Senior	09/01/2014	1651	488	0
11 - AL-M	Watkins,W. Keith	Senior	01/31/2019	38	432	0
11 - AL-M	Fuller,Mark E.	Resigned	08/01/2015	1317	432	0
11 - FL-M	Whittemore,James D.	Senior	08/29/2017	558	637	0
11 - FL-M	Kovachevich,Elizabeth A.	Senior	12/14/2018	86	637	0
11 - FL-M	Steele,John E.	Senior	06/03/2015	1376	637	0
11 - FL-N	Hinkle,Robert L.	Senior	11/07/2016	853	764	0
11 - FL-N	Smoak,Richard	Senior	12/31/2015	1165	764	0

Court	Vacancy Created By	Reason	Vacancy Date	Days Pending	Weighted Filings per Judgeship *	Adjusted Filings per Panel *
11 - FL-S	Lenard,Joan A.	Senior	07/01/2017	617	764	0
11 - FL-S	Zloch,William J.	Senior	01/31/2017	768	764	0
11 - FL-S	Cohn,James I.	Senior	08/05/2016	947	764	0
11 - FL-S	Marra,Kenneth A.	Senior	08/01/2017	586	764	0
11 - FL-S	Rosenbaum,Robin S.	Elevated	05/12/2014	1763	764	0
11 - GA-N	Story,Richard W.	Senior	12/01/2018	99	635	0
11 - GA-N	Duffey Jr.,William S.	Retired	07/01/2018	252	635	0

Total Emergencies: 87

# A New Chapter in the Judicial Nominations War

by Bruce Moyer



*Bruce Moyer is government relations counsel for the FBA. © 2019 Bruce Moyer. All rights reserved.*

Large numbers of vacancies on the federal bench could decline sharply in the coming months under a proposed change in the Senate's rules that would dramatically speed up the confirmation of district judicial nominees.

The Republican-led Senate Rules Committee on Feb. 13 approved a procedural change on a 10-9 party-line vote that would limit floor debate time for most nominees, including district court judges and many executive branch nominees, to two hours once cloture is invoked. (Cloture refers to the ending of a filibuster under Rule 22.) Under current Rule 22, post-cloture debate time is allowed to reach as many as 30 hours, and it increasingly reached that mark during the last Congress, delaying other Senate business and nominations.

Senate Majority Leader Mitch McConnell (R-Ky.) is expected to bring the rules change to the floor soon, though he may need to use the unilateral "nuclear option" to pass it, dropping the approval threshold from 60 votes to a bare majority. If approved, the rules change would accelerate the path of hundreds of Trump judicial and executive branch nominations held adrift due to increasing Senate partisanship and delay.

## Why Judicial Vacancies Could Decline

The rule change represents the newest chapter in the long-running judicial confirmation wars extending over the last three decades between the two parties. It will significantly diminish the leverage of the minority, in this case Senate Democrats, to delay the confirmation of the president's judicial nominees. During the last Congress, Democrats forced 48 cloture votes on judicial nominees, each one kicking off a 30-hour period that cumulatively exhausted time available for other Senate business. By comparison, the Senate held only six cloture votes on judicial nominees in the first two years of the Obama, George W. Bush, Clinton, George H.W. Bush, and Reagan administrations combined, according to Senate Republican Judiciary Committee staff.

With 16 percent of the federal bench vacant, considerable numbers of district court vacancies

(125) could begin to decline in the coming months as a result of the rule change. It would not apply to the confirmation of circuit or Supreme Court nominees or Cabinet secretaries.

On Feb. 7, the Senate Judiciary Committee reported out 44 judicial nominees for floor votes. They marked the first group of nominees to advance under the chairmanship of Sen. Lindsey Graham (R-S.C.), who acquired the post in January. Most nominees were nearing Senate confirmation as the last Congress came to an end, but had to restart the process in the 116th Congress. They could be among the first batch of nominees to move ahead under the expedited process. Chairman Graham has said he would honor the Senate's "blue slip" tradition for district court judges, but not for appeals court nominees, extending a limited veto by the minority Democrats over some of President Trump's nominees.

## Additional Developments to Watch

Finally, there are two other recent developments in Washington of notable import:

First, President Donald Trump's declaration of a national emergency over immigration on the Mexican border has created a potentially historic constitutional confrontation over executive and legislative authority. The president announced on Feb. 15 that he would divert \$6.7 billion in funds from the military and elsewhere in the federal budget to pay for additional barriers along the southern border.

Second, the Supreme Court agreed on Feb. 15 to consider whether the Trump administration may add a question about citizenship to the 2020 census questionnaire. The administration sought to include the question in order to enforce the Voting Rights Act, since the "citizen voting-age population" is the main measure of the size of political districts. Opponents insist the question will intimidate immigrant families from participating in the census, leading to an undercount with political consequences. The outcome will have consequences for the number and size of congressional districts for the next decade. ☺

## Senate Judiciary Committee (Majority) Update re: Judicial Nominations March 8, 2019

**From:** "Ferguson, Andrew (Judiciary-Rep)" <Andrew\_Ferguson@judiciary-rep.senate.gov>

**Subject:** Senate Judiciary Committee Update 3/4-3/8

**Date:** March 8, 2019 at 10:31:45 PM EST

**To:** "Ferguson, Andrew (Judiciary-Rep)" <Andrew\_Ferguson@judiciary-rep.senate.gov>

Hello again! It's been a remarkable week for the Committee under Chairman Graham's leadership.

1. The Senate confirmed three circuit judges under Chairman Graham's and Leader McConnell's leadership. All three will be excellent judges on their respective courts. On **March 6**, the Senate confirmed **Allison Jones Rushing** to the Fourth Circuit. At 37, Judge Rushing is the youngest circuit judge confirmed in the Trump presidency. When she was confirmed, she was an appellate partner at Williams & Connolly, and had clerked for Justice Thomas, then-Judge Gorsuch, and Judge Sentelle on the D.C. Circuit. As we've come to expect, she was confirmed [on a pure party-line vote of 53-44](#). On **March 6**, the Senate confirmed **Chad Readler** to a seat on the Sixth Circuit. When he was confirmed, he was serving as the Principal Deputy Assistant Attorney General for the Civil Division at the Department of Justice, and had served as the acting head of the Civil Division for much of the first two years of the administration. In that role, he helped oversee the legal defense of some of the Administration's most important policies. He too was [confirmed without any Democrat support](#). Finally, on **March 7**, the Senate confirmed **Eric Murphy** to a seat on the Sixth Circuit. When he was confirmed, he was serving as the State Solicitor of Ohio, charged with defending Ohio's laws in the state and federal appellate and supreme courts. He previously clerked for Justice Kennedy and Judge Wilkinson on the Fourth Circuit. He too was [confirmed without any Democrat support](#). No Democrat voted for these nominees either in the Committee or on the floor even though the ABA—which Democrats have [described as the "gold standard by which judicial candidates are judged"](#)—rated these nominees either Qualified or Well Qualified.

2. On **March 6**, under Chairman Graham's leadership, the Committee [held a markup at which it](#) voted two more circuit judges and three more district judges to the

floor. Chairman Graham and the Committee have sent **eight circuit judges** and **thirty-five district judges** to the floor in the 116<sup>th</sup> Congress. The Committee reported out two Second Circuit nominees—Judge Joseph Bianco and Michael Park. I’ve attached brief memos on both nominees. The Committee reported both nominees out by party-line votes. The Committee also reported out Greg Guidry for the Eastern District of Louisiana and Mike Liburdi for the District of Arizona by party-line votes, and Peter Welte for the District of North Dakota by a vote of 16-6.

Senator Schumer refused to return blue slips for either nominee—even though both were rated Well Qualified by the ABA. The Chairman explained at the markup why the Committee moved forward with the Bianco and Park nominations without positive blue slips. He explained that most of the Committee chairmen over the last century have not treated the blue slip as a veto on judicial nominees. Moreover, any argument in favor of treating the blue slip as a veto—thereby allowing one Senator to halt a judicial nomination entirely—no longer makes sense after the Democrats decided in 2013 to eliminate the 60-vote filibuster rule for judicial nominees—thereby preventing the entire minority from halting a nomination collectively. The blue slip requires only that the White House consult in good faith with home-state Senators on judicial nominees. The White House consulted in good faith with Senator Schumer for months on the nominees. Those consultations produced one nominee—Judge Richard Sullivan—for whom the New York Senators returned both blue slips, and whom the Senate confirmed. And Senator Schumer told the White House he was willing to support Judge Bianco, but refused to do so because of an ideological objection to Mr. Park—an objection he expounded on the floor the day of the hearing. As Chairman Graham explained, ideological objections to nominees are not a valid reason to withhold blue slips. Accordingly, because the White House negotiated with Senator Schumer in good faith on the Second Circuit vacancies, the Committee moved forward and held hearings and votes on Judge Bianco and Mr. Park. Chairman Graham also reiterated his promise to work with his Democrat colleagues to ensure that the White House consults in good faith on future vacancies.

3. On **March 5**, the Committee also held a hearing for two district-judge nominees: Justice Mark Pittman for the Northern District of Texas, and Mr. Sean Jordan for the Eastern District of Texas. Senator Cornyn chaired the hearing for the two nominees from his home state.

4. Finally, on **March 7**, Leader McConnell petitioned for cloture on two circuit-judge nominees: Paul Matey for the Third Circuit, and Neomi Rao for the D.C. Circuit. The Senate will vote on their nominations next week.

Up next week for the Committee:

1. The Senate will vote to invoke cloture on Mr. Matey's nomination to the Third Circuit on **March 11** at 5:30 pm. It will then vote on his confirmation later in the week. After voting on Mr. Matey's nomination, the Senate will move to cloture and confirmation votes for Ms. Rao's nomination. I have attached brief memos on both nominees.

2. On **March 13**, the Committee will hold a hearing for two Ninth Circuit nominees—Daniel Collins and Kenneth Lee, both of California. Neither Senator Feinstein nor Senator Harris—who said in a tweet earlier this year that she would oppose “every nominee to an appellate court”—have returned blue slips for either nominee.

As always, please reach out to me with questions. Thank you!

Best,

Andrew Ferguson

Chief Counsel for Nominations and Constitutional Law

U.S. Senate Committee on the Judiciary

(202) 224-1024

## **ADDITIONAL FEDERAL JUDGESHIPS**

## BACKGROUNDER ON ADDITIONAL JUDGESHIPS

The Judicial Conference of the United States, the federal judiciary's policy making body, will transmit its biennial recommendations for additional judgeships to the Congress later this spring. The FBA believes that additional judgeships are urgently needed. Additional judgeships may only be authorized by Congress.

The Judicial Conference judgeships recommendations are based on an assessment, conducted every two years, of the judgeship needs of the U.S. courts of appeals and district courts.

Since the last comprehensive judgeship legislation was enacted in 1990, almost 30 years ago, the number of cases filed in the courts of appeals has increased by 40 percent and the number of cases filed in the district courts has increased by 38 percent. Civil filings have increased by 38 percent and criminal filings by 39 percent. During this period there has been only a four percent increase in judgeships, the last permanent judgeships having been created in 2002.

Since the last comprehensive judgeship legislation was enacted in 1990, almost 30 years ago, the number of cases filed in the courts of appeals has increased by 15 percent and the number of cases filed in the district courts has increased by 39 percent.

Civil filings have increased by 34 percent and the number of criminal felony defendants has increased 60 percent since 1991.

Yet since 1990 and the last comprehensive judgeships law, there has been only a four percent increase in judgeships, the last permanent judgeships having been created in 2002.

The situation has created enormous difficulties for some federal courts. Several district courts continue to struggle with extraordinarily high and sustained workloads and desperately need additional judgeships:

- California - Eastern District
- Florida – Southern District
- Indiana – Southern District
- Texas – Southern District
- Texas – Western District

The June 29, 2018 letter to Congress from the judges of the Eastern District of California reflects the gravity of judgeship needs in that district and the relevant factors to identify in discussing judgeship needs in your district with Congressional offices.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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2500 Tulare Street  
Room 1501  
Fresno, CA 93721

LAWRENCE J. O'NEILL  
Chief United States District Judge



Tel: 559-499-5680  
Fax: 559-499-5959  
Calendaring: 559-499-5682

June 19, 2018

### PREFACE/PURPOSE

The purpose of this letter to the members of the Senate and the House of Representatives within the Eastern District of California is to provide notice of a current crisis and an upcoming exacerbation of that crisis that will have serious and catastrophic consequences if left unaddressed. The most serious consequence to inaction will be the inaccessibility to the Federal Courts by the more than 8 million people who reside within the Eastern District. We are 19 months away from that inevitability.

### SIZE OF THE DISTRICT

The geographical size of the Eastern District of California (EDCA) is mammoth, and the corresponding judicial responsibilities are equally enormous. The Eastern District encompasses 87,010 square miles, some 55% of the land mass of the entire state of California. Thirty-four of the fifty-eight counties within California sit under the jurisdiction of the Federal Court in the Eastern District. If the Eastern District of California were itself a separate state, forty-one of the states in the Country would be smaller in size than our judicial area.

In addition to the vast geographical size and a population of 8,094,480 persons (based on Census Bureau estimates,<sup>1</sup> which is greater than the population of thirty-eight states), there are other challenges faced by the District Court Judges. The federal judicial responsibilities in the Eastern District of California include 4 federal prisons, 188 federal buildings, 13 national forests, 9 national parks (including Yosemite, Kings Canyon and Sequoia), 19 state prisons, and 923,000 acres of military land.

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<sup>1</sup> Administrative Office of the U.S. Courts

## JUDGESHIPS, CASELOADS and HISTORY

*Currently* (huge change to come within the next year and one-half), there are 6 District Judges, 3 Senior District Judges, 12 Magistrate Judges, and 6 Bankruptcy Judges. Each District Judge handles an average of approximately 900 cases at any given time, more than double the nationwide average caseload for District Judges, which is 425 cases.

Put in modern historical context, the last new District Judgeship created in the EDCA occurred in 1978 (now some 4 decades ago), when the population of the district was approximately 2.5 million people. Though the population has grown 220%, no new District Court Judgeships have been created in the Eastern District of California. For comparison purposes, the Northern District of California, with roughly the same population (less than a 4% difference) as the Eastern District of California, has 133% more District Judges (14 judges vs. 6 judges).

It is not debatable that the resources of our District have been deficient for three decades. For more than a decade, the Administrative Office of the Courts has recommended to the Judicial Conference that 4 to 6 new District Judges be added to the EDCA. Now, the judicial crisis rooted in the understaffing of District Court Judges is coming to fruition. Two of our six District Judges have given retirement dates that will occur in the next nineteen months. Neither has stated they intend to continue serving in senior status.

In addition, one of our three Senior District Judges has given notice of his intended retirement (departure from senior status service). Of the remaining two Senior District Judges, one judge turned 80 years old, and the other is no longer taking criminal cases and maintains a 50% civil caseload, which he may reduce further. The "shock-absorber" effect of senior-status judges filling in for the lack of new judgeship creation as the population in the District has more than doubled is rapidly becoming non-existent.<sup>2</sup>

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<sup>2</sup> Historically, district court judges elect to continue in senior status, assisting with the normal workload in a district, at no additional salary. Due to the stress and weight of the current caseload, neither of the two upcoming retirees has indicated that they will continue to serve as senior-status judges. In addition, still another District Judge has given the Chief Judge notice that he will be leaving the Court in 2022 and will not take senior status. This is not because they have a lack of regard or compassion for the six authorized District Court Judges, but is indicative of how the more-than-double average caseload has worn down these dedicated members of the judiciary.

## SPECIFIC RESULTS TO BE FELT IN 19 MONTHS ABSENT CONGRESSIONAL ACTION

Should the two District Judges, one Senior District Judge, and one recalled Magistrate Judge leave the Court as anticipated, in 19 months more than 2000 cases will need to be distributed among the remaining 4 District Judges. An **additional** 500 cases to each of the district judges (who already are handling twice the national average of caseload per judge) will result in an inescapable consequence of being wholly unable to handle civil matters.

The United States Attorney for the Eastern District of California has recently announced that they will be filling all vacant and newly created lawyer positions in their offices across the District. The total of new Assistant U.S. Attorney prosecutors will be 12 in number. The anticipated consequences are twofold: 1) a serious and substantial uptick in the number of indictments to be sought and filed; and 2) an insistence that the time from indictment to disposition of criminal cases (now three times the national average) will be cut severely. Both have immediate and obvious consequences on the Court's ability to conduct civil matters due to the statutory and Constitutional mandates that result in giving priority to criminal cases over civil ones.

## REMEDIES TRIED/REMEDIES SOUGHT

Both the Administrative Office of the Courts (AO) and the Chief Judge of the Ninth Circuit have done everything possible to help the Eastern District of California's courts due to the overburdened caseloads that have become routine. The unprecedented ratio of Magistrate Judges to District Judges (two to one) is one example of that effort by the AO. The district judges have made certain that each Magistrate Judge is being utilized to the maximum benefit under law. A second example of continued help and effort is the accepted offer of loaning visiting judges to the district over the last 15 years. For reasons that are apparent, the continued and temporary short-term approach to addressing a long term and chronic problem will fall far short of being an honest or effective solution.

The District Judges of the Eastern District of California suggest and request the following two solutions:

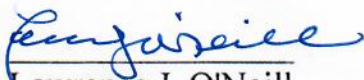
1. When the two District Judges submit their letters to the President that give the required notice of leaving their current positions (one notice in December of this year, and the other in January of 2019), that there be an immediate commitment to act on the nomination and confirmation process to enable there to be a seamless

transition so that the new judges can be sworn into the court, one in December of 2019, and the other in January of 2020; and

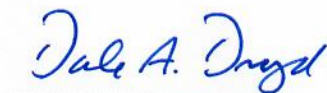
2. The EDCA members of Congress unanimously introduce an emergency bill for the creation of a minimum of the five new judgeship positions that have been recommended year after year.

Any judge on this Court will make himself or herself available to talk with, or meet with, any member of Congress at any time or at any place to discuss this dire problem in an attempt to avoid the inevitable consequences should the issue remain unaddressed. Any of us will speak or testify, upon request, before any group or committee given even minimal notice.

With Concern and Respect,



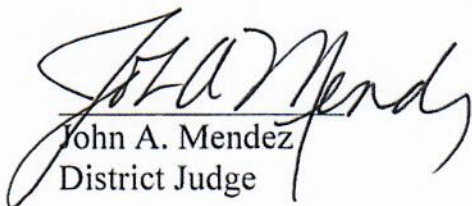
Lawrence J. O'Neill  
Chief District Judge



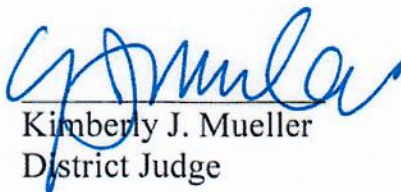
Dale A. Drozd  
District Judge



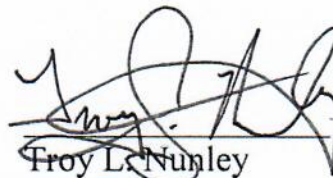
Morrison C. England  
District Judge



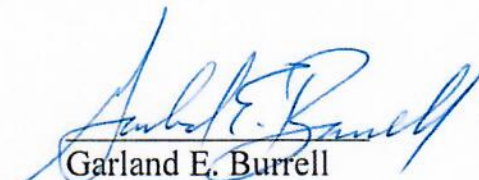
John A. Mendez  
District Judge



Kimberly J. Mueller  
District Judge



Troy L. Nunley  
District Judge



Garland E. Burrell  
Senior District Judge



Anthony W. Ishii  
Senior District Judge



William B. Shubb  
Senior District Judge

## **ESTABLISHING AN ARTICLE I IMMIGRATION COURT**

## BACKGROUND FOR FBA CAPITOL HILL DAY

### IN SUPPORT OF FBA'S LEGISLATIVE PROPOSAL FOR A UNITED STATES IMMIGRATION COURT

The Federal Bar Association, with the aid of its Section on Immigration Law, has drafted model legislation to create an Article I immigration court and provide for more timely and effective adjudication of immigration matters. The proposed legislation and supporting material may be found on the FBA website at [www.fedbar.org](http://www.fedbar.org). We welcome the opportunity to discuss the proposal with members of Congress.

Since 2013, the Federal Bar Association has urged Congress to establish a specialized, Article I "United States Immigration Court" to replace the Executive Office for Immigration Review (EOIR) in the U.S. Department of Justice as the principal adjudicatory forum under the Immigration and Nationality Act. The federal courts in the United States include the courts established in and under Article III of the Constitution, as well as the adjudicative entities established by Congress under its Article I legislative powers.

#### **An Article I Immigration Court Would Provide Faster, More Efficient Adjudication**

Our country deserves an immigration adjudication system that works. Court experts, stakeholders and the Government Accountability Office all have pointed to faster and more efficient adjudication of immigration matters that would be available through an Article I court.

The FBA legislative proposal would not expand the size of the federal government. It would reposition EOIR's current quasi-judicial responsibilities in an independent, professionally managed Article I tribunal, staffed with merit-appointed judges replacing the current immigration courts at the trial level, and Presidentially nominated, Senate-confirmed appellate judges replacing the current Board of Immigration Appeals. These appointments would be consistent with the Appointments Clause of the Constitution and follow the local merit-selection process successfully used for decades to appoint bankruptcy judges and magistrate judges in the federal court system.

The top-down, inefficient structure of today's EOIR – with the existing immigration courts and Board of Immigration Appeals – is inefficient and costly. EOIR's bureaucracy and inefficiency have been overwhelmed by a backlog of over 1 million cases, according to the most recent estimates, with some cases not scheduled for hearings until 2024.

EOIR today represents a pale reflection of the kind of professionally administered adjudicative system that Congress and the American expect. A key example is EOIR's failure to make effective use of technology. Since 2001 the agency has failed to fulfil its pledge to establish an electronic case filing system. It continues to rely on paper files that contribute to storage and retrieval costs, greater space needs, lost filings, and added delay. Its less-than-

functional implementation of courtroom technology, including video-teleconferencing of immigration proceedings, has led to difficulties in maintaining connectivity, adequately hearing the participants, exchanging paper documents, conducting accurate foreign language interpretation, and assessing the demeanor and credibility of respondents and witnesses.

Simply hiring additional immigration judges and imposing judicial performance metrics represent band aid's for the treatment of fundamental, longstanding management and operational deficiencies. The June 2017 Government Accountability Office (GAO) report documented EOIR case backlogs of epic size, costly and ineffective case management, and reliance on outdated technologies.

### **Immigration Court Experts and Stakeholders Support an Independent Article I Immigration Court**

The GAO in its June 2017 report found that a majority of immigration court experts and stakeholders favored EOIR replacement with an independent Article I immigration court. Establishing an Article I court would substitute for an overstuffed, bloated bureaucracy a new structure, modeled on the federal courts, their case management expertise, and their demonstrated record for delivering prompt, effective justice.

### **History is on the Side of a Specialized, Article Immigration Court**

An independent Article I Immigration Court would properly take its place beside other Article I courts established by Congress. In fact, congressional creation of an Article I immigration court would comport with past Congressional practice in the establishment of Article I courts in other specialized areas of federal law –tax administration, veterans benefits, and military justice – that involve executive branch policy-making and priority-setting but also require fair, impartial adjudication.

The origins of the three existing Article I courts are similar to that of today's immigration courts. Much like those courts, the United States Tax Court, United States Court of Appeals for Veterans Claims, and United States Court of Appeals for the Armed Forces started out as internal components of civilian or military bureaucracies, with little or no separation from those responsible for executive leadership. In each instance, initial attempts at reform sought to separate the executive and adjudicative responsibilities, yet retain both within the same agency structure, reporting to the same higher-level management. Ultimately, concerns over fairness and impartiality led Congress to extract the adjudicative responsibilities and reposition them in an independent Article I court. This history demonstrates repeated recognition by Congress that independent review by "real" judges is the *sine qua non* of faithfully adjudicating rights and responsibilities in matters governed by public law.

### **Benefits of a Specialized, Independent Immigration Court**

The transfer by statute of EOIR's adjudicative components (trial and appellate judges and support) to a specialized tribunal would produce distinct benefits:

- Fairness in the administration of the immigration laws;
- Adjudication independent of political decision-making; and
- Fixed judicial terms of office, enabling judges to make decisions without fear or favor.

Managed by the judges themselves rather than bureaucrats, an Article I Immigration Court would operate with greater efficiency and cost-effectiveness, and its decisions would be entitled to greater respect. Cheaper, faster, better justice is possible through an Article I immigration court.

Significant efficiencies and cost savings could be achieved through the hearing of alien removal and employer sanction cases by the same immigration judges, without the need to maintain a duplicate system as now exists in the separate Office of the Chief Administrative Hearing Officer (OCAHO) within EOIR. An independent court would continue to provide necessary due process for U.S. employers facing substantial potential fines, with the functions of OCAHO's single administrative law judge handled at the new court's trial level by as many judges as needed. Eliminating the administrative expenses of a separate court with a separate oversight bureaucracy represents true savings.

While the political branches of government would still participate in appointments to the appellate division, the court would be insulated from undue political influence and policy shifts by staggering the terms of office of the appellate judges and mandating among them the same partisan balance that is already required for the United States Court of International Trade and dozens of independent, multi-member federal boards and commissions (e.g., Securities and Exchange Commission). Also, judges in both the appellate and trial divisions would serve for renewable 15-year terms, enabling them to focus solely on their judicial responsibilities, free of daily concerns about continued employment.

In an Article I court, trial judges would gain control over their dockets and no longer be subject to shifting decisions by political superiors to prioritize case A over case B (and vice-versa) or send judges off to border areas to handle a few cases while their regular dockets are further backlogged. The new court itself would establish and modify administrative and procedural rules as needed free of EOIR's current byzantine requirements for consultation with numerous, disparate offices and agencies.

## **Judicial Independence Would Restore Respect for the Immigration Courts**

Board of Immigration Appeals members and immigration judges are currently treated by the Department of Justice as mere “attorneys representing the United States in litigation” – not independent, fully empowered judicial officers. They are responsible for carrying out formal adjudications yet, due to bureaucratic resistance within DOJ and DHS, have been deprived of the judicial authority – expressly conferred by Congress – to impose contempt sanctions upon noncompliant parties when necessary. They also lack independence to freely decide the matters before them and, indeed, are subject to discipline if the Attorney General disagrees with their decisions.

In addition, because numerous immigration judges and Board of Immigration Appeals members are former DOJ or U.S. Department of Homeland Security (DHS) attorneys, and some immigration courts are co-located with Immigration and Customs Enforcement offices, there is a broad perception that immigration judges and DHS attorneys work together and that immigration courts act merely as “rubber stamps” to approve and uphold DHS actions. This perception deprives the immigration courts of the respect of aliens appearing before them, and, prompted by fear and a belief that the system is rigged, results in increased absences from court proceedings. Without active participation and respect, the rule of law is undermined and justice suffers. Also, the court’s ability to determine the truth is compromised when merit hearings are delayed for years.

The transfer to an Article I structure would alleviate the perception that immigration judges are not independent, fair adjudicators, and that DHS and individual respondents are not parties of equal standing in immigration cases. This would also cure the perception that the immigration courts and the Board of Immigration Appeals have become so politicized that their decisions are based not on the established law but on the changing views of successive administrations. Moreover, as an Article I court begins to operate, and individual cases start to receive fair, prompt, and accurate attention, respect for that court’s authority and decisions should grow over time, lessening delays caused by parties’ dilatory actions as well as the volume of appeals and remands.

### **For More Information**

The FBA legislative proposal for the creation of a specialized, Article I immigration court may be found on the FBA website at [www.fedbar.org](http://www.fedbar.org).

# GAO Highlights

Highlights of [GAO-17-438](#), a report to congressional requesters

## Why GAO Did This Study

The Department of Justice's EOIR is responsible for conducting immigration court proceedings, appellate reviews, and administrative hearings to fairly, expeditiously, and uniformly administer and interpret U.S. immigration laws.

GAO was asked to review EOIR's management of the immigration court system and options for improving EOIR's performance. This report addresses, among other things, (1) what EOIR data indicate about its caseload, including the backlog of cases; (2) how EOIR manages and oversees immigration court operations, including workforce planning and hiring; and (3) the extent to which EOIR has assessed immigration court performance, including case continuance data. GAO analyzed EOIR's case data from fiscal years 2006 through 2015—the most current data available—reviewed EOIR documentation, interviewed agency officials, and conducted visits to six immigration courts selected to include courts with relatively large and small case backlogs, among other things. GAO also interviewed experts and stakeholders selected based upon, among other things, their published work on the immigration court system.

## What GAO Recommends

GAO is making 11 recommendations to, among other things, improve EOIR's workforce planning, hiring, and analysis of continuance data. EOIR stated that it agrees with most of the recommendations, but did not specify whether it agrees with individual recommendations. GAO continues to believe that all 11 recommendations remain valid as discussed further in this report.

View [GAO-17-438](#). For more information, contact Rebecca Gambler at (202) 512-8777 or [gambler@gao.gov](mailto:gambler@gao.gov).

June 2017

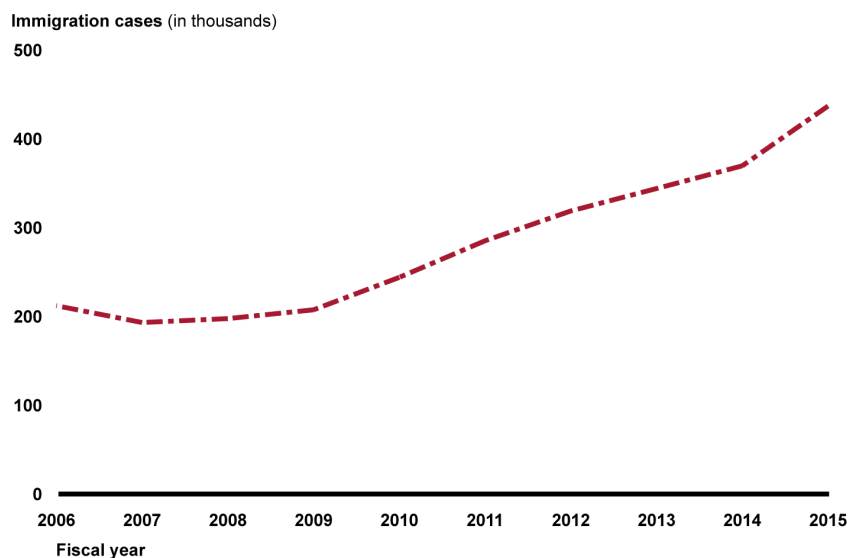
## IMMIGRATION COURTS

### Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges

## What GAO Found

GAO's analysis showed that the Executive Office for Immigration Review's (EOIR) case backlog—cases pending from previous years that remain open at the start of a new fiscal year—more than doubled from fiscal years 2006 through 2015 (see figure) primarily due to declining cases completed per year.

#### Immigration Courts' Case Backlog, Fiscal Years 2006 through 2015



Source: GAO analysis of Executive Office for Immigration Review caseload data. | GAO-17-438

EOIR has taken some steps to address its workforce needs, such as entering into a contract to determine judicial staff workloads, but does not have a workforce plan that would help EOIR better address staffing needs, such as those resulting from the 39 percent of its immigration judges who are currently eligible for retirement. EOIR also does not have efficient practices for hiring new immigration judges, which has contributed to immigration judges being staffed below authorized levels. GAO found that it took an average of 742 days to hire new judges from 2011 through August 2016. By assessing its hiring process and developing a hiring strategy that targets staffing needs, EOIR would be better positioned to hire judges more quickly and address its staffing gaps.

One example of EOIR's efforts to assess court operations is the extent and reasons why judges issue continuances—temporary case adjournments until a different day or time. EOIR collects continuance data, but does not systematically assess them. GAO's analysis of continuance records showed that the use of continuances increased by 23 percent from fiscal years 2006 through 2015. Systematically analyzing the use of continuances could provide EOIR officials with valuable information about challenges the immigration courts may be experiencing, such as with operational issues like courtroom technology malfunctions, or areas that may merit additional guidance for immigration judges.

## Summary of Proposed “United States Immigration Court Act” (as of 1-16-2019)

### Purpose of Legislation

To transfer to an independent court established under Article I of the Constitution the adjudicative functions under the Immigration and Nationality Act (INA) that were performed, prior to the legislation, by the Executive Office for Immigration Review (EOIR) in the U.S. Department of Justice.

### Basic Features

The legislation establishes a “United States Immigration Court” with responsibility for functions of an adjudicative nature that had been performed under the INA and Justice Department regulations by EOIR’s immigration judges, administrative law judges, and Board of Immigration Appeals (BIA).

The new court is comprised of a trial division operating at various locations within the United States, and an appellate division based in the Washington, D.C. area.

The judges of the court have fixed terms of office and are removable only for cause. The judges in the appellate division are appointed by the President subject to Senate confirmation, and the judges in the trial division are appointed by the appellate division using a merit-selection process.

The substantive law of immigration and the corresponding enforcement and policy-determining responsibilities of the Departments of Homeland Security and Justice under the INA are unchanged. However, the legal precedents established in decisions of the new court’s appellate division are binding on those departments as well as other executive branch authorities with administrative responsibilities under the Act and other immigration-related laws.

Final decisions of the new court are subject to review in the regional U.S. courts of appeals under the same circumstances as EOIR’s administrative decisions had been reviewed by those courts, but only with respect to constitutional claims, issues of statutory or regulatory interpretation, or other questions of law. Findings of fact by the new court are not subject to further judicial review.

### Jurisdiction

Jurisdiction is transferred to the new court with respect to all hearings, quasi-judicial decision making, and first-level appellate review authorized by pre-existing statute or regulation for proceedings arising under titles I and II of the INA.

The court’s trial division has jurisdiction generally corresponding to matters of the kind previously addressed in EOIR by immigration judges and administrative law judges.

The court’s appellate division has jurisdiction generally corresponding to matters of the kind previously addressed by the BIA, including appeals in proceedings that originate in the trial division.

### Court Administration and Operations

Cases in the appellate division are heard by the judges sitting *en banc*, in panels of two or more members, or individually. Cases in the trial division are heard by individual judges. The appellate division sits *en banc* to exercise its administrative authority.

The appellate division has overall governance responsibility for the court, with specific authority to prescribe the court’s rules of practice and procedure, determine the geographic areas served by judges in the trial division, establish operating procedures with respect to the timing and location of court sessions and other matters, and participate in court staff appointments and management of the court’s budget.

The chief judge of the court is a judge in the appellate division determined by seniority and serves for a 5-year term. The chief judge takes a leading role with respect to appointing non-chambers court staff and, in general, is responsible for overseeing the court's administrative operations in addition to discharging his or her regular judicial duties.

Each geographic area served by the court's trial division has a chief trial judge who is also determined by seniority and, in addition to discharging his or her regular judicial duties, may exercise administrative authority locally as delegated by the appellate division, and is consulted on court administrative and governance issues directly affecting the trial division.

The court is empowered to use its appropriations to satisfy its administrative needs directly (i.e., through funding of its own employees, operations, and facilities), or to secure administrative support services on an agreed-upon, reimbursable basis from the Administrative Office of the U.S. Courts, another Article I court, or any executive agency.

The clerk of the court is appointed by the appellate division, and the clerk appoints other (non-chambers) court staff with the approval of the appellate division or, by delegation, the chief judge.

Each judge appoints chambers staff (secretaries and law clerks) to serve at his or her pleasure.

### Judges

The appellate division consists of 18 "immigration appeals judges" with no more than 9 judges belonging to the same political party. These judges are appointed for 15-year terms that are staggered so that 6 judges come up for appointment every 5 years.

The number of "immigration trial judges" in the trial division is determined by the appellate division, subject to the availability of funding, based on periodic surveys of workload and resource needs. The appellate division establishes for each geographic area served by the trial division a merit selection panel that is responsible for advertising vacant positions, reviewing applications, conducting interviews, and recommending applicants to the appellate division for appointment as immigration trial judges for 15-year terms.

Immigration appeals judges receive the same salary as a U.S. district judge, and immigration trial judges receive a salary equivalent to 92% of the district judge salary (i.e., the same salary paid to bankruptcy judges and full-time magistrate judges in the judicial branch).

All judges of the court may elect to participate in retirement and survivor benefits that are equivalent to those afforded judges of the U.S. Court of Appeals for Veterans Claims (another Article I court) and similar to those available to bankruptcy judges and magistrate judges in the judicial branch.

Retired judges may be recalled, as needed, to temporary service on the court, and non-retired judges in the trial division may be designated, as needed, to sit temporarily on the appellate division.

### Court Authorities and Responsibilities

The court's rulemaking authority includes power to regulate its own bar and establish procedures for admission of attorneys and others to practice before it.

The judges of the court may punish contempt of the court's authority by imposing civil money penalties (monetary fines) in accordance with rules prescribed by the appellate division.

The court may impose filing and similar fees that do not exceed in amount the analogous fees imposed in the district courts or by the Department of Homeland Security.

The records of the court are open to the public, but the court has authority to protect confidential information and is responsible for preserving confidentiality as otherwise required by law.

The court is generally required to publish its appellate decisions, but may make exceptions (e.g., for rulings without precedential value), and may authorize publication of trial decisions as appropriate. It must also submit annual statistical reports to the Senate and House Judiciary Committees.

The court has authority to hold periodic bench/bar conferences, similar to those authorized by other federal courts.

#### Technical, Conforming, and Transitional Provisions

Pre-existing references in the INA and Justice Department regulations to the BIA, immigration judges or administrative law judges, or to proceedings before such officials, are generally deemed to refer to the successor judges and/or proceedings in the new court.

The Attorney General's statutory authority to regulate EOIR adjudicators and proceedings is transferred to the new court's appellate division, and pre-existing Attorney General regulations that are consistent with the legislation remain in effect until modified or revoked by the appellate division.

The legislation takes effect on October 1 in the year immediately following the year in which it is enacted, or a year after enactment, whichever occurs later. At that time, EOIR is abolished and that office's personnel and assets (including funding) are transferred to the new court.

The BIA members and the immigration judges and administrative law judges in office immediately before the effective date continue in office as immigration appeals judges and immigration trial judges, respectively, until successors are appointed under the legislation, and the immigration trial judges may continue for four years to ensure appropriate continuity and permit sufficient time for the appellate division to make new appointments systemwide. Immigration appeals judges must be nominated by the President within 90 days after the legislation takes effect, and the merit selection process for immigration trial judges must be established by the appellate division within 180 days after the effective date. The legislation includes a "sense of Congress" statement that all qualified former BIA members, immigration judges, and administrative law judges who carry over to the new court and wish to continue serving should be fully considered for appointment to the court for 15-year terms.

#### Study

Beyond establishing a new Article I court to perform the adjudicative functions heretofore performed by EOIR, the legislation requires the Justice Department, in consultation with the Departments of State, Labor, and Homeland Security, to study and, within three years, report to Congress on the potential for consolidating within the new court the conduct or review of immigration-related adjudications that are currently performed by federal agencies other than EOIR.

**FBA FOUNDATION  
CONGRESSIONAL CHARTER  
AMENDMENTS ACT, H.R. 1663**

[~115H4100RFS]

.....  
(Original Signature of Member)116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 1663**

To amend title 36, United States Code, to revise the Federal charter for the Foundation of the Federal Bar Association.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CHABOT introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 36, United States Code, to revise the Federal charter for the Foundation of the Federal Bar Association.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Foundation of the Fed-  
5        eral Bar Association Charter Amendments Act of 2019”.

6        **SEC. 2. ORGANIZATION.**

7        Section 70501 of title 36, United States Code, is  
8        amended by striking subsection (b) and redesignating sub-  
9        section (c) as subsection (b).

1 **SEC. 3. MEMBERSHIP.**

2 Section 70503 of title 36, United States Code, is  
3 amended—

4 (1) by striking subsections (a) and (b) and in-  
5 serting the following:

6 “(a) **ELIGIBILITY.**—Except as provided in this chap-  
7 ter, eligibility for membership in the corporation and the  
8 rights and privileges of members are as provided in the  
9 bylaws.”; and

10 (2) by redesignating subsection (c) as sub-  
11 section (b).

12 **SEC. 4. GOVERNING BODY.**

13 Section 70504 of title 36, United States Code, is  
14 amended to read as follows:

15 **“§ 70504. Governing body**

16 “(a) **BOARD OF DIRECTORS.**—The board of directors  
17 is the governing body of the corporation. The board may  
18 exercise, or provide for the exercise of, the powers of the  
19 corporation. The board of directors and the responsibilities  
20 of the board are as provided in the bylaws.

21 “(b) **OFFICERS.**—The officers and the election of the  
22 officers are as provided for in the bylaws.”.

23 **SEC. 5. RESTRICTIONS.**

24 Section 70507 of title 36, United States Code, is  
25 amended to read as follows:

1 **“§ 70507. Restrictions**

2 “(a) STOCK AND DIVIDENDS.—The corporation may  
3 not issue stock or declare or pay a dividend.

4 “(b) POLITICAL ACTIVITIES.—The corporation or a  
5 director or officer in his or her corporate capacity may  
6 not contribute to, support, or participate in any political  
7 activity or in any manner attempt to influence legislation.

8 “(c) DISTRIBUTION OF INCOME OR ASSETS.—The in-  
9 come or assets of the corporation may not inure to the  
10 benefit of, or be distributed to, a director, officer, or mem-  
11 ber during the life of the charter granted by this chapter.  
12 This subsection does not prevent the payment, in amounts  
13 approved by the board of directors, of—

14 “(1) reasonable compensation; or

15 “(2) reimbursement for expenses incurred in  
16 undertaking the corporation’s business, to officers,  
17 directors, or members.

18 This subsection does not prevent the award of a grant to  
19 a Federal Bar Association chapter of which an officer, di-  
20 rector, member may be a member. This subsection also  
21 does not prevent the payment of reasonable compensation  
22 to the corporation’s employees for services undertaken on  
23 behalf of the corporation.

24 “(d) LOANS.—The corporation may not make a loan  
25 to a director, officer, member, or employee.



1 **“§ 70512. Deposit of assets on dissolution or final liq-**  
2 **uidation**

3 “On dissolution or final liquidation of the corpora-  
4 tion, any assets of the corporation remaining after the dis-  
5 charge of all liabilities shall be distributed as provided by  
6 the board of directors, but in compliance with the charter  
7 and bylaws.”.