



December 21, 2015

TO: Federal Bar Association

FROM: West Allen, Chair, Government Relations Committee  
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SUBJ: Update on Government Relations and Public Policy Developments

### **Federal Judiciary Funding**

The President has signed a massive \$1.1 trillion spending bill that funds the federal courts and all federal agencies through September 30, 2016. The measure was approved by Congress before it departed Washington for the holiday recess.

The omnibus spending bill increases funding for the federal courts to nearly \$7 billion in discretionary appropriations to maintain a timely and operational judicial system. This represents an increase of \$80.4 million above last year's funding level. The Federal Bar Association throughout the past year encouraged Congress to provide adequate funding for the federal courts to assure the prompt dispensation of justice.

The measure also extends temporary judgeships in the eastern district of Missouri, Kansas, Arizona, the central district of California, the northern district of Alabama, the southern district of Florida, New Mexico, the western district of North Carolina and the eastern district of Texas.

It also assures sufficient funding for Defender Services to satisfy the Judiciary's most current cost estimates and includes a \$1 increase to the hourly non-capital panel attorney rate above the COLA-adjusted level.

For federal civil servants, the appropriations bill provides a 1 percent increase for base pay and .3 percent for locality pay, starting January 2016. President Obama will issue a final pay order later this month with the details and limits on all types of pay, including the increases for locality pay for each area. The omnibus bill also freezes the pay of political appointees.

### **Judicial Vacancies**

The US Courts website, as of December 21, reflects:

	<b>Current Vacancies</b>	<b>Nominees Pending</b>
Courts of Appeal	10	1
District Courts	52	24
US Ct of International Trade	<u>4</u>	<u>4</u>
Total	66	29

The 66 vacancies include 31 judicial emergencies as identified by the Judicial Conference, based upon vacancy lengths and weighted caseloads.

Only 11 judges were confirmed in 2015, the fewest in a single year since 1960. Ten district court nominees and one court of appeals nominee were confirmed. As confirmations dwindled, vacancies increased. In 2015, vacancies rose from 43 to 66 (they'll hit 70 by January 1), and judicial emergencies rose nearly 160% from 12 to 31.

Fourteen Article III judicial nominees (including one nominee to the Court of International Trade) are pending on the Senate's Executive Calendar and await a final confirmation vote; all of the nominees cleared the Judiciary Committee unopposed via voice vote. Nine of the 14 are nominated to fill judicial emergencies.

Senate leaders, before departing Washington for the holiday recess, agreed to hold votes on five of those nominees early next year, beginning with Third Circuit nominee L. Felipe Restrepo on January 11. Majority Leader Mitch McConnell has agreed to call votes for the remaining four nominees -- district court nominees from Minnesota, New Jersey, and two from Iowa -- at some point before President's Day in February. Four of the five nominees will fill judicial emergencies. They are Judge L. Felipe Restrepo to the Third Circuit, Wilhelmina Wright to the District of Minnesota, John Vasquez to the District of New Jersey, Leonard Strand to the Northern District of Iowa and Rebecca Ebinger to the Southern District of Iowa.

### **Criminal Justice Reform**

President Obama on December 18 commuted the sentences of 95 federal offenders serving time in federal prison, more than double the number of commutations he granted earlier this year in July. It is the third time this year that the president has used his clemency power to release offenders convicted of drug trafficking offenses. Obama granted clemency to 22 drug offenders in March and another 46 in July.

The Federal Bar Association “supports efforts to advance fairness and consistency in federal sentencing, while preserving judicial independence and discretion to deal with the particular circumstances of individual cases,” according to its Issues Agenda.