



**FEDERAL BAR ASSOCIATION
GOVERNMENT RELATIONS COMMITTEE**

September 9, 2016

TO: Board of Directors
Federal Bar Association

FROM: Government Relations Committee
W. West Allen, Chair; and Bruce Moyer, Counsel

SUBJ: Government Relations Activities Report

Don't Miss Bruce Moyer's Legislative Update at the FBA National Convention in Cleveland on Friday, September 16, from 11:15 am – 12:15 pm in the Cattleya Room of the Westin Cleveland Downtown Hotel.

Judicial Vacancies

The Senate has returned from its seven-week recess with little appetite by the Republican-majority leadership to confirm more judicial nominees, except as the demands of election-year politics may require.

The Senate is on pace to confirm the lowest number of federal district and appellate judges in decades. The number of vacancies on the nation's courts has also doubled the past two years to 96 vacancies — more than 10 percent of all federal judgeships and what the Congressional Research Service calls “historically high” levels.

Judicial nominees traditionally are considered in the order they were nominated, and there are 21 non-controversial district and 2 circuit judicial nominees who await confirmation votes on the Senate floor.

The Senate Judiciary Committee on September 7 held a hearing on five Texas district court nominees, who are among the 30 judicial nominees who haven't yet been reported out of committee.

As of September 9, here are the federal court vacancy numbers, as reported by the Federal Judiciary:

	Current Vacancies	Nominees Pending
Supreme Court	1	1
Courts of Appeal	12	7
District Courts	75	42
US Ct of International Trade	2	2
US Ct of Federal Claims	<u>6</u>	<u>5</u>
Total	96	57

In the coming weeks, Democrats are expected to increase pressure on Republicans to confirm Merrick Garland to the Supreme Court. Garland's nomination has languished for months because Republicans say they want the next president, not the current one, to make that life-long appointment.

Federal Judiciary Funding

Congress is likely to approve a short-term funding bill that avoids a government shutdown and keeps the government running into the new fiscal year, beginning October 1. It could include funding to pay for public health measures in response to the Zika virus.

A stop-gap bill, probably lasting to early December, would continue funding for the federal courts and all federal agencies at current levels. The House and Senate have been unable to agree upon and pass a single one of the twelve regular appropriations measures. Positioning and politics will continue to complicate Congressional action as the elections near.

Conversion of Temporary Judgeships

The FBA has endorsed House and Senate bills, supported by the Federal Judiciary, that would permanently authorize nine judgeships in the following nine federal judicial districts: Alabama, Arizona, California Central, Florida Southern, Kansas, Missouri Eastern, New Mexico, North Carolina Western, and Texas Eastern. Temporary U.S. district court judgeships currently existing in those districts would be converted to permanent status under the bipartisan legislation, the Temporary Judgeship Conversion Act of 2016 (H.R. 5675 and S. 2314).

In September 6 letters (attached) endorsing the House and Senate bills, FBA Executive Director Karen Silberman commented:

Temporary judgeships, which need to be annually reauthorized by Congress, are useful as short-term responses to improve the capacity of courts to respond to rising caseloads. However, chronically high caseloads and the potential costs of delay deserve more permanent attention by Congress. The failure to do so can have significant negative consequences upon our justice system and our economy. The costs of judicial delay are borne not only by litigants, but all citizens and taxpayers. Justice delayed is truly justice denied. Moreover, if a temporary judge retires, the temporary judgeship will cease to exist pursuant to current law, creating additional problems.

FBA Statement on Bombing in Pakistan

On August 9, the Federal Bar Association released the following statement condemning the terrorist attack on Pakistani lawyers in Quetta, Pakistan:

The vicious terrorist bombing on August 8 that killed scores of Pakistani lawyers outside a hospital in Quetta, Pakistan is not just an attack on the people of Pakistan. It represents an attack on all of humanity and our common respect for the rule of law throughout the world.

News reports indicate that the lawyers had gathered to mourn a colleague whom militants had shot dead earlier in the day and whose body had been taken to the hospital. The bombing follows the recent terrorist killings of other lawyers in Pakistan in a cruel attempt to create chaos, undermine public order, and eliminate a generation of respected servants of the law.

We stand with our Pakistani brethren in the law in their hour of grief. Lawyers and judges are critical to the preservation of freedom and a just society.

Federal Lawyer Focus on Attorney Admission in the Federal Courts

The September issue of *The Federal Lawyer* focuses on the subject of attorney admission to the federal courts in the modern era. An excellent collection of articles presents: an overview of federal court attorney admission rules; legal challenges to attorney admission rules in the federal courts; an overview of Judicial Conference policy supporting local autonomy in the crafting of attorney admission rules; identifying and working with local counsel and *pro hac vice*; and licensing accommodations for attorney spouses of military personnel.

FBA Legislative Video Update

A new legislative video update, taped by FBA Counsel for Government Relations Bruce Moyer on August 9, appears on the FBA website here:

<http://www.fedbar.org/Advocacy/Legislative-Update.aspx>



Federal Bar Association

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September 7, 2016

The Honorable Jerry Moran
United States Senate
Washington, D.C. 20510

Re: Temporary Judgeship Conversion Act of 2016, S. 2314

Dear Senator Moran:

I write to express the appreciation and support of the Federal Bar Association for your bipartisan legislation, the Temporary Judgeship Conversion Act of 2016, S. 2314. The bill would permanently authorize nine judgeships in the following nine federal judicial districts: Alabama, Arizona, California Central, Florida Southern, Kansas, Missouri Eastern, New Mexico, North Carolina Western, and Texas Eastern. Temporary U.S. district court judgeships currently existing in those districts would be converted to permanent status.

Temporary judgeships, which need to be annually reauthorized by Congress, are useful as short-term responses to improve the capacity of courts to respond to rising caseloads. However, chronically high caseloads and the potential costs of delay deserve more permanent attention by Congress. The failure to do so can have significant negative consequences upon our justice system and our economy. The costs of judicial delay are borne not only by litigants, but all citizens and taxpayers. Justice delayed is truly justice denied. Moreover, if a temporary judge retires, the temporary judgeship will cease to exist pursuant to current law, creating additional problems.

Permanent judgeships in the nine judicial districts identified in your bill will enhance their capacity to timely adjudicate immigration, civil and other cases. Thank you for your leadership in introducing this important measure. Please contact Bruce Moyer, our Counsel for Government Relations, grc@fedbar.org, if we may be of further assistance.

Sincerely yours,

Karen Silberman
Executive Director



Federal Bar Association

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September 7, 2016

The Honorable Martha McSally
U.S. House of Representatives
Washington, D.C. 20515

Re: Temporary Judgeship Conversion Act of 2016, H.R. 5675

Dear Congresswoman McSally:

I write to express the appreciation and support of the Federal Bar Association for your bipartisan legislation, the Temporary Judgeship Conversion Act of 2016, H.R. 5675. The bill would permanently authorize nine judgeships in the following nine federal judicial districts: Alabama, Arizona, California Central, Florida Southern, Kansas, Missouri Eastern, New Mexico, North Carolina Western, and Texas Eastern. Temporary U.S. district court judgeships currently existing in those districts would be converted to permanent status.

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Sincerely yours,

Karen Silberman
Executive Director