



## **Federal Bar Association**

### **THE SENATE SHOULD CONSIDER ALL JUDICIAL NOMINEES WITHOUT DELAY**

**The Federal Bar Association urges the Senate to work in a bipartisan fashion to promptly provide an up-or-down vote to qualified judicial nominees to Federal district and appeals court judgeships.**

**The President and the Senate have a Constitutional obligation to assure that the Federal courts are sufficiently staffed with sufficient numbers of judges to promptly administer justice.**

#### **Judicial Vacancies Are Harmful to the Delivery of Justice and the Nation's Economy**

Continued high numbers of vacancies on the Federal bench harm the delivery of justice, the economic interests of litigants before the courts, and respect for our courts and the law.

Judicial vacancies create delays, which translate into costs for litigants. Vacancies harm businesses whose financial viability rests on the timely resolution of commercial disputes. Our economy depends on courts to enforce contracts, protect property and determine liability. Delay results in uncertainty that discourages growth and investment, hurting our economy.

Vacancies increase the caseloads for existing judges on the bench. Without the added effort of semi-retired judges, delays threaten to slow the speed of civil trials and judgments. Judges and their staffs are doing their best to keep up, but the increases in workload in some courts has been significant. Our criminal justice system is also affected by judicial vacancies. The number of criminal cases in U.S. district courts has increased 33 percent since 2003.

#### **Judicial Vacancies Remain a Significant Problem**

There currently are 87 vacancies in the Federal Judiciary – nearly one in 10 federal judgeships. Seventy-two exist on the district court bench; fifteen at the appeals court level.

Vacancies at high levels on the Federal bench have continued to exist for the past five years. Today there are 60 percent more vacancies than existed in January 2009.

Thirty-six of the current vacancies arise in some of the busiest courts in the nation and have been identified by the Federal Judiciary as “judicial emergencies.” The majority of these emergency vacancies involve the district courts; eight involve the Federal appeals courts.

Thirty-one judicial nominees have been reported by the Senate Judiciary Committee, but await floor action, many of them with little or no opposition.

High numbers of vacancies have plagued the Federal courts for over the past five years due to White House and Senate delay in the nomination and confirmation of judicial appointees. Coupled with increasing caseloads, vacancies are leaving judges with unprecedented workloads, making it harder for Americans to secure prompt justice.

### **The Senate and the White House Should Take Three Steps To Erase Judicial Vacancies**

The President and the Senate bear responsibility for the judicial vacancy situation and its resolution. They should take these steps:

- First, the Senate should promptly schedule up-or-down floor votes on all judicial nominees favorably reported out of the Senate Judiciary Committee with little or no opposition.
- Second, the Senate majority and minority leaders should agree to prioritize filling judicial emergencies and shorten the period of time between nomination and votes.
- Third, the White House and home state Senators should work to promptly identify nominees for every open seat on the bench and the President should promptly nominate consensus candidates.

### **About the FBA**

The 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. More than 16,000 lawyers and judges belong to the Association.

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

### **For Further Information:**

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