



Federal Bar Association

The View from Washington

A Government Relations Update



Bruce Moyer

FBA Counsel for Government Relations

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www.fedbar.org

Today's Update

- **“Inside-the-FBA” Headlines**
 - **Funding for the Federal Judiciary**
 - **Judicial Vacancies & Nominations**
 - **Legislation Affecting Federal Practice**
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“Inside the FBA” Headlines



- **Board of Directors adopts 2016 Issues Agenda**
 - **22 Chapters appoint Government Relations Liaisons**
 - **FBA Capitol Hill Day**
May 19, 2016
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Funding for Federal Courts



- **FBA Support for \$7.0 B Federal Judiciary request**
 - **Positive reception from House and Senate**
 - **But larger budget battles are brewing**
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The Tight Congressional Calendar

September

M	T	W	T	F
	1 	2 	3 	4  Both chambers out
7  Labor Day	8 	9 	10 	11  Both chambers in
14  Rosh Hashanah	15  Rosh Hashanah ends	16 	17  Iran vote deadline	18 
Only Senate in 21 	22  Yom Kippur begins	23  Yom Kippur ends	24  Pope visits	25 
28 	29 	30  Funding deadline	 Senate scheduled to be in on designated holidays	

Article III Judges: Confirmation Process

- 1. Home State Senators Solicit, Vet and Nominate Candidates to White House**
 - 2. President Vets and Announces Nominee**
 - 3. Senate Judiciary Committee Hearing**
 - 4. Senate Judiciary Committee Vote**
 - 5. Senate Confirmation Vote**
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Judicial Vacancies Are Growing



- **84 current and future Article III vacancies (50% increase in 8 mos.)**
 - **67 current vacancies**
 - **17 future vacancies**
 - **31 “judicial emergency” vacancies (up from 12 in January, up 158%)**
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Slow Pace of Judicial Nominations



- **6 nominees confirmed in 2015**
Cumulative votes: 577-0
 - **28 nominees pending, including 14 for final floor votes**
 - **Bipartisan cooperation elusive**
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Comparing History – 1999, 2007, 2015

Vacancies at start of seventh-year August recess,
district and circuit courts

Year	Total district vacancies	Vacancies with nominees	Vacancies without nominees		
			In states with 1 or 2 other-party senators	In states with 2 WH party senators	
1999	38	28 74%	10 26%	10 100%	
2007	32	16 50%	16 50%	15 94%	1 6%
2015	55	24* 44%	31 56%	28 90%	3 10%

Year	Total circuit vacancies	Vacancies with nominees	Vacancies without nominees		
			In states with 1 or 2 other-party senators	In states with 2 WH party senators	
1999	20	13 65%	7 35%	7 100%	
2007	14	7 50%	7 50%	5 71%	2 29%
2015	9	1 11%	8 89%	8 100%	

* Includes one nominee to a future vacancy.

States with High Vacancies

- **Texas (9, with 7 emergency vacancies and 0 nominees)**
 - **Pennsylvania (6, with 5 nominees)
Restrepo/3rd Cir. Nomination**
 - **New York (6, with 4 nominees)**
 - **Alabama (4, with 0 nominees)**
 - **New Jersey (4, with 3 nominees)**
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Abusive Patent Litigation Reform



- **FBA supports curbing abusive patent litigation practices and measures to improve patent quality, clarity.**
- **Uncertain outlook, after promising start for Senate (S. 1137) and House (HR 9) bills**

Lawsuit Abuse Reduction (H.R. 758, S. 401)



- **Revise FRCP Rule 11 by imposing mandatory sanctions and barring withdrawal of pleadings**
 - **FBA concern over the elimination of judicial discretion on sanctions**
 - **House Judiciary Committee approved in May 2015**
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Class Action Fairness – H.R. 1927



- **Requires plaintiffs to show they suffered the same type and extent of injury as the named class representative.**
- **House Judiciary Comm. approved in June 2015.**
- **Federal Judiciary is poised to reshape rules on class action certification.**

Criminal Justice Reform



- **Federal sentencing and rehabilitation proposals**
 - **More judicial discretion in sentencing of nonviolent drug traffickers and earlier release of offenders**
 - **Size and cost of federal prison population**
 - **Bipartisan push, but crime wave could stall action**
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Finally ...

Save the Date: FBA Capitol Hill Day 2016

May 19, 2016

Government Relations Info on FBA website

www.fedbar.org/Advocacy.aspx

**“Washington Watch” column in
*The Federal Lawyer***

Questions and comments: grc@fedbar.org
