New Constitutional Programming Now Available

Four popular Constitutional Programming webinars on timely legal topics that were broadcast during the recent FBA Virtual Leadership Summit are now available for viewing on-demand.

Each hour-long program featured prominent legal scholars and policy experts on the following subjects:

- Pandemics, Federalism and the Preservation of Liberty
- Governing the Internet and the Future of Section 230
- Litigation and Reform in the Aftermath of the 2020 Election
- Supreme Ideas: Is it Time to Reform the Supreme Court?

The programs were produced by the Federal Bar Association Government Relations Committee.

Click here to select and watch each of the panels on-demand. Please note that CLE credit is not available for on-demand viewership.

Legislative and Policy Developments

Judicial Vacancies, Nominations and Confirmations

Current Article III Vacancies
(as reported by the US Courts website on April 5, 2021)

<table>
<thead>
<tr>
<th>Court</th>
<th>Vacancies</th>
<th>Nominees Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supreme Court</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Courts of Appeal</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td>District Courts</td>
<td>65</td>
<td>0</td>
</tr>
<tr>
<td>US Ct of International Trade</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>74</td>
<td>0</td>
</tr>
</tbody>
</table>
Biden Announces First Judicial Nominations. President Biden on March 30 announced his intent to nominate his first wave of federal judicial nominations, nominating 10 candidates to serve as circuit appeals and district court judges. The list of nominees included three appeals court nominees to the Washington D.C. Circuit, the Seventh Circuit and the Federal Circuit and seven nominees to district courts in Colorado, Maryland, New Jersey, New Mexico and Washington, D.C.

The group of nominees is diverse in color and ethnicity, including three African American women named to circuit court vacancies, a candidate who would be the first Muslim-American federal judge, the first Asian-American-Pacific-Islander woman to serve on a district court, the first woman of color to serve as a federal judge for the District of Maryland. In all, nine of the ten nominees are women, and nine are people of color. Most have diverse legal experience as well, as defense and prosecution lawyers, and in both criminal and civil practice. “These highly-qualified candidates reflect the President’s deeply-held conviction that the federal bench should reflect the full diversity of the American people – both in background and in professional experience,” the White House said in its announcement.

The nominations head to an evenly divided Senate, where Democrats can approve judges without any Republican support, as the result of a 2013 rules change removing the filibuster over circuit court nominations and lowering the confirmation threshold to a simple majority.

Judicial Conference Recommends 79 Additional Judgeships. The Judicial Conference of the United States on March 16 recommended to Congress that it create two new court of appeals judgeships and 77 new district judgeships. The Conference also recommended that nine temporary district judgeships be converted to permanent status.

The Judicial Conference proposal would give California the most new district court judgeships -- 30 in all and would establish two new seats on the Ninth Circuit U.S. Court of Appeals. The proposal also would create a dozen new district court judgeships in Texas, 11 in Florida and five in New Jersey. The list of recommended judgeships is attached.

Congress last enacted a comprehensive bill to increase the number of appellate and district judgeships in 1990. A total of 34 district court judgeships were created in piecemeal fashion between 1999 and 2003 as part of other legislation. No new court of appeals judgeships have been created in more than 30 years. According to data released by the Administrative Office of the U.S. Courts, from 1990 through 2020 the caseload in the district courts rose 47 percent, with civil cases up by 41 percent and criminal filings up by 72 percent. Filings in the courts of appeals rose 12 percent. Weighted filings were above 500 per judgeship in 17 of the 26 courts in which the Judicial Conference is recommending additional judgeships or permanentizing current temporary judgeships. Weighted case filings exceeded 600 per judgeship in 14 of these courts, 700 per judgeship in six courts, and 900 per judgeship in two courts. Weighted case filings are a measure that the Judiciary uses to account for the varying level of resources cases require.