



Government Relations Update

The Latest on Public Policy and Advocacy Developments from the Federal Bar Association

January 2022

Advocacy Update

In recent weeks, FBA leaders and some grassroots FBA members have joined with GRC counsel in advocacy outreach on some of FBA's top public policy priorities. Highlights have included FBA President Anh Kremer's meetings with Senators Whitehouse, Smith and Klobuchar and Congressman Emmer, to build support for the JUDGES Act, an Article I Immigration Court, the Daniel Anderl judicial security bill, and the FBA Foundation Charter Amendments Act, and GRC Chair Rachel Rose's two days of meetings with members of Congress and senior staff in November and December, as a result of which Rep. Correa joined the Daniel Anderl judicial security bill as a cosponsor and is considering cosponsoring one of the judgeships bills. Finally, as a result of outreach by Rachel Rose and several FBA and GRC members in Texas, Florida, and other "red" states, several FBA member judges agreed to send notes or call their Republican Senators to let them know that the FBA seeks action this year on legislation to increase the number of judgeships.

Legislative Update

1. Judicial Security Legislation Moves to Full Senate for a Vote

On December 2, the Senate Judiciary Committee voted to recommend favorably the bipartisan Daniel Anderl Judicial Security and Privacy Act ([S. 2340](#)), with minor amendments, to the full Senate. The legislation is intended to improve the safety and security of the federal judiciary by prohibiting data brokers and other businesses from disclosing the personally identifiable information of federal judges and their families. One change of interest made in the Committee markup is the expansion of the definition of "Federal Judge" to specifically include Court of Appeals for Veteran Claims, Court of Appeals for Armed Forces, and Tax Court judges. The companion bill ([H.R. 4436](#)) continues to await action by the House Judiciary Committee.

2. House Passes Judiciary Financial Disclosures Bill

On December 1 by a vote of 422-4, the House approved the Courthouse Ethics and Transparency Act ([H.R. 5720](#)). The bill would amend the Ethics in Government Act of 1978 to require judges to submit securities transactions reports as do other federal officials. The legislation also calls for the Administrative Office of the U.S. Courts to create a searchable public online database of judicial



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financial disclosure forms and to post forms within 90 days of their filing. The Senate companion bill ([S. 3059](#)) remains pending before the Senate Judiciary Committee.

3. Legislation to Create Additional Judgeships Remains Stagnant in Both Houses

Legislation to create new federal judgeships continues to languish in both the Senate and House Judiciary Committees. Because FBA members are uniquely positioned to provide firsthand information about the overwhelming caseloads facing our federal courts, the FBA is continuing grassroots and other efforts to educate members of Congress about the need for more judgeships.

4. Awaiting Senate Action on FBA Foundation Charter Legislation

The Federal Bar Association continues to urge the Senate Judiciary Committee Chair and Ranking Member to facilitate expeditious Senate approval of the House-passed Foundation of the Federal Bar Association Charter Amendments Act of 2021 ([H.R. 2679](#)). As of the date of this report, no opposition to approving the bill has surfaced, and we remain hopeful that the Senate will approve the bill by unanimous consent in the new Session of Congress.

5. Federal Judiciary and Judicial Infrastructure Still Operating with FY 2021 Budget

Congress has not made substantial progress on FY 2022 funding legislation and, as a result, has passed a Continuing Resolution maintaining FY 2021 funding levels through February 18, 2022.

In July, the House of Representatives passed a package of appropriations legislation ([H.R. 4502](#)), which includes the FY 2022 Financial Services and General Government (FSGG) bill that funds the judiciary and judicial infrastructure. Three spending bills remain on the Union calendar for full House consideration.

In August, the Senate Appropriations Committee marked up three of its 12 annual spending bills: Energy and Water, Agriculture, and Military Construction/Veterans Administration. On October 18, Appropriations Committee Chairman Patrick Leahy (D-VT) released the text of the remaining nine bills, but the Committee has not yet held markups to consider, amend, or vote on them. The full Senate has not approved any funding measures.

6. Additional Items of Note

Judge Roslynn R. Mauskopf, in her capacity as secretary of the Judicial Conference of the United States, sent letters to Congress this week urging lawmakers to defer action on the Open Courts Act of 2021 ([H.R. 5844](#) and [S. 2614](#)), until a “meaningful two-way dialogue” between the two branches of government can take place to resolve important concerns.

In a letter to Committee Chairman Hank Johnson, Mauskopf listed several concerns with the legislation, noting that it would create a substantial risk to litigants’ access to justice by raising filing fees; it would disrupt current revenue streams needed for modernization efforts that are already underway, and its prescriptive language could hamper the flexibility needed for such a complex technology project.

Judiciary Update

1. State of the Federal Courts

On December 31, 2021, U.S. Supreme Court Chief Justice John Roberts released his [2021 Year End Report on the Federal Judiciary](#). An interesting tidbit is that the Judicial Conference is celebrating its Centennial. In his report, Chief Justice Roberts highlights three key items: (1) financial disclosures and recusal obligations; (2) inappropriate behavior in the judicial workplace (note - the FBA addressed the issue in 2018 and Sheri Mecklenberg, a former GRC Member was very involved and made significant contributions); and (3) judicial assignment and venue of patent cases.

Chief Justice Roberts, towards the end of the report, concludes with this sentiment - Chief Justice Taft was prescient in recognizing the need for the Judiciary to manage its internal affairs, both to promote informed administration and to ensure independence of the Branch.

2. Judicial Vacancies, Nominations, and Confirmations

Overall, [forty-two](#) of President Biden's judicial nominees have been confirmed, while [seventy-seven](#) Article III vacancies remain. Here are the current vacancies:

Current Article III Vacancies – As of January 12, 2022

[According to the Administrative Office of the U.S. Courts](#)

Court	Vacancies	Nominees Pending
Supreme Court	0	0
Courts of Appeal	4	1
District Courts	69	25
US Ct of International Trade	2	0
Total	75	26

[Seventy-seven](#) of 890 active federal judicial positions, including the United States Court of Federal Claims and the United States territorial courts, are vacant. Thirty-six more judicial vacancies are [expected](#) by mid-2022, with seven nominees named in advance.

[Thirty-one judicial emergencies](#) in vacancies remain, based on caseload and/or the length of the vacancy, according to the Administrative Office of the U.S. Courts. One emergency is in the 11th Circuit, and fifteen (15) are in the California district courts.

Judicial Nominations: So far in January, the President [named](#) sixteen federal court nominees.

Nominee	Judicial/District Court	Nomination Date
Nancy G. Abudu	11 Circuit	January 10, 2022
Dale E. Ho	DC-South NY	January 4, 2022
Georgette Castner	DC-New Jersey	January 4, 2022
Bridget Meehan Brennan	DC-North Ohio	January 4, 2022
Charles Esque Fleming	DC-North Ohio	January 4, 2022
David Augustin. Ruiz	DC-North Ohio	January 4, 2022
Hernan D. Vera	DC-Central California	January 4, 2022
Jacqueline Scott Corley	DC-North California	January 4, 2022
Trina L. Thompson	DC-North California	January 4, 2022
Ruth Bermudez Montenegro	DC-South CA	January 4, 2022
Cristina D. Silva	DC-Nevada	January 4, 2022
Anne Rachel Traum	DC-Nevada	January 4, 2022
John H. Chun	DC-West WA	January 4, 2022
Charlotte N. Sweeney	DC-Colorado	January 4, 2022
Victoria Marie Calvert	DC-North GA	January 4, 2022
Sarah Elisabeth Geraghty	DC-North GA	January 4, 2022

Judicial Confirmations

The Senate has confirmed one nominee in the month of January.

Nominee	Judicial/District Court	Confirmation Date
Gabriel Sanchez	9 th Circuit	January 12, 2022*

*This is for a future vacancy.