



# Government Relations Update

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

May 2023

## Advocacy Update

FBA members who participated in Capitol Hill Day have been engaged in follow-up contacts with the Members of Congress and staffers they met in March, and outside counsel have been guiding those efforts, as well as making additional contacts with Members of Congress and other stakeholder groups including the Federal Judges' Association, the Federal Magistrate Judges' Association, the National Council of Bankruptcy Judges, the Clerks of the Article I courts, and the Consumer Data Industry Association. Thanks in part to the FBA's post-CHD efforts, 17 House Members joined a bipartisan letter led by Rep. Mikie Sherrill (D-NJ) to the House Appropriations Committee urging full funding for implementation of the Daniel Aderl Judicial Security and Privacy Act, and 13 Democrats signed Sen. Bob Menendez's (D-NJ) similar letter to Senate appropriators. Also, at the FBA's request, Rep. Robert Aderholt (R-AL) submitted a written question to the Department of Justice's Office of Justice Programs in connection with a recent budget hearing, asking for information about the DOJ's plans for establishing and funding the grant program for state and local government database managers authorized by the Aderl Act.

## Legislative Update

### **1. Article I Immigration Court Legislation**

FBA members have made requests to several Republicans in the House and Senate seeking cosponsors for the immigration courts bills led by Rep. Zoe Lofgren (D-CA) and Sen. Kirsten Gillibrand (D-NY), but there is no progress to report at this time. Both Rep. Lofgren and Sen. Gillibrand are waiting to find Republican partners before introducing their bills.

### **2. FY 2024 Appropriations for the Judiciary**

The appropriations timeline for Fiscal Year 2024 is unclear, since the budget topline for defense and non-defense discretionary spending are part of the negotiations over increasing the debt ceiling. The announcement by Treasury Secretary Janet Yellen that the debt ceiling could be breached by June 1 may accelerate those negotiations.

The Judiciary's request of \$9.1 billion is an 8.0 percent increase over the FY 2023 enacted appropriation of \$8.5 billion and includes \$796.0 million in mandatory appropriations. The FBA will



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continue to support fully funding the AO's request, as well as full funding for the Article I courts (Court of Appeals for the Armed Forces, Tax Court, and Veterans Court), and as noted above, adequate funding to implement the judicial security measures authorized in the Daniel Anderl Act.

### 3. Judgeships Legislation

The House and Senate Members who sponsored legislation in the last Congress to add federal judgeships have not yet reintroduced their bills. Outside counsel have been in communication with staff for those Members, and we continue to expect those bills to be introduced soon, updated with the recommendations in the report released by the Judicial Conference in March. The Judicial Conference's report recommends adding 2 seats to the 9th Circuit Court of Appeals, 66 new District Court judgeships, converting 7 temporary District Court judgeships to permanent, and extending 2 temporary District Court judgeships for 5 more years. The legislation is likely to include the District Court increases and conversions, but not the 9th Circuit additions.

### 4. FBA Foundation Charter Amendments Bill

At the end of the last Congress, our House-passed bill died in the Senate due to a hold from a Senate Republican who objected to the bill's passage. The strategy this year is to line up support among Senate Republicans and Democrats that will help resolve the concerns expressed by the one Senator last year. We are working with FBA members who have personal contacts to Senate Republicans to find a champion for this bill.

### Judiciary Updates

[Seventy-five](#) of 890 active federal judicial positions, including the United States Court of Federal Claims and the United States territorial courts, are currently vacant. Twenty-two more judicial vacancies are [expected](#) through August of 2024, with two nominees named in advance.

#### **Current Article Vacancies – As of May 15, 2023**

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

Court	Vacancies	Nominees Pending
U.S. Supreme Court	0	0
Courts of Appeal	9	6
District Courts	62	27
U.S. Court of Federal Claims	2	1
U.S. Court of International Trade	2	0
<b>Total</b>	<b>75</b>	<b>34</b>

There are [twenty-eight judicial vacancy emergencies](#), based on caseload and/or the length of the vacancy, according to the Administrative Office of the U.S. Courts, including one in the 5<sup>th</sup> Circuit and one in the 11<sup>th</sup> Circuit.

**Judicial Confirmations:** The Senate has [confirmed](#) seven nominees since April 15, 2023.

Nominee	Judicial/District Court	Nomination Date
Anthony Devos Johnstone	9 <sup>th</sup> Circuit Court of Appeals	May 1, 2023
Michael Fabiarz	District of NJ	May 2, 2023
Robert Kirsch	District of NJ	May 2, 2023
Orelia Eleta Merchant	Eastern District of NY	May 3, 2023
Wesley L. Hsu	Central District of CA	May 3, 2023
LaShonda A. Hunt	Northern District of IL	May 4, 2023
Amanda K. Brailsford	District of ID	May 4, 2023

**Judicial Nominations:** Since April 15, President Biden has [nominated](#) 5 candidates for judicial vacancies:

Nominee	Judicial/District Court	Nomination Date
Irma Carrillo Ramirez	5 <sup>th</sup> Circuit Court of Appeals	Apr. 17, 2023
Vernon D. Oliver	District of CT	May 4, 2023
Julia Kathleen Munley	Middle District of PA	May 4, 2023
Susan Kim DeClercq	Eastern District of MI	May 4, 2023
Loren L. AliKhan	District of Columbia DC	May 4, 2023