



Government Relations Update

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

November 2021

Judicial Vacancies, Nominations and Confirmations

Overall, [twenty-eight](#) 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 November 15, 2021

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

Court	Vacancies	Nominees Pending
Supreme Court	0	0
Courts of Appeal	2	0
District Courts	69	24
US Ct of International Trade	2	0
Total	73	24

[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-five more judicial vacancies are [expected](#) by mid-2022, with seven nominees named in advance.

[Thirty-three 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. Seven emergencies are in Circuit Courts, and almost half (18) are in the California district courts.



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Judicial Nominations.

In October, President Biden [named](#) one court of claims nominee. So far in November, the President has named six U.S. District Court nominees.

Nominee	Judicial/District Court	Nomination Date
Armando O. Bonilla	U.S. Court of Claims	October 5, 2021
Georgette Castner	DC-New Jersey	November 3, 2021
Jacqueline Scott Corley	DC-Northern California	November 3, 2021
Trina L. Thompson	DC-Northern California	November 3, 2021
Ruth B. Montenegro	DC-Southern California	November 3, 2021
Cristina D. Silva	DC-Nevada	November 3, 2021
Anne R. Traum	DC-Nevada	November 3, 2021

Judicial Confirmations.

The Senate has confirmed [twelve](#) federal nominees since October 15:

Nominee	Judicial/District Court	Confirmation Date
Gustavo A. Gelpi*	CCA 1	October 18, 2021
Christine P. O'Hearn	DC-New Jersey	October 19, 2021
Tana Lin	DC-Western Washington	October 21, 2021
Myrna Perez	CCA 2	October 25, 2021
Jia M. Cobb	DC-District of Columbia	October 26, 2021
Patricia Tolliver Giles	DC-Eastern Virginia	October 26, 2021
Karen McGlashan Williams	DC-New Jersey	October 26, 2021
Michael S. Nachmanoff	DC-Eastern Virginia	October 27, 2021
Sarala Vidya Nagala	DC-Connecticut	October 27, 2021
Omar Antonio Williams	DC-Connecticut	October 28, 2021
Toby J. Heytens	CCA 4	November 1, 2021
Beth Robinson	CCA 2	November 1, 2021

*Former FBA President

Judgeships Bills Stagnant in Both Houses

Legislation to create new federal judgeships continues to languish in both the Senate and House Judiciary Committees. The FBA supports the creation of new judgeships to alleviate the burden on the federal courts and is urging the House and Senate Judiciary Committees to prioritize this issue.

FY2022 Funding for the Judiciary and Judicial Infrastructure

Although in July, the House of Representatives passed the FY 2022 Financial Services and General Government (FSGG) appropriations bill as part of a larger six-bill package ([H.R. 4502](#)), by September 30 -- the end of the federal government's fiscal year -- the Senate had not passed any funding measures. Consequently, Congress passed a Continuing Resolution ("CR") extending the FY 2021 funding levels through December 3, 2021. Operating under a CR hampers the courts by prohibiting new starts and can even prevent the realignment or elimination of programs that are wasting money. With the NDAA consuming Senate floor time before Thanksgiving and Congress in recess from November 19-29, it does not appear likely that appropriations bills will be finalized by December 3, meaning that another CR is expected. Whether bipartisan, bicameral agreements on funding can be reached by year-end remains to be seen. It is possible that another CR will extend FY 2021 spending levels into the new year.

SCOTUS Commission Finalizing Report on Reform Proposals

The [Presidential Commission on the Supreme Court of the United States](#) is in the final stages of preparing its report to the President regarding Supreme Court reform, having held four public hearings to receive testimony and to deliberate on the report. The tentative structure of the report includes five chapters, beginning with the genesis of the reform debate and the Commission's mission, moving to an assessment of the Court's membership and size, the length of service and turnover of Justices, the Court's role in the Constitutional system, and the Court's processes and practices for case selection and review.

The Commission has added another public meeting to its schedule and has postponed the delivery of its final report from November 30 to December 15, citing a need for more time to deliberate. At its fifth public meeting on November 19, the Commission will discuss revised discussion materials it plans to release the day prior. The Commission plans to prepare and release a draft report one day before its final meeting, which is scheduled for December 7.

Senate Action Pending 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 the FBA is hopeful the Senate will approve the bill by unanimous consent before the end of the year.

Judicial Security Legislation Pending in Both Houses

The Daniel A. Hand Judicial Security and Privacy Act ([S. 2340](#) and [H.R. 4436](#)), introduced in July, also is awaiting Committee action on the Hill. The legislation would 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. The FBA urged support for these bills in Capitol Hill Day meetings and continues to do so via follow-up contacts.

Judiciary Financial Disclosures

The GRC will be monitoring bipartisan legislation recently filed in both houses of Congress in response to a Wall Street Journal article reporting that a number of federal judges have handled cases involving companies in which they or their family members owned stock. The Senate version of the bill, the Courthouse Ethics and Transparency Act ([S. 3059](#)), would amend the Ethics in Government Act of 1978 to require judges to submit securities transactions reports as do other federal officials under the STOCK Act. The legislation also calls for the Administrative Office of the U.S. Courts to create a searchable public online database of judicial financial disclosure forms and to post forms within 90 days of their filing.

Lead sponsors of the Senate bill are John Cornyn (R-Tex), and Christopher Coons (D-Del). Other cosponsors are Senate Judiciary Committee Chairman Dick Durbin (D-Ill), Ranking Member Chuck Grassley (R-Iowa), Sheldon Whitehouse (D-RI), John Kennedy (R-La), and Ted Cruz (R-Tex).

Representative Deborah Ross (D-NC) introduced a companion bill ([H.R. 5720](#)) cosponsored by House Judiciary Committee members Darrell Issa (R-Cal) and Chairman Jerrold Nadler (D-NY).