

February 24, 2021

Chairman Hank Johnson  
Ranking Member Darrell Issa  
Subcommittee on Courts, Intellectual Property, and the Internet  
House Committee on the Judiciary  
United States House of Representatives

Dear Chairman Johnson and Ranking Member Issa:

Thank you for your leadership in convening today's hearing on "The Need for New Lower Court Judgeships, 30 Years in the Making." We write to urge you to create enough additional judgeships in our federal district and circuit courts to allow our judiciary to adequately serve the American people.

Our overwhelmed judicial branch is indeed a crisis decades in the making. While Congress regularly increased the number of judges on the federal bench to keep pace with our booming population and growing number of cases over the course of the 20th century, for the past 30 years, the creation of new judgeships has largely stalled. Because our judiciary has too few judges, struggling to manage too many cases, the administration of justice is being undermined in this country.

The Judicial Conference, headed by Chief Justice John Roberts, makes biennial recommendations to create new judgeships, but these recommendations unfortunately have been unheeded for decades. As a result, the overwhelmed dockets of our federal courts have limited access to justice and effectively block many Americans from seeking relief for civil wrongs.

Now, the Judicial Conference's recommendations are only a first step, insufficient to meet today's crisis in our courts. The U.S. population has grown by nearly a third since the last time Congress comprehensively addressed the number of judgeships in 1990, but the Conference only recommends an 8 percent increase in judgeships.

Caseload statistics also support a more robust approach. While the Conference recommends increasing district court judgeships by less than 10 percent, filings in our district courts have increased by roughly 40 percent since 1990. Similarly, the Conference only would increase circuit court judgeships by 3 percent, while circuit court filings have grown by 15 percent. Judge Brian Miller's [testimony](#) to your Committee conceded that "Even with these additional judgeships, weighted filings would be 475 per judgeship or higher [10 percent higher than the Conference's benchmark] in 14 district courts."

Even if Congress adopted the Judicial Conference's recommendations in full and added 8 percent to our judiciary, it would be the smallest increase in a comprehensive judgeship bill in modern history. From 1960 to 1990, Congress passed six comprehensive judgeship bills -- each one increasing the size of the judiciary by at least 12 percent, with no more than eight years between laws. Our current, 30-year period of inattention requires a much greater response.

Congress' failure to create new judgeships has devastated the ability of our courts to fulfill the promise of equal justice under the law and exacerbated existing inequalities in our system. It encourages defendants to seek plea bargains to avoid jail time while awaiting delayed trials and discourages people without the resources for protracted litigation from filing cases in the first place. Furthermore, our overwhelmed lower courts have led judges to create procedural hurdles and substantive law that keeps civil rights plaintiffs -- especially those bringing employment disputes--out of federal court. Adding judgeships to the lower courts would not only relieve unmanageable caseloads and overworked judges, but would also lay the groundwork for reforms needed to correct for inequalities that plague our system.

Adding judgeships also presents an additional opportunity to improve judicial diversity, a crisis that has reached historic proportions under the Trump administration. By expanding the federal courts, Congress would provide another opportunity to correct course and add judges who represent both the diversity of the nation and the professional diversity of attorneys. An expanded federal bench must include more women, people of color, LGBTQ+ people, and people with disabilities to fill the created seats. Lower court expansion would also increase capacity to nominate lawyers who have represented individuals -- such as indigent defendants, workers, consumers, immigrants, and civil rights plaintiffs -- whose perspective is sorely lacking on our federal benches.

Congress' failure to add new judgeships for decades is the exception, not the norm, and the historic crisis we face warrants immediate action by this Committee. We are currently living in the longest period of time with no major increase in judgeships since the creation of our modern judicial system in 1891.

Our courts cannot provide the efficient administration of justice in this country without a sufficient number of judges to adequately serve the American people. We cannot accept a status quo that undermines justice, equality, and confidence in our judicial system. Only Congress has the power to address our current crisis, and it must do so with a solution that is large enough to meet our judiciary's full need.

Sincerely,

Alliance for Justice  
American Association for Justice  
American Atheists  
American Constitution Society  
American Federation of Teachers (AFT)  
American Federation of State, County and Municipal Employees (AFSCME)  
Asian American Legal Defense and Education Fund (AALDEF)  
Autistic Self Advocacy Network  
Center for American Progress  
Center for Popular Democracy Action

Climate Hawks Vote  
Committee for a Fair Judiciary  
Constitutional Accountability Center  
Demand Justice  
Demand Progress  
Demos  
Equal Justice Society  
Freedom From Religion Foundation  
Giffords  
IndivisAbility  
Indivisible  
Just Democracy  
Lambda Legal  
Lawyers for Good Government (L4GG)  
League of Conservation Voters  
Main Street Alliance  
NARAL Pro-Choice America  
National Asian Pacific American Women's Forum (NAPAWF)  
National Council of Jewish Women  
National Education Association (NEA)  
National Employment Law Project  
National Employment Lawyers Association  
National Equality Action Team (NEAT)  
National Health Law Program  
National Women's Law Center  
People For the American Way  
People's Parity Project  
Planned Parenthood Federation of America  
Revolving Door Project  
Service Employees International Union (SEIU)  
Stand Up America  
Take Back The Court  
The Employee Rights Advocacy Institute For Law & Policy (The Institute)  
The Immigration Hub  
The Leadership Conference on Civil and Human Rights  
United We Dream