

To: Glenn Sugameli[GSugameli@defenders.org]
From: Glenn Sugameli
Sent: 2015-08-03T13:08:48-06:00
Subject: JUD NOMS Leahy v. obstruction; Grassley blocks noms tells Schumer "put that in your pipe & smoke it", 4 new vacancies; Court access threat; Diverse new noms
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SATURDAY-MONDAY, August 1-3, 2015
JUDICIAL NOMINATIONS, VACANCIES & MORE
A Project of [Defenders of Wildlife](#) [[Glenn Sugameli](#)]

HIGHLIGHTS: Leahy v. obstruction; Grassley blocks noms tells Schumer "put that in your pipe & smoke it", 4 new vacancies; Court access threat; Diverse new noms

-Glenn Sugameli, Senior Attorney, Defenders of Wildlife, founder, [Judging the Environment](#) on judicial nominations in 2001 **FOR PDF VERSION, FEEDBACK OR QUESTIONS**

Direct Tel: 202-772-0204 Cell gsugameli@defenders.org
JUDGING THE ENVIRONMENT WEBSITE [>www.judgingtheenvironment.org<](http://www.judgingtheenvironment.org)

P6/b(6)

LEAHY v. OBSTRUCTION: GRASSLEY BLOCKS FLOOR VOTES ON UNOPPOSED NOMINEES TO FILL JUDICIAL VACANCIES: "SO PUT THAT IN YOUR PIPE AND SMOKE IT SEN. SCHUMER" FOUR NEW CURRENT VACANCIES

MUST READ: [Undermining Our Third Branch and Delaying Justice](#), Sen. Patrick Leahy, Ranking Member, Senate Judiciary Committee, The Huffington Post, Huff Post Politics,

MUST READ: [Editorial: Grassley joins race to bottom on political rhetoric](#), Des Moines Register [IA], The Register's editorial

MUST READ: [Grassley continues confirmation wars on judges](#), Des Moines Register [IA], Letter to the Editor, By Carl Tobias

[Neither proud nor happy with Chuck Grassley](#), Hannity Forum, by Safiel

[Politics as Usual: More judge nominations, but Senate votes elusive](#), The Morning Call [PA]
By Laura Olson, Call Washington Bureau

[Gannett papers] Tweet Mary Orndorff Troyan@orndorfftroyan US District Ct in Montgomery confirms Mark Fuller resigned, as planned, on Sat. Court website will be updated. [#alpolitics](#) [@MGMAAdvertiser](#) RETWEETS11 FAVORITES2 [9:36 AM - 3 Aug 2015](#)

UPDATED: US Courts website lists 81 Article III Current & Future [Judicial Vacancies](#)

[28 Judicial Emergency Vacancies \[ID, 4 NJ, IA; 7 TX & two 5th Cir. TX\] up from 12 in January](#)

UPDATED BUT Does NOT yet list Aug. 1 AL Judge Fuller: 66 [Current Vacancies](#) [[Latest FL, MN, NY](#)]

UPDATED: 15 [Future Vacancies](#)

UPDATED: [Alliance for Justice WEBSITE CHARTS](#): interactive Judicial Selection Diversity, Nomination & Confirmation [Dashboards](#), [Pending Nominees](#) [on Senate Floor and in Judiciary Committee], [Vacancies Without Nominees](#), [Judicial Selection Snapshot](#), Calendar, and Judicial Emergency Maps

[Sen. Schumer seeks Floor vote on three unopposed NY district court nominees including two to fill judicial emergency vacancies](#)

(Democrat - New York) 07/30/15

"I rise today to address the growing crisis of judicial vacancies in our Federal and district courts.... In my home State of New York, in the Western District, there is not a single active district judge--zero. The Western District has one of the busiest caseloads in the country. It handles more criminal cases than Washington, DC, or Boston or Cleveland. The delays for civil trials are by far the worst in the country. ... Now, under the new Republican Senate, more than half the year into this new Congress, the Republican leadership has scheduled votes on only five Federal judges. It is July. They have scheduled votes on five Federal judges. That is a disgrace. For context, in the seventh year of President Bush's Presidency, the Democratic Senate--we were in charge then--approved 25, compared to 5 here. That is a direct one-to-one comparison ... there are 14 noncontroversial judges on the Executive Calendar, including 3 highly qualified judges for New York."

[Sen. Grassley blocks Floor votes on unopposed nominees to fill judicial emergency vacancies](#) (Republican - Iowa) 07/30/15

"So put that in your pipe and smoke it, Senator Schumer."

GLENN NOTE: why is Grassley upset about the lack of further unnecessary delays for the judges confirmed on Dec. 16, 2014 unopposed voice votes including those strongly backed by their home-state R senators from NC, IL and three from Texas Sen. Cornyn and Cruz recommended and whom Cornyn repeatedly said he wanted confirmed during the lame duck?

[Texas Senators on judicial nominees](#) (Republican - Texas) 11/20/14

A Senate committee recommended three nominees for federal judgeships Thursday, paving the way for their approval before the full Senate....**Cornyn said** on his weekly call with Texas reporters that he and Cruz "would like to move quickly" on the three Texas judicial nominations. "All of these nominees were recommended to the White House by me and Sen. Cruz ... My hope is that we can actually get these three good nominees confirmed" during the lame duck session.

[Sen. Cornyn quoted on Floor votes for Texas nominees Judiciary Committee approved on Nov. 20th](#)

(Republican - Texas) 11/20/14 . Cornyn, who serves on the committee, said he plans to urge Senate Majority Leader Harry Reid, D-Nev., and Senate Minority Leader Mitch McConnell, R-Ky., to bring the Texas judicial nominees up for confirmation during the lame duck session. "I certainly will be urging those Texas judges, including Judge Mazzant, to move through during the lame duck session so we can get these judges on the bench," Cornyn said after the meeting. ... Cornyn expects that Senate leaders will negotiate a deal for some nominees to move forward during the lame duck – a decision that, he said, ultimately rests with Reid.

[Confirm Judge Restrepo](#) (*Pittsburgh Tribune-Review* [P.A.] , 07/31/15)

Prof. Carl Tobias: "Today, as in 2007, a Pennsylvania federal district court judge's unopposed nomination to the Third Circuit requires a final vote in a Senate the president's party does not control. On March 15, 2007, a Democrat Senate confirmed President George W. Bush's nomination of Pittsburgh District Judge Thomas Hardiman one week after his Judiciary Committee approval. This precedent is one reason Senate Majority Leader Mitch McConnell, R-Ky., must schedule an immediate vote on Judge Luis Felipe Restrepo's nomination, which the committee approved on July 9. Restrepo would fill one of 28 vacancies the courts have declared judicial emergencies.... As Senate Minority Leader Harry Reid, D-Nev., said on July 7, if Toomey simply asked "to confirm Judge Restrepo immediately, (I'm confident) we could confirm Judge Restrepo to the Third Circuit next week."

ACCESS TO COURTS THREATS

[Access to Courts](#) Judging the Environment webpage

[FEDERAL AGENCIES: Senate panel digs into 'sue and settle' complaints](#), Environment & Energy Daily, by Robin Bravender and Corbin Hiar, E&E reporters

STILL NO FLOOR VOTES ON UNOPPOSED HISPANIC JUDICIAL NOMINEES: [RESTREPO](#) (3RD CIRCUIT) COMMITTEE VOICE VOTE; [BONILLA](#) FIRST HISPANIC COURT OF FEDERAL CLAIMS NOMINEE AMONG 5 COMMITTEE APPROVED IN 2014 AND 2015

[Obama Taps Magistrates, Criminal Defender For Fed. Benches](#), By Dan Packel, Law360 [“Asked whether Toomey was working to set a vote for Judge Restrepo prior to the Senate’s August recess, a spokeswoman responded that Toomey spoke directly to Senate Majority Leader Mitch McConnell of the confirmation's importance.” NOTE: DOES NOT SAY HE ASKED FOR A PRE-RECESS VOTE]

[Toomey Apparently Fails to Press McConnell on Timing for Restrepo Vote](#), People for blog, People for the American Way — Paul

As Senate Minority Leader [Reid said on the Floor](#) on July 7, 2015, if Sen. Toomey simply asked “to confirm Judge Restrepo immediately ... I’m confident if that happened, we would have that matter on the calendar. We could confirm Judge Restrepo to the Third Circuit next week.”

JUDGING THE ENVIRONMENT WEBPAGES:

[L. Felipe Restrepo](#) (Third Circuit) Nominated 11/12/2014 [July 9 Comm. Voice Vote]

[Armando Omar Bonilla](#), United States Court of Federal Claims Nominated May 21, 2014 [and other Federal Claims nominees] Judging the Environment website

[Statement of Senator Patrick Leahy \(D-Vt.\), Ranking Member, Senate Judiciary Committee, On the Pending Nominees to the U.S. Court of Federal Claims](#) (Democrat -

Vermont) 07/23/15

[Sen. Reid Remarks On Highway Legislation And Republican Obstruction Of Qualified Judicial Nominees](#) (Democrat - Nevada) 07/22/15

NOMINEES AWAITING FLOOR VOTES: [Executive Calendar](#)

[Committee picked to help pick federal judges in Seattle: A bipartisan committee will help select candidates for federal judgeships in Seattle.](#) The Associated Press, Updated July 31, 2015 at 12:12 pm

[Judicial Vacancies](#) (*American Bar Association*, 07/24/15)

"Our nation is disadvantaged when our federal judiciary does not have sufficient judges to hear cases and resolve disputes in a thorough and timely fashion. ... Neither the Senate Judiciary Committee nor the Senate has acted expeditiously to confirm pending nominees. In fact, during the first three months of this Congress, the Senate failed to hold any confirmation votes, ... it appears that leadership has decided to slow-walk the process for reasons that have nothing to do with the qualifications of the nominees.... As a result, the number of vacancies and courts with judicial emergencies are increasing and the backlog of civil lawsuits keeps growing.... To further add to the strain on the federal judiciary, dozens of new judgeships are needed, according to the Administrative Office of the U.S. Courts (AO), especially in the Delaware and the border courts where caseloads are crippling. On March 19, 2015, the Judicial Conference submitted its request for 73 new judgeships and the conversion of nine temporary ones into permanent judgeships."

[Senator McConnell - Stop Obstructing and Start Confirming!](#) Action Alert, The Leadership Conference on Civil and Human Rights

DIVERSITY: OBAMA NOMINATES 7 DISTRICT (GA, MA, NY & 4 PA) JUDGES AND 3 TO LIFETIME COURT OF INTERNATIONAL TRADE SEATS

[Obama Nominates Four Pa. Judges to Federal Bench](#), by P.J. D'Annunzio, The Legal Intelligencer, July 31, 2015

[As a Latino Republican, Federal Judge Nominee Has Bipartisan Connections](#), by R. Robin McDonald, Daily Report, July 31, 2015

[Obama Picks Brown to Fill Third Eastern District Spot](#), Andrew Keshner, New York Law Journal

[Obama nominates Long Islander for U.S. District Court judgeship](#), Newsday By ROBERT E. KESSLER

[NAPABA Applauds Nomination of Jennifer Choe Groves to U.S. Court of International Trade](#), National Asian Pacific American Bar Association (NAPABA), July 30, 2015 ["Today, the National Asian Pacific American Bar Association (NAPABA) applauds President Barack Obama's nomination of Jennifer Choe Groves to the U.S. Court of International Trade. If confirmed, Groves will be the first Asian Pacific American (APA) judge to serve on this court. "We commend President Obama for his continued commitment to judicial diversity with this historic

nomination,” said NAPABA President George C. Chen. “As a longtime NAPABA member and a NAPABA Law Foundation Board member, Ms. Groves is an esteemed leader in the APA legal community. NAPABA looks forward to continuing to support her nomination.” ...”

Obama nominates two from Massachusetts for federal courts, The Herald news [MA] By Peter Urban, GateHouse Media Washington Bureau [“President Barack Obama on Thursday nominated Inga S. Bernstein to serve on the United States District Court for the District of Massachusetts and Justice Gary Stephen Katzmman to serve on the United States Court of International Trade. ... “

Obama nominates Judge López to serve on U.S. District Court. By: CARIBBEAN BUSINESS ONLINE STAFF cbnewsroom@gmail.com; cbprdigital@gmail.com [“President Obama has nominated Puerto Rican-born Judge Dax Eric López to serve on the U.S. District Court for the Northern District of Georgia. According to the White House, López would be Georgia’s first Hispanic lifetime-appointed federal judge.”]

President Obama Nominates Philly Native, Howard Law School Graduate to Federal Bench, AFRO by: Zenitha Prince Senior AFRO Correspondent Judge John Milton Younge ([Courtesy Photo](#)) Jul 31, 2015 [“Judge John Milton Younge is a 60-year-old African American who has spent the last two decades on the judicial bench. ... Judge John Milton Younge is a 60-year-old African American who has spent the last two decades on the judicial bench. ...”]-

Butler County Judge Horan nominated for federal bench, The Cranberry Eagle [PA] Written by: John Bojarski Eagle Staff Writer July 30, 2015 [“Butler County Judge Marilyn Horan could soon be a federal judge. President Barack Obama on Thursday nominated Horan to take a vacancy on the federal bench. Obama also nominated judges Susan Baxter, Robert Colville and John Younge to take other federal positions in the state. Horan, 60, of Butler is the first female judge in county history. She could not be reached this morning for comment. Horan was appointed to her current post in 1996 by Gov. Tom Ridge to fill a slot created by retirement. She was re-elected to a 10-year term in 1998. If her appointment is confirmed by the U.S. Senate, Horan would serve on the bench in Pittsburgh. County President Judge Thomas Doerr said Horan’s nomination is a compliment of her excellence on the bench. He said it is also a compliment of the strength of the county’s bench, saying that it is not common for these nominees to come from small and medium sized counties. “I’m very happy for Judge Horan,” Doerr said. Horan has handled primarily civil litigation over the past several years, which Doerr said is good training for the federal bench. “There is a very high civil caseload in federal court,” Doerr said....”]

President Obama Nominates Pitt Law Alumna Judge Marilyn Jean Horan To Federal Bench, Pitt Law [“According to the Pittsburgh Post-Gazette, if confirmed by the Senate, Judge Horan along with the two other nominees for W. D. Pa. would shore up a court that hasn't operated with a full complement of judges for years. “]

President Obama Nominates Seven to Serve on the United States District Courts

President Obama Nominates Three to Serve on the United States Court of International Trade

MD, MN & NJ DISTRICT NOMINEE HEARING

[Senate Judiciary Committee Executive Business Meeting](#), August 6, 2015 [currently does not list any judicial nominees from July 22 hearing]

[Senate Judiciary Committee Nominations Hearing](#), Date: Wednesday, July 22, 2015 10:00 AM, Dirksen 226, Presiding: Chairman Grassley; Witnesses: John Michael Vazquez [District of New Jersey], Wilhelmina Marie Wright [District of Minnesota; Paula Xinis [District of Maryland]; Cono R. Namorato [Assistant Attorney General, Tax Division]

JUDICIAL SELECTION; RESOURCES: EXTERNAL LINKS

WHITE HOUSE INFOGRAPHIC: [This is the First Time Our Judicial Pool Has Been This Diverse; President Obama's Judicial Nominees; Creating A Judicial Pool That Resembles The Nation It Serves](#), Dec. 17, 2014

[Judging the Environment](#) website Sort thousands of [Senator Statements](#) links/excerpts by STATE, and [Editorials & Commentary](#) by Publication, Nominee, or Issue

Center for American Progress: [An easy guide to federal judicial nominations; Why Courts Matter infographics](#)

[COALITION FOR CONSTITUTIONAL VALUES](#) [INCLUDES JUDGING THE ENVIRONMENT]

ACS www.judicialnominations.org links

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Undermining Our Third Branch and Delaying Justice

Sen. Patrick Leahy, Ranking Member, Senate Judiciary Committee

The Huffington Post, Huff Post Politics, Posted: 07/31/2015 4:12 pm EDT

http://www.huffingtonpost.com/sen-patrick-leahy/undermining-our-third-branch_b_7914460.html

The third branch of our democratic government -- the federal judiciary -- cannot function effectively and efficiently without a full complement of judges. Unfortunately, there are judicial vacancies in federal courthouses across the nation -- resulting in unacceptable delays and compromising access to justice for millions of Americans. Today, there are dozens of highly qualified nominees prepared to fill those spots and to administer justice promptly and fairly in our federal courts. But Senate Republicans have obstructed and delayed at every turn, undermining our judiciary and ultimately our democracy.

Just how bad is it? Since the beginning of the year, the number of vacancies deemed "judicial emergencies" by the nonpartisan Administrative Office of the U.S. Courts has more than doubled. And how have Republicans responded? In the last seven months, the Republican-controlled Senate has allowed confirmation votes for just five judicial nominees. This is not an acceptable pace by any measure, and it does not have to be this way. At this same point in President Bush's second term, after the Democrats regained control of the Senate and I became chairman of the Judiciary Committee, we confirmed 25 judges. That is five times as many judges

confirmed under a Democratic majority with a Republican president than today's Senate Republican majority with a Democratic president.

The American people should demand that the Senate act. Currently, there are 14 judicial nominees pending on the Senate floor and simply waiting for an up-or-down vote. These nominees are eminently qualified and deserve better treatment from Senate Republicans. Several of them have Republican support, yet they are being blocked from consideration by Majority Leader McConnell.

Take, for example, Judge Luis Felipe Restrepo. Just two years ago, the Senate unanimously confirmed Judge Restrepo to serve on the district court in Pennsylvania. He is now awaiting Senate confirmation to fill a judicial emergency vacancy on the U.S. Court of Appeals for the Third Circuit. He has the strong support of both his home state Senators, including Republican Senator Pat Toomey. Senator Toomey has described Judge Restrepo's life story as "an American Dream story" and he recounted how Judge Restrepo emigrated from Medellín, Colombia, and rose to the very top of his profession here in America by "virtue of his hard work, his intellect, his integrity." Judge Restrepo also stands to make history. If confirmed, he will be the first Hispanic judge from Pennsylvania to ever serve on the Third Circuit and only the second Hispanic judge to serve on that court. This is hardly a controversial nominee, and yet the Republican majority refuses to schedule a confirmation vote for Judge Restrepo.

There are also several qualified nominees being blocked from their appointment to the U.S. Court of Federal Claims, a court commonly referred to as the "People's Court" because it allows Americans to seek prompt justice against their government. Right now there are eight active judges on the CFC appointed by President Bush and only three active judges appointed by President Obama. The five current nominees waiting for a confirmation vote are, like Judge Restrepo, highly qualified and entirely uncontroversial. They were all nominated more than a year ago, and were approved unanimously by the Judiciary Committee twice. So it is clear that there are no substantive concerns about their qualifications or ability to serve with integrity. Instead, one Republican Senator is [blocking](#) all of these nominees from being confirmed based on arguments that have nothing to do with their merits or qualifications. One of the nominees, Armando Bonilla, would be the first Hispanic judge to serve on the Court. He has served his entire laudable career - now spanning two decades - as an attorney for the Department of Justice. Another nominee, Jeri Somers, retired with the rank of Lieutenant Colonel in the United States Air Force. She spent over two decades serving first as a Judge Advocate General and then as a Military Judge in the United States Air Force and the District of Columbia's Air National Guard. In 2007, she became a Board Judge with the U.S. Civilian Board of Contract Appeals and currently serves as its Vice Chair. These are exemplary nominees who deserve to be considered on their own merit, as do the many district court judges pending on the Senate floor.

The unfair and disparate treatment of judicial nominees by this Senate is clear. During the last two years of the Bush administration, Democrats confirmed 68 judicial nominees. So far, Republicans have confirmed five. The current Chairman of the Senate Judiciary Committee [predicted](#) that Republicans will shut down the judicial confirmation process a year from now. That leaves little time for the American people to demand confirmation votes for President Obama's judicial nominees.

Whether it is blocking highly qualified nominees from filling critical vacancies, proposing to strip courts of jurisdiction, or suggesting that we end life tenure for Supreme Court justices, I fear that Senate Republicans are politicizing our judiciary and undermining our democracy. Their actions

inject more politics into our justice system, precisely when less politics is essential to the continued vitality and integrity of this independent branch of government. We should demand better.

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Editorial: Grassley joins race to bottom on political rhetoric

Des Moines Register [IA], The Register's editorial 12:05 a.m. CDT August 1, 2015

<http://www.desmoinesregister.com/story/opinion/editorials/2015/07/31/grassley-joins-race-bottom-political-rhetoric/30963785/<>

U.S. Sen. Chuck Grassley is apparently taking civility lessons from Donald Trump.

In an exchange with Democratic Sen. Chuck Schumer of New York over confirming judges, Grassley resorted to a taunt more appropriate for a schoolyard than the floor of the United States Senate.

Schumer criticized the slow pace of judicial confirmations since Republicans took control of the Senate, and he pushed for a vote on three federal district judges in New York State. Grassley defended his party's record, which he insisted is roughly equivalent to when Democrats were in control.

"So, put that in your pipe and smoke it, the senator from New York," Grassley retorted.

Grassley contends the number of federal judges confirmed since the Republicans took control of the Senate in January is roughly equivalent to the same period in 2007 when the Democrats were in control and George W. Bush was in the White House.

But Grassley's numbers add up only if the 11 judicial nominees confirmed by Democrats in the 2014 lame duck session are counted. That's phony accounting. It is the equivalent of shifting Fred Hoiberg's last 11 victories to the new Iowa State basketball coach's win-loss record.

Apart from cooking the numbers, Grassley's immature poke at a fellow senator was undignified. And, it echoes a disturbing trend toward incivility in American politics, coming days after Texas Sen. Ted Cruz called Senate Republican Leader Mitch McConnell a liar, and a rhetorical race to the bottom by some presidential candidates.

One day the Democrats will again control the Senate, and with Grassley's words and actions in mind, they will pay back by obstructing any Republican president's nominees. We had given Grassley the benefit of doubt that he would use his gatekeeper role as chairman of the Senate Judiciary Committee to end the judicial confirmation wars. Our optimism was not warranted.

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Grassley continues confirmation wars on judges

Des Moines Register [IA], Letter to the Editor

By Carl Tobias, Richmond, Va. 11:16 p.m. CDT July 31, 2015

<http://www.desmoinesregister.com/story/opinion/readers/2015/08/01/grassley-continues-confirmation-wars-judges/30964003/<>

Sen. Chuck Grassley perpetuates the confirmation wars by engaging in payback that ignores his

constitutional duty to reduce court backlogs by allowing votes on excellent, consensus nominees.

The most relevant precedent is 2007 when the Senate had a Democratic majority, who processed President George W. Bush nominees. At this point, the Democrats had confirmed 25 judges, versus five this year. Even if you count the 11 who were confirmed in the 2014 lame duck session of Congress, as Grassley argues, that still leaves nine more well qualified, consensus nominees unanimously approved by Grassley's Judiciary Committee on the floor who deserve votes.

Aside from numbers, which can show anything, the Senate has a constitutional duty to fill vacancies, especially judicial emergencies, which have doubled on the GOP's watch. The people who are hurt are individuals and businesses that litigate in federal courts and the judges who are overwhelmed by huge caseloads: Justice delayed is justice denied.

Grassley has done reasonably well in setting hearings, and Judiciary Committee votes, but not as well as Democrats in 2007. However, his use of numbers to block floor votes is often incorrect and does not compare similar periods.

The irony is that the GOP and Grassley incessantly pledge to return "regular order" to the Senate but undermine that order by delaying judicial nominees. The wars need to cease for the good of the courts and the country.

— Carl Tobias, Williams Professor, University of Richmond School of Law, Richmond, Va.

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Neither proud nor happy with Chuck Grassley

Hannity Forum, by Safiel August 1st, 2015, 12:09 am

[>http://forums.hannity.com/showthread.php?2458415-Neither-proud-nor-happy-with-Chuck-Grassley<](http://forums.hannity.com/showthread.php?2458415-Neither-proud-nor-happy-with-Chuck-Grassley)

Senator Chuck Grassley included the phrase "put that in your pipe and smoke it" during a brief verbal sparring round with Senator Chuck Schumer on the floor of the Senate. It occurred during an attempt by Schumer to schedule confirmation votes for three Article III Judicial nominees in his State. Unfortunately, Grassley has zero interest in doing anything other than obstructing judicial nominations. Besides the above snark, he offered some recycled lame excuses for his failure to do his job. I hardly ever agree with Schumer with anything on the legislative side of things, but he clearly has the right to demand his State's nominees get an up or down confirmation vote.

Schumer made the following request:

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 139, 140, and 141; that the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Grassley objected to the request.

Two of the nominees in the above request are to the Eastern District of New York, the other is to the Western District of New York, which currently has ZERO active District Judges serving at Buffalo, only senior Judges. All three nominees are needed NOW, not when Grassley feels like

getting around to it. All three nominees have been on the Senate floor since June 4.

–	Luis Felipe Restrepo	Third	January 7, 2015 ^[Rn 15]	–	–	–	–	–
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–	Dale A. Drozd	E.D. Cal.	January 7, 2015 ^[Rn 46]	–	–	–	–	–
–	LaShann Moutique DeArcy Hall	E.D.N.Y.	January 7, 2015 ^[Rn 46]	–	–	–	–	–
–	Ann Donnelly	E.D.N.Y.	January 7, 2015 ^[Rn 47]	–	–	–	–	–
–	Roseann A. Ketchmark	W.D. Mo.	January 7, 2015 ^[Rn 47]	–	–	–	–	–
–	Travis Randall McDonough	E.D. Tenn.	January 7, 2015 ^[Rn 47]	–	–	–	–	–
–	Waverly D. Crenshaw, Jr.	M.D. Tenn.	February 4, 2015	–	–	–	–	–
–	Lawrence J. Vilardo	W.D.N.Y.	February 4, 2015	–	–	–	–	–

–	Jeanne E. Davidson	January 7, 2015 ^[Rn 49]	–	–	–	–	–
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Restrepo is a Circuit nominee, Davidson is a Trade Court nominee and the seven grouped together are District Court nominees. All have been jerked around long enough and don't need to have to wait another month and a half until after the Senate August recess.

Grassley, instead of being a jerk, why not be a leader and make the following request:

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 11, 27, 28, 29, 30, 31, 82, 138, 139, 140, 141, 194, 195, 213, 214, and 215 ; that the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table

with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

That would confirm all nine pending Article III Judges, five pending Article I Judges and two pending Judges to the District of Columbia Superior Court. I would help people living in those Judicial Districts who are suffering because of massive judicial backlogs in those districts.

When a judicial nominee is obstructed, it is not Obama who is getting ****ed over. None of the Article III nominees above are even Obama's picks, but are instead the picks of the home State Senators. It is the people living in that State or judicial district who are getting ****ed.

I refuse to take any petty partisan line on this issue. It is wrong to obstruct, regardless of party and I opposed it when Democrats were misbehaving in 2003/2004 and supported the nuclear option at that time.

There is a tactic available to force votes. Refuse to vote for cloture on any legislation at all, unless at least two Article III nominations are cleared for a final vote, prior to final vote on the accompanying legislation.

This issue needs to be raised in Senate campaigns and candidates of BOTH parties should be publicly pressured to commit to major reforms of Senate rules regarding nominations that would end this type of obstruction.

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Politics as Usual: More judge nominations, but Senate votes elusive

The Morning Call [PA] By Laura Olson, Call Washington Bureau contact the reporter, Aug. 2, 2015

<http://www.mcall.com/news/nationworld/pennsylvania/mc-pa-politics-as-usual-0802-20150801-story.html>

Shareline: Politics as Usual: The Obama administration nominated more Pennsylvania judges, but when will the Senate vote?

More judge nominations, but Senate votes elusive

President Barack Obama nominated four more judges last week to fill vacancies in Pennsylvania's federal courtrooms.

The nominations of three jurists — Susan P. Baxter, Robert J. Colville and Marilyn J. Horan — to the U.S. District Court for the Western District of Pennsylvania, and one — John M. Younge — for the Eastern District would fill the current District Court vacancies within the commonwealth.

But while both Democratic Sen. Bob Casey and Republican Sen. Pat Toomey cheered the nominations, it's unclear how quickly any of the nominees can expect to fill the positions.

Philadelphia Judge Luis Felipe Restrepo's nomination to the Third Circuit Court of Appeals remains on hold after clearing the Senate Judiciary Committee in July on a voice vote.

Some Democrats and judicial watchdog groups have bemoaned the judicial confirmation process under the Republican Senate as too slow. Republicans have denied that and say they're moving at a reasonable pace.

FEDERAL AGENCIES: Senate panel digs into 'sue and settle' complaints

Environment & Energy Daily, by Robin Bravender and Corbin Hiar, E&E reporters

Published: Monday, August 3, 2015

<http://www.eenews.net/eedaily/2015/08/03/stories/1060022866>

Senate Republicans this week will disclose new evidence they say proves the Obama administration is setting environmental policy by agreeing to settle lawsuits filed by green groups.

The so-called sue-and-settle strategy has long been a topic of concern for GOP members of Congress and industry groups. Critics argue that by agreeing with environmentalists in court to issue regulations under certain timelines, agencies like U.S. EPA and the Fish and Wildlife Service skirt transparency rules and cut industry out of the process.

A Senate Environment and Public Works subcommittee charged with regulatory oversight will release a report detailing potential collusion between EPA, FWS and environmentalists and take testimony on the issue at a hearing tomorrow. Drawn from document requests, the report will focus "on outside lobbying groups' impact and influence" on the rulemaking process, a top committee aide said.

Greens and regulators have "such a tight, cozy relationship," the aide added. "If industry groups were involved in the type of email chain that we're going to demonstrate, people would lose their minds."

The subcommittee's chairman, Sen. Mike Rounds (R-S.D.), has made the issue one of his leading priorities.

Earlier this year, the Senate approved a nonbinding amendment from Rounds to require state and local government support before EPA or FWS could enter into such sue-and-settle agreements. Rounds called his amendment a "fix" that ensures local governments "are given a say in settlement agreements that will have impacts within their borders" (*E&ENews PM*, March 26).

Sen. James Inhofe of Oklahoma, the chairman of the full committee, is one of a dozen Republicans co-sponsoring a sue-and-settle reform bill introduced in February by Judiciary Committee Chairman Charles Grassley (R-Iowa). Dubbed the "Sunshine for Regulatory Decrees and Settlements Act," [S. 378](#) aims to curb the practice by requiring opportunities for public comment before lawsuits are filed and by making it harder for third parties to show they have standing to sue (*Greenwire*, Feb. 5).

Republicans have charged that EPA rules for power plants' carbon dioxide emissions, oil and gas operations' methane releases, tighter ozone emission limits, and regional haze actions are all linked to sue and settle. GOP and industry critics are also critical of a 2011 settlement between FWS and environmental groups that set a schedule for the agency to consider the listing of hundreds of species (*E&ENews PM*, Sept. 9, 2011).

But Obama administration officials and government watchdogs have downplayed concerns about the practice.

Among the witnesses slated to testify tomorrow is José Alfredo Gómez, director of natural

resources and environment at the Government Accountability Office.

His agency issued a report earlier this year showing that sue-and-settle lawsuits brought by environmentalists have only a "limited impact" on EPA rules.

From May 2008 to June 2013, GAO found that EPA issued 32 major regulations under various environmental laws. Of those, nine were air rules that stemmed from seven settlements in deadline lawsuits. "None of the seven settlements included terms that finalized the substantive outcome of the rule," GAO said (*E&ENews PM*, Jan. 14).

EPA's general counsel, Avi Garbow, has blasted GOP criticism on the matter as "a wholly invented accusation that gets no more true with frequent retelling."

He wrote in a blog post last year, "A lawsuit does not add to, or take away from, EPA's statutory obligations -- while it may shine a spotlight on an area that was previously in the shadows, what it illuminates is nothing more than what Congress already required by law" (*Greenwire*, Feb. 13, 2014).

Schedule: The hearing is Tuesday, Aug. 4, at 9:30 a.m. in 406 Dirksen.

Witnesses: Dallas Baker, air director and chief of air division at the Mississippi Department of Environmental Quality; Kathleen Sgamma, vice president of government and public affairs at the Western Energy Alliance; Andrew Grossman, associate at BakerHostetler; José Alfredo Gómez, director of natural resources and environment at the Government Accountability Office; and Justin Pidot, associate professor at the University of Denver Sturm College of Law.

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Obama Nominates Four Pa. Judges to Federal Bench

P.J. D'Annunzio, The Legal Intelligencer August 3, 2015

<http://www.thelegalintelligencer.com/id=1202733606545/Obama-Nominates-Four-Pa-Judges-to-Federal-Bench?slreturn=20150703083314<#ixzz3hUM7T9wz>

President Obama has selected four Pennsylvania judges, three from the western portion of the state and one from Philadelphia, to fill vacancies on the federal bench.

The nominees are Philadelphia Court of Common Pleas Judge John Milton Younge, nominated to fill a seat on the Eastern District bench; and Allegheny County Court of Common Pleas Judge Robert John Colville, U.S. Magistrate Judge Susan Paradise Baxter and Butler County Court of Common Pleas Judge Marilyn Jean Horan, all nominated to fill seats on the Western District bench.

"Throughout their careers, these nominees have displayed unwavering commitment to justice and integrity," Obama said in a statement from the White House Press Office. "Their records are distinguished and impressive, and I am confident that they will serve the American people well from the U.S. district court bench. I am honored to nominate them today."

Younge has served on the common pleas bench in Philadelphia since 1996, hearing both criminal and civil cases. Colville has been on the Allegheny County bench since 2000, handling civil matters. Since 2012, he has also served as a judge on the state's Court of Judicial Discipline.

Baxter has been a magistrate judge in the Western District of Pennsylvania since 1995, serving as chief magistrate judge from 2005 to 2009. Horan has served on the Butler County bench since

1996, now working in the court's civil division after presiding over criminal and family law cases. The nominees must go through the often-lengthy confirmation process in the U.S. Senate before taking their seats on the district courts.

Another nominee from Pennsylvania, U.S. District Judge Luis Felipe Restrepo of the Eastern District of Pennsylvania, has undergone that process twice—first when he was confirmed to the district court and now as he awaits the final stage of confirmation to the U.S. Court of Appeals for the Third Circuit, awaiting a full Senate for a confirmation vote.

The Senate Judiciary Committee passed Restrepo by voice vote during an executive business meeting July 9, allowing Restrepo to clear the penultimate hurdle to confirmation to the appeals bench. The Senate confirmation vote has not yet been scheduled.

The seat Restrepo is nominated to fill is classified as a judicial emergency and has been open since Judge Anthony Scirica took senior status in July 2013. Restrepo's confirmation process has been a drawn-out one, with delays both expected and unexpected. Prior to the committee's last meeting, Restrepo's committee vote had been held over.

While not officially in a state of judicial emergency, the Western District has felt the effects of being three judges short for roughly two years.

"It puts a strain on the judicial resources of the court," Western District Chief Judge Joy Flowers Conti said.

"It means that other judges on the court have had more cases assigned to them, both criminal and civil," Conti said. "It's been particularly difficult up in our Erie division because we have generally had an active district judge in that division but haven't had one now for two years."

Conti said several senior judges were tapped to serve in the Erie division to help handle the caseload, but that it is not a substitute for having the consistent presence of a sitting district judge.

The court has been able to avoid a case backlog, Western District Clerk of Court Robert Barth said, but only by increasing the case assignments of sitting district judges by 30 percent—a full complement of the court consists of 10 judges.

Not surprisingly, the announcement of Obama's nominations came as a long-awaited sign to the Western District that the relief process has begun.

"This is welcome news for our court," Conti said. "We're very happy with the nominations and hopefully they will move quickly through the process."

P.J. D'Annunzio can be contacted at 215-557-2315 or pdannunzio@alm.com. Follow him on [Twitter@PJDannunzioTLI](https://twitter.com/PJDannunzioTLI).

Read more: <http://www.thelegalintelligencer.com/id=1202733606545/Obama-Nominates-Four-Pa-Judges-to-Federal-Bench/#ixzz3hkrBt4MO>

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As a Latino Republican, Federal Judge Nominee Has Bipartisan Connections

R. Robin McDonald, Daily Report, July 31, 2015

<http://www.dailyreportonline.com/id=1202733653218/As-a-Latino-Republican-Federal-Judge-Nominee-Has-Bipartisan-Connections?slreturn=20150701123014>

[PHOTO] Dax Lopez *File photo*

Two years ago at a panel discussion on diversity at the University of Georgia, DeKalb State Court Judge Dax Lopez—whom the White House nominated July 30 to the federal bench—talked bluntly of his surprise when he heard judges from some of the state's rural circuits be dismissive of minorities and immigrants.

Lopez said that the first judges' meeting he attended was "a real eye-opening experience." He said that as his fellow judges discussed their courtroom practices, their attitudes toward the minorities and immigrants who appeared before them ranged from indifference to open hostility. Some judges, Lopez told the gathering, indicated they would "affirmatively hurt" the defendants who appeared before them. Others, he said, boasted that they intentionally sought the harshest outcome possible in immigrant or minority cases.

What was missing, Lopez said, was any sympathy for the plights of the immigrants and minorities who passed through their courtrooms.

Lopez said he considered his minority status—he was once the state's only Latino trial court judge—as an asset. Lopez was born in Puerto Rico. His father, a civil engineer, moved the family to Augusta when Lopez was 6. Fluent in Spanish, Lopez told the gathering at UGA's law school that growing up, his was usually the only Latino family in the neighborhood. "It forced me to get along with everybody," he said.

Echoing the U.S. Supreme Court's first Latina justice, Justice Sonia Sotomayor, Lopez said, "I think the public's confidence in any court is enhanced by the ability to reflect the community."

Lopez has been nominated to fill the final vacant slot on the U.S. District Court for the Northern District of Georgia—a post that the White House had originally offered to Georgia Court of Appeals Judge Michael Boggs. The Northern District has never had a Latino judge. Lopez's former colleague on the DeKalb State Court, Eleanor Ross, became the first African-American woman on the Northern District bench earlier this year.

Boggs had been recruited by former U.S. Sen. Saxby Chambliss and was nominated as part of a compromise that the White House made with Chambliss and fellow Republican Sen. Johnny Isakson. The deal led to the appointments of Ross, Leigh Martin May and Mark Cohen to the trial bench in Atlanta and Julie Carnes and Jill Pryor to the U.S. Court of Appeals for the Eleventh Circuit.

The White House withdrew Boggs' name from consideration after a national uproar stemming from his conservative stances while he was a Georgia legislator and Boggs's beleaguered showing at his Senate confirmation hearing.

Lopez could not be reached to discuss his nomination; nominees typically do not speak to the news media.

Isakson said Friday that he welcomed Lopez's nomination and looks forward to meeting with him during the confirmation process. Isakson's staff would not comment on whether Georgia's senators recommended Lopez's name to the White House or whether they were consulted by the White House before Lopez was nominated.

U.S. Sen. David Perdue—whose cousin, Republican Gov. Sonny Perdue appointed Lopez to the DeKalb bench—congratulated Lopez on his nomination. "As a member of the Senate Judiciary Committee, I look forward to meeting Judge Lopez and exploring his judicial philosophy during the confirmation process," Perdue said.

Lopez became only the second Latino trial court judge in Georgia when he was appointed to the DeKalb bench in 2011. When fellow DeKalb State Court Judge Tony DelCampo—the first Latino to hold an elected judicial post in Georgia—left the bench for private practice, Lopez became, for a time, the state's only Latino judge.

DelCampo is chairman of the board of the Georgia Association of Latino Elected Officials (GALEO); early in President Barack Obama's first term, he was under consideration for a federal judgeship himself.

DelCampo said Lopez "is a very capable judge, who has served DeKalb County well. I'm not surprised his name ended up at the White House. He is a great pillar in the Latino community. He is a great pillar in DeKalb County. He's got Republican support. He's got Democratic support. ... I certainly think he is somebody who is going to be able to cross the partisan divide and be a reputable person among both ideologies."

Lopez told the UGA gathering in 2013, after he was elected in a contested race, that DelCampo had urged him in 2010 to consider applying for DelCampo's seat if DelCampo were nominated to the federal bench. But when another DeKalb state court judge announced his intention to retire, Lopez contacted the state Judicial Nominating Commission and asked to be considered by the governor for the post.

Lopez, who is also a member of GALEO's board, said at the time that although he was a Republican, he worried that his leadership role in GALEO might garner Republican opposition. GALEO had opposed—and challenged in federal court—Georgia's strict immigration laws. In 2008, the organization had sued then-Republican Secretary of State Karen Handel in a voting rights challenge. In 2011, GALEO partnered with the ACLU and others in a class action challenge to the state's newly implemented immigration law.

But Lopez said his leadership in GALEO clearly did not influence Perdue, who asked him during his interview only if he were a member of the organization.

When Lopez ran for election to the DeKalb bench in 2012, he won the support of then-state Senator Jason Carter, a Democrat, and the Georgia Association of Black Women Attorneys, even though his challenger was a black female lawyer. GABWA said its endorsement process "is color blind" and that the organization had sought to endorse "the most qualified person who supports diversity and GABWA's mission of advocating for women and children." Lopez said on his campaign Facebook page that he was humbled by the group's endorsement.

Yennifer Delgado, president of the Georgia Hispanic Bar Association, which counts Lopez as a member, said Friday, "We're thrilled about his nomination and we can't think of a better person for the position."

Lopez, she said, has "a stellar reputation with the bar and with the community."

Delgado said the Hispanic bar was contacted by White House representatives who were vetting Lopez for the nomination. "We whole-heartedly recommended him. ... We all personally know Dax. We know how involved he is. He's not just the type of member who sits back and attends meetings. He's actually involved in everything we do."

In addition to presiding over the state's only Spanish-language DUI court, Lopez, as a state court judge, has made clear that he sets high standards for the attorneys who appear before him. Last year, he slapped law firm Sutherland, Asbill & Brennan with more than \$175,000 in sanctions stemming from an employment contract dispute. Lopez held in ordering the sanctions that the

firm's attorneys, who represented the defendants, tried to "litigate [the] plaintiff to death" in a contract dispute. In his order, the judge called the legal tactics "a bad-faith strategy" on which the Sutherland lawyers had "gambled" their defense and lost.

In April 2014, Lopez ordered an Atlanta lawyer to spend the night in jail after Lopez found her in contempt and fined her \$500 for contacting him by email saying she would "blame the plaintiff" in a trial for which she had been chosen to sit as a juror because she would have to work nights and weekends to attend to her own client.

Lopez also reported the attorney, Wilma Elizabeth Beaty, to the State Bar of Georgia, claiming she violated professional ethics rules. In his contempt order, Lopez said that Beaty had failed to answer truthfully and completely questions that the judge and counsel for the parties had posed during voir dire in a personal injury case.

Related Articles:

- [Our 2011 Profile of Federal Judge Nominee](#)
- [DeKalb's Dax Lopez Tapped for Federal Judgeship](#)

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Obama Picks Brown to Fill Third Eastern District Spot

Andrew Keshner, New York Law Journal August 3, 2015

[>http://www.newyorklawjournal.com/id=1202733635523/Obama-Picks-Brown-to-Fill-Third-Eastern-District-Spot?rss=rss_ny&utm_source=dlvr.it&utm_medium=twitter&slreturn=20150703083224<](http://www.newyorklawjournal.com/id=1202733635523/Obama-Picks-Brown-to-Fill-Third-Eastern-District-Spot?rss=rss_ny&utm_source=dlvr.it&utm_medium=twitter&slreturn=20150703083224)

[PHOTO] Magistrate Judge Brown

President Barack Obama has nominated Eastern District Magistrate [Judge Gary Brown](#) to fill a vacancy on the Eastern District bench.

U.S. Senator Charles Schumer recommended Brown last month to fill a spot that opened when Eastern District Judge Sandra Feuerstein, sitting in Central Islip, took senior status in January ([NYLJ](#), June 22).

Brown was among seven nominations made Thursday by Obama to the federal courts of New York, Georgia, Pennsylvania and Massachusetts.

Brown, 51, is a former Eastern District prosecutor who later held a number of roles at CA Technologies, including senior counsel, chief counsel for litigation and chief compliance officer.

Brown, who graduated from Yale Law School in 1988, became a magistrate judge in November 2011. He is one of three magistrate judges overseeing Hurricane Sandy insurance litigation within the jurisdiction.

With Brown's nomination, Obama has offered candidates for three Eastern District spots that opened through elevation of incumbents to senior status.

The others are LaShann DeArcy Hall, a partner at Morrison & Foerster, who would fill a seat that opened when [Judge Nicholas Garaufis](#) took senior status; and state Court of Claims [Judge Ann](#)

Donnelly, also an acting Manhattan Supreme Court Justice, to step into a spot created when Judge Sandra Townes became a senior judge.

See "Pace of Judicial Confirmations is Debated on the Floor of the U.S. Senate," on page 6 of the print edition.

Read more: >[#http://www.newyorklawjournal.com/id=1202733635523/Obama-Picks-Brown-to-Fill-Third-Eastern-District-Spot](http://www.newyorklawjournal.com/id=1202733635523/Obama-Picks-Brown-to-Fill-Third-Eastern-District-Spot)<#ixzz3hkqxZ7ia

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Obama nominates Long Islander for U.S. District Court judgeship

Newsday By ROBERT E. KESSLER robert.kessler@newsday.com July 31, 2015

><http://www.newsday.com/long-island/gary-brown-of-setauket-nominated-by-obama-for-u-s-district-court-judgeship-in-central-islip-1.10696210?qr=1><

[PHOTO] Gary Brown, a Long Islander with a career as a private attorney, prosecutor and federal magistrate, was recommended June 18, 2015, by Sen. Charles Schumer to be a U.S. District Court judge on Long Island. Photo Credit: Newsday

President Barack Obama has nominated a Long Islander to be a U.S. District Court judge in Central Islip.

The nomination of Gary Brown, 51, currently a federal magistrate, was announced by the White House late Thursday.

Obama also nominated six others for District Court judgeships around the country for approval by the Senate. "Throughout their careers, these nominees have displayed unwavering commitment to justice and integrity," the president said.

Brown, a Setauket resident and Yale Law School graduate, is probably best known for a 2014 decision in which he uncovered possible underpayments or unfair denials of claims for victims of superstorm Sandy.

In recommending that Obama nominate Brown in June, Sen. Charles Schumer (D-N.Y.) said his selection committee lauded Brown's entire legal career but the Sandy decision "sealed the deal."

"I recommended Gary Brown because he has the right experience, intellect and temperament for the federal bench, and I am very pleased President Obama has officially nominated him," Schumer said Friday. "I will do all I can to see that he is confirmed speedily so he can take his place on the court in the Eastern District."

Brown would replace Judge Sandra Feuerstein, who took senior status in May.

He previously has been head of the U.S. attorney's office on Long Island and a top litigator with CA Technologies

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