

Take Action

Speak Out to Protect Our Courts

Background

Through BenchMark: NCJW's Judicial Nominations Campaign, NCJW has been a leading voice in the progressive community's fight to ensure a fair, diverse, and independent judiciary that keeps faith with constitutional values, including reproductive rights. Since BenchMark's launch in 2001, our powerful grassroots network has sought to educate our communities about the importance of the federal judiciary.

Senate Republican leadership has made it clear that they want to remake our federal courts in President Trump's image. They have done so by packing the bench with extremist judges while circumventing both tradition and usual procedure. Most recently, Judiciary Committee Chairman Chuck Grassley (R-IA) scheduled two judicial nominations hearings on October 17 and 24 with controversial nominees for the Fourth and the Ninth Circuits after the Senate left for an early recess prior to the midterm elections. Never before has the Senate Judiciary Committee held hearings on judicial nominations while the Senate is in recess prior to an election. All ten Democrats on the Committee wrote Senator Grassley a letter specifically requesting that he postpone the hearings until after the election, as all other committees have done. He has refused.

What's At Stake?

District and circuit courts hear the vast majority of federal cases — far more than the US Supreme Court — on all the issues we care about, from reproductive rights to religious freedom. More often than not, these decisions are not appealed, so they stand as the law of the land. Moreover, it is lower court judges that have pushed back against the Trump administration's most dangerous policies, from the Muslim Ban to ending Deferred Action for Childhood Arrivals (DACA) and beyond. Thus far during the Trump administration, 84 federal judges, including 2 Supreme Court justices and 29 appeals court judges, have already been confirmed. Nearly half as many judges had been confirmed 21 months into the Obama administration. By rushing to confirm high numbers of partisan ideologues to the federal bench, Senator Grassley and his colleagues are hoping to accomplish through the courts what President Trump has failed to do through legislation.

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Choose some of the talking points on the next page to write and place op-eds and letters to the editor. Remember to check out NCJW's tips for writing [op-eds](#) and [LTEs](#), which include important information like standard word limits and rules for submission.

Talking Points

- Federal courts are the last line of defense for our constitutional rights. The judges that sit on these courts must understand and defend those rights. Federal judges serve lifetime appointments and will continue to interpret and control constitutional rights long after the Trump administration.
- It is the Senate's constitutional responsibility to advise and consent on judicial nominees and prevent the executive branch from "packing" the courts with extreme nominees. They cannot do this if they are not even in Washington, DC, as is the case with nearly all senators in a pre-election recess.
- The few hearings on judicial nominations that have been held in a recess (not prior to an election) were with the minority party's consent. Here, the minority party was not even consulted.
- Senator Grassley's claim that there are 154 judicial vacancies, 63 of which are judicial emergencies, "as a result of Democratic delay tactics" and "obstruction" is wholly unfounded and hypocritical:
 - During the Obama administration, Senator Grassley blocked 54 judicial nominees, most notably Chief Judge Merrick Garland for the Supreme Court, by refusing to hold hearings and/or votes.
 - President Trump had twelve circuit court nominees confirmed during his first year in office and in doing so, outpaced *all* of his predecessors
- Senator Grassley's other stated reason for not postponing the hearings, which is that it would be "unfair to the nominees, who have already flown to Washington, DC and made travel arrangements" is feeble and unconvincing.
 - The real reason that he will not postpone the hearing is because he is trying to pack the court as quickly as possible with unqualified ideologues that he hopes will fly under the radar with most senators out of town.
- It is clear that this unprecedented maneuver is merely the latest example of Grassley's abuse of Senate tradition and relentless attempts to remake the federal courts in Trump's image. Senate Republicans have also:
 - Unilaterally changed the 60-vote threshold for Supreme Court nominees;
 - Disregarded the century-old tradition of deference to home-state senators;
 - Held stacked hearings with multiple circuit court nominees;
 - Ceased honoring (or even waiting for) nonpartisan ABA ratings; and
 - Failed to hold now-Justice Kavanaugh accountable for lying under oath.
- Efforts by President Trump and Senators Grassley and McConnell are dismantling our democracy by breaking norms meant to ensure independent courts.
- Senators work for their constituents. Call both of your US Senators (202-224-3121) and urge them to speak out against Senator Grassley's disregard for democratic traditions. The integrity of our federal courts hangs in the balance.