



April 21, 2004

Honorable Dianne Feinstein  
 Subcommittee on Terrorism, Technology &  
 Homeland Security  
 United States Committee on the Judiciary  
 815 Hart Senate Office Building  
 Washington, DC 20510-6288

Dear Senator Feinstein,

Thank you for soliciting our comments on the proposed split of the Ninth Circuit Court of Appeals and on the alternative proposals: HJR2723, SB563 and SB2278. We have solicited comment from our federal practitioners and have found that the overwhelming majority of our judges and attorneys who have responded continue to oppose splitting the Ninth Circuit.

Based on the comments we have received and the discussions that have been held, the HSBA remains opposed to a split of the Ninth Circuit. We believe the current composition of the Ninth Circuit serves the public well, representing as it does diverse demographic areas as well as a broad range of political and economic constituencies. We also believe that splitting the Ninth Circuit in accordance with any of the proposed bills will lead to increased polarization of divergent interests and the attrition of consistency in the federal court system.

It has been noted by our commentators that the Ninth Circuit has been continuously increasing its efficiency through various means, including the increased use of technology and the confirmation of new judges. This is not to say that expression of concerns about the operation of the Ninth Circuit are not valid. For example, it has been noted that there are markedly increasing caseloads and delays in the disposition of appeals. However, these concerns can be far better remedied by measures other than the proposed split of the Ninth Circuit. Vacant seats on the bench, which include the District Court of Hawaii, must be expeditiously filled, and timely and adequate funding must be provided to improve the access to justice by our citizens. Addressing these immediate concerns will result in minimum disruption to the circuit while ensuring maximum efficiency in the overall administration of justice.

In conclusion, the Hawaii State Bar Association strongly opposes a split in the Ninth Circuit Court of Appeals. We find that maintaining the current composition of the Ninth Circuit is much more in accord with promoting efficiency and fairness in the administration of justice, and we respectfully and categorically oppose any of the three alternative proposals.

**OFFICERS**

Dele W. Lee, President  
 Richard Turbin, President-Elect  
 James C. McWhirter, Secretary  
 Jodi L. Mikes, Treasurer

**DIRECTORS**

Alfred B. Castillo, Jr. (Kauai)  
 Steven J.T. Chow  
 Thomas R. Crowley  
 P. Gregory Frey  
 John P. Ganser  
 Geraldine N. Masogawa (East Hawaii)  
 Ronette M. Kawakami  
 Corianne W. Lau  
 Howard K.K. Luke  
 Linda N. Mordden (Maui)  
 Carol K. Muraoka  
 Wayne D. Parsons  
 Trudy Burns Stone  
 Elizabeth A. Strance (West Hawaii)  
 Suzanne T. Terada

**YLD PRESIDENT**

Peter V. Lee

**HSBA/ABA DELEGATE**

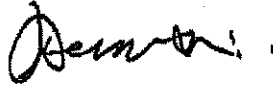
James A. Kawachi

**EXECUTIVE DIRECTOR**

Lyn Ferguson Arzai

Honorable Dianne Feinstein  
Subcommittee on Terrorism, Technology &  
Homeland Security  
United States Senate Committee on the Judiciary  
April 21, 2004  
Page 2

Very truly yours,



DALE W. LEE  
President  
Hawaii State Bar Association

Cc: Honorable Daniel K. Inouye, United States Senate  
Honorable Daniel K. Akaka, United States Senate  
Honorable Neil Abercrombie, United States House of Representative  
Honorable Edward E. Case, United States House of Representative  
Honorable Richard Clifton R. Clifton, Ninth Circuit Court of Appeals  
Honorable David A. Ezra, United States District Court