



February 15, 2005

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The Honorable Barbara Boxer  
United States Senate  
112 Hart Senate Office Building  
Washington, D.C. 20510

RE: Proposals to Split the Ninth Circuit Court of Appeals

Dear Senator Boxer:

I write on behalf of the San Diego County Bar Association once again to oppose the pending proposals that would split the United States Court of Appeals for the Ninth Circuit. The San Diego County Bar Association is a professional association of more than 7,600 lawyers from all practice areas, political parties and ethnic groups. Our members practice before both state and federal courts. The Bar's Board of Directors has been consistent in its opposition to recurring proposals for a circuit split; we renewed that opposition by formal resolution in May 2004, and we reiterate our strong opposition by this correspondence.

No Circuit should be split without empirical evidence justifying division. We remain unconvinced that a split in the court will result in the improved administration of justice or a reduction in costs. Splitting the Ninth Circuit would unnecessarily increase administrative expense by adding redundant bureaucracy, duplicating administrative staff and reducing the existing economies of scale. Given the current federal budget deficit, the proposals to split the Circuit at this time border on fiscal irresponsibility.

A 1999 report issued by the White Commission recommended against dividing the Ninth Circuit, praised the Court's efficient management, and warned against restructuring courts on the basis of specific decisions by specific judges. No new evidence has been presented suggesting that the addition of one or two new circuit courts would improve the administration of justice or result in a significant reduction in the current caseload.

No Circuit should be split due to unpopular decisions. We fear that the current proposals stem more from political ideology than from any real concern for judicial efficiency. The independence of the judiciary is an imperative for meaningful separation of power in our democracy, and there is ample reason to be concerned that the proposed legislation is a retaliation against certain members of the Ninth Circuit Bench for partisan purposes. If that is a motivation for these proposals to split the Circuit, it is wrong.

San Diego County is well served by the Ninth Circuit. Rather than adding an additional layer of administrative costs, we renew our plea that the Congress focus on providing adequate funding for technological improvements and on ensuring an adequate number of judgeships. A far better use of limited resources, attending to those steps will result in increased capacity of the courts and their ability to administer justice in a fair and timely fashion.

We appreciate the opportunity to provide you with our comments and would be happy to address any future issues or developments in this area.

Very respectfully,  
San Diego County Bar Association

Wells B. Lyman, President  
WBL/mdt

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